

EXHIBIT F

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MPHJ TECHNOLOGY INVESTMENTS, LLC,
a limited liability company,

JAY MAC RUST, individually and as an officer
of MPHJ TECHNOLOGY INVESTMENTS,
LLC,

FARNEY DANIELS, P.C., a professional
corporation, and

WILLIAM BRYAN FARNEY, individually and
as managing shareholder of FARNEY DANIELS,
P.C.,

Defendants.

Case No. _____

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the promotion, offering for sale, and sale of licenses relating to certain U.S. patents through a campaign of letters sent to thousands of small businesses located throughout the United States.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(1), (c)(2), (c)(3), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41–58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

DEFENDANTS

6. Defendant MPHJ Technology Investments, LLC, (“MPHJ”) is a Delaware limited liability company whose sole member and manager uses the business address 510 North Valley Mills Drive, Suite 505, Waco, Texas, 76710. MPHJ has 101 subsidiaries, each of which is a Delaware limited liability company. MPHJ transacts or has transacted business in this district and throughout the United States.

7. Defendant Jay Mac Rust is the sole member and manager of MPHJ and the sole manager of each of MPHJ’s 101 subsidiaries. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to

control, or participated in the acts and practices of MPHJ, including the acts and practices set forth in this Complaint. In connection with the matters alleged herein, Defendant Rust transacts or has transacted business in this district.

8. Defendant Farney Daniels, P.C., (“Farney Daniels”) is a Texas professional corporation with its principal place of business at 800 South Austin Avenue, Suite 200, Georgetown, Texas, 78626. Farney Daniels transacts or has transacted business in this district.

9. Defendant William Bryan Farney is the managing shareholder of Farney Daniels. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Farney Daniels set forth in this Complaint. Defendant Farney resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district.

COMMERCE

10. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

STATEMENT OF THE CASE

11. The Defendants have violated Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), through deceptive representations made in letters sent to small businesses located across the country. As part of their campaign to sell licenses for a portfolio of U.S. patents, the Defendants falsely threatened thousands of small businesses with imminent patent infringement litigation when, in truth, the Defendants did not intend to take and did not take such action. In addition, the Defendants falsely represented that substantial numbers of businesses

had responded to their letters by purchasing licenses from the Defendants when, at the time of the representations, the Defendants had not sold any licenses to letter recipients.

DEFENDANTS' BUSINESS ACTIVITIES

12. Beginning in September 2012 and continuing through June 2013, the Defendants promoted, offered for sale, and sold licenses relating to certain U.S. patents through a campaign of letters sent to thousands of small businesses located in all fifty states and the District of Columbia. The Defendants targeted their letters exclusively to businesses with fewer than one hundred employees.

13. In September 2012, MPHJ was assigned all right, title, and interest to four U.S. patents and one U.S. patent application. The assignment concerned U.S. Patent Nos. 7,986,426; 6,771,381; 7,477,410; and 6,185,590; and Application No. 13/182,857 (the "MPHJ Portfolio"). The patents comprising the MPHJ Portfolio relate to document scanning.

14. In September 2012, MPHJ also entered into written "Exclusive License Agreements" with at least 71 of its subsidiaries. Each written license agreement assigned to a respective subsidiary a purportedly exclusive right to license the MPHJ Portfolio through a combination of a "Commercial Field" and a "Geographical Field." Under the terms of the September 2012 written license agreements, the "Geographical Field" assigned to each subsidiary was defined by a zip code ending in a particular digit; for example, one "Geographical Field" was defined as all zip codes ending in the digit "1."

15. In principle, the September 2012 written license agreements between MPHJ and its subsidiaries would provide each subsidiary with a unique and exclusive grant of rights to conduct licensing activities. In practice, however, numerous of the September 2012 written

license agreements provided MPHJ subsidiaries with rights that were not unique, as the same combinations of “Commercial Field” and “Geographical Field” were assigned to more than one subsidiary. Moreover, in practice, letters to promote, offer for sale, and sell licenses that were sent in the name of MPHJ subsidiaries were in numerous instances sent without regard to the specific zip codes that each subsidiary was assigned in the “Geographical Fields” of their respective September 2012 written licensing agreements.

16. Each of the various written “Exclusive License Agreements” between MPHJ and its subsidiaries, and all amendments to such agreements, were signed by Defendant Rust on behalf of MPHJ, in Rust’s capacity as manager of MPHJ, and also by Defendant Rust on behalf of the applicable subsidiary, in Rust’s capacity as manager of the subsidiary.

17. In September 2012, MPHJ also entered into a written agreement with Farney Daniels. The terms of the agreement provided that Farney Daniels “will represent MPHJ in connection with legal services related to enforcement, monetization, assertion, licensing, and/or sale” of the MPHJ Portfolio. Under the terms of the agreement, Farney Daniels would not charge MPHJ hourly fees, but would instead be compensated with a percentage of any gross amounts that were paid to MPHJ or its subsidiaries by any licensees, alleged infringers, or purchasers of the MPHJ Portfolio that had been contacted or identified by Farney Daniels. Specifically, the written agreement provided that Farney Daniels would receive 40% of the gross amounts paid to MPHJ or its subsidiaries where Farney Daniels had sued or was “substantially engaged” with the entity making payment, and 30% of the gross amounts paid where Farney Daniels had not sued and was not “substantially engaged” with the entity making payment.

18. The September 2012 written agreement between MPHJ and Farney Daniels was signed by Defendant Rust on behalf of MPHJ and by Defendant Farney on behalf of Farney Daniels. The September 2012 written agreement between MPHJ and Farney Daniels identified Defendant Farney as “Managing Partner” of Farney Daniels.

19. In September 2012, the Defendants began their nationwide campaign to promote and sell licenses for the MPHJ Portfolio. The Defendants’ campaign involved a series of up to three letters. Each of the three letters was reviewed and edited by Defendant Farney, among others.

20. The first of the three letters (“First Letter”) involved in the Defendants’ campaign was sent to approximately 16,465 small businesses located in all fifty states and the District of Columbia. Over the course of the campaign, the Defendants used different versions of the First Letter that involved a core of shared text. Each version of the First Letter was sent to hundreds or thousands of small businesses nationwide. One such First Letter, redacted to remove the name and address of the recipient, is attached as Exhibit A.

21. Each First Letter was sent in the name of one of MPHJ’s various subsidiaries, and appeared on letterhead featuring the name of that subsidiary, with eighty-one different subsidiary names used over the length of the campaign. The eighty-one subsidiary names used in Defendants’ campaign were AllLed, LLC; AbsMea, LLC; AccNum, LLC; AllOrd, LLC; AdzPro, LLC; ArdSan, LLC; ArdTec, LLC; AppVal, LLC; BavLin, LLC; BarMas, LLC; BetNam, LLC; BilOlt, LLC; BriPol, LLC; BruSed, LLC; BosTra, LLC; BunVic, LLC; CalLad, LLC; CapMat, LLC; CalNeb, LLC; CleOrv, LLC; ChaPac, LLC; CelSta, LLC; ComTim, LLC; CraVar, LLC; DelLog, LLC; DayMas, LLC; DesNot, LLC; DreOcc, LLC; DucPla, LLC;

DriSud, LLC; DraTom, LLC; DolVol, LLC; EliLand, LLC; ElaMon, LLC; EntNil, LLC; EleOde, LLC; EliPut, LLC; EstSto, LLC; EtaTri, LLC; EquiVas, LLC; FasLan, LLC; FraMor, LLC; FolNer, LLC; FenObe, LLC; FanPar, LLC; FreSta, LLC; FinTas, LLC; FloVis, LLC; GreLea, LLC; GraMet, LLC; GosNel, LLC; GanOrb, LLC; GanPan, LLC; GamSta, LLC; GenTro, LLC; GimVea, LLC; HunLos, LLC; HanMea, LLC; HarNol, LLC; HadOpp, LLC; HeaPle, LLC; HorSan, LLC; HurTom, LLC; HasVen, LLC; InnLost, LLC; IsaMai, LLC; InaNur, LLC; IndOrp, LLC; IntPar, LLC; InkSen, LLC; IntTen, LLC; IbiVen, LLC; JusLem, LLC; JonMor, LLC; JitNom, LLC; JanOrt, LLC; JudPar, LLC; JunSpe, LLC; JabTre, LLC; JamVor, LLC; and Networked Scanning Solutions, LLC.

22. The First Letters sent from September 2012 through February 2013 do not make any mention of MPHJ. The First Letters sent after February 2013 identify MPHJ as the owner of the patents discussed in the First Letter, but do not disclose that the entity identified as the sender is a subsidiary of MPHJ.

23. Each First Letter states that the entity identified as the sender is the licensing agent for the MPHJ Portfolio, that the recipient small business is likely infringing the patents in the MPHJ Portfolio, and that the recipient small business thus likely needs to buy a license for the MPHJ Portfolio at a price of either \$1,000 or \$1,200 per employee.

24. The First Letters represent that the recipient small businesses are likely infringing the MPHJ Portfolio by using common office equipment. More specifically, the First Letters state, among other representations concerning the scope of the MPHJ Portfolio, that one or more patents in the MPHJ Portfolio covers claims that are “directed to a system having a digital copier/scanner/multifunction device with an interface to office equipment (or to the web) and

related software, for scanning or copying and transmitting images electronically to one or more destinations such as email, applications or other local files.”

25. Each of the First Letters sent to small businesses from September 2012 through February 2013 includes express or implied representations that substantial numbers of businesses had purchased licenses for the MPHJ Portfolio. Specifically, those First Letters state, among other representations, that “we have had a positive response from the business community to our licensing program,” that “most businesses, upon being informed that they are infringing someone’s patent rights, are interested in operating lawfully and taking a license promptly,” and that “[m]any companies have responded to this licensing program in such a manner.”

26. The First Letters sent from September 2012 through February 2013 further state that the responses of “[m]any companies” had allowed the entity identified as the sender “to determine . . . a fair price for a license negotiated in good faith and without the need for court action.” Some versions of those First Letters state that the price determined through the responses of “[m]any companies” was “a payment of \$1,200 per employee.” Other versions of those First Letters state that the price determined through the responses of “[m]any companies” was “a payment of \$1,000 per employee.”

27. From September 2012 through February 2013, the Defendants sent to small businesses located in all fifty states approximately 9,081 First Letters that contain the representations concerning substantial sales of licenses for the MPHJ Portfolio identified in Paragraphs 25–26. When the first 7,366 of those First Letters were sent, the Defendants had not sold any licenses for the MPHJ Portfolio through the Defendants’ nationwide campaign of letters. When the next 1,077 of those First Letters were sent, the Defendants had sold a license

for the MPHJ Portfolio to only one of the 7,366 small businesses that had, at that time, been sent a First Letter. When the final 638 of those First Letters were sent, the Defendants had sold a license to the MPHJ Portfolio to only two of the 8,443 small businesses that had, at that time, been sent a First Letter.

28. Beginning in March 2013, the approximately 7,384 remaining First Letters sent to small businesses no longer included the representations concerning substantial sales of licenses for the MPHJ Portfolio identified in in Paragraphs 25–26. Over the entire course of the Defendants’ campaign, the Defendants sold a license to the MPHJ Portfolio to a total of seventeen of the approximately 16,465 small businesses that had been sent a First Letter.

29. The second of the three letters (“Second Letter”) involved in the Defendants’ nationwide campaign to promote and sell licenses for the MPHJ Portfolio was sent to approximately 10,265 of the small businesses located in all fifty states and the District of Columbia that had been sent the First Letter. Over the course of the campaign, the Defendants used different versions of the Second Letter that involved a core of shared text. Each version of the Second Letter was sent to hundreds or thousands of small businesses nationwide. One such Second Letter, redacted to remove name and address of the recipient, is attached as Exhibit B.

30. Each Second Letter was sent in the name of Farney Daniels and appeared on Farney Daniels letterhead. The signature block of each Second Letter contains the name of one of two Farney Daniels attorneys: Maeghan Whitehead or Rob Kiddie. The Second Letters do not include the telephone number or e-mail address for Meaghan Whitehead, Rob Kiddie, Defendant Farney, or any other Farney Daniels attorney, nor do they include the main telephone number for the Farney Daniels firm. Instead, the only telephone number listed in the Second

Letters is one of two numbers for a call center where callers could leave a message. In numerous instances, possibly all instances, messages left at the telephone number listed on the Second Letter were returned by Defendant Rust personally or by other individuals working for or on behalf of MPHJ, rather than by a Farney Daniels attorney or by Farney Daniels staff.

31. Each Second Letter states that, because there has been no response to the First Letter, the matter has been referred to Farney Daniels. Each Second Letter identifies Farney Daniels's client by one of the eighty-one different subsidiary names that had been used in the First Letters. Each Second Letter states that "[w]hile our representation of [that subsidiary's name] can involve litigation, it is our client's preference here that we first make all reasonable efforts to reach agreement on a license."

32. The third of the three letters ("Third Letter") involved in the Defendants' nationwide campaign to promote and sell licenses for the MPHJ Portfolio was sent to approximately 4,870 of the small businesses located in all fifty states and the District of Columbia that had been sent the First Letter. Over the course of the campaign, the Defendants used different versions of the Third Letter that involved a core of shared text. One such Third Letter, redacted to remove the name and address of the recipient, is attached as Exhibit C.

33. Like the Second Letter, each Third Letter was sent in the name of Farney Daniels and appeared on Farney Daniels letterhead. The signature block of each Third Letter contains the name of one of two Farney Daniels attorneys: Maeghan Whitehead or Rob Kiddie. The Third Letters do not include the telephone number or e-mail address for Meaghan Whitehead, Rob Kiddie, Defendant Farney, or any other Farney Daniels attorney, nor do they include the main telephone number for the Farney Daniels firm. Instead, the only telephone number listed

in the Third Letters is for a call center where callers could leave a message. In numerous instances, possibly all instances, messages left at the telephone number listed on the Third Letter were returned by Defendant Rust personally or by other individuals working for or on behalf of MPHJ, rather than by a Farney Daniels attorney or by Farney Daniels staff.

34. Each of the Third Letters sent to small businesses includes express or implied representations that the Defendants intend to and will initiate legal action for patent infringement against letter recipients that do not respond to the Defendants' letters, and that such legal action is imminent. Specifically, the Third Letters state, among other representations, that "[i]f we do not hear from you within two weeks from the date of this letter, our client will be forced to file a Complaint against you for patent infringement in Federal District Court where it will pursue all of the remedies and royalties to which it is entitled." The Third Letter further states that "we must hear from you within two weeks of the date of this letter" (emphasis in original) and that "litigation will ensue otherwise."

35. Each of the Third Letters sent to a small business was accompanied by a Complaint, typically nine pages in length, that alleges a cause of action for patent infringement against that small business. Each Complaint is captioned for the federal judicial district corresponding with the small business's mailing address. Because Third Letters were sent to small businesses located in all fifty states and the District of Columbia, the Complaints accompanying the Third Letters are respectively captioned for federal judicial districts located in all fifty states and the District of Columbia.

36. The signature block of the Complaints accompanying the Third Letters includes the name and signature of one of two Farney Daniels attorneys, Meaghan Whitehead or Rob Kiddie, or, in a minority of the Complaints, includes no attorney name or signature.

37. Approximately 4,870 Third Letters were sent to small businesses nationwide beginning in December 2012 and continuing through May 2013. Approximately 4,701 of the Third Letters were sent on one of six days: December 6, 2012; January 22, 2013; February 8, 2013; February 20, 2013; April 1, 2013; and May 13, 2013. On each of those days, at least several hundred Third Letters were sent to small businesses nationwide. For example, on April 1, 2013, approximately 1,718 Third Letters threatening imminent legal action for patent infringement, accompanied by a Complaint, were sent to small businesses located in forty-nine states.

38. At the time the Third Letters and accompanying Complaints were sent, the Defendants did not intend to initiate legal actions for infringement of the MPHJ Portfolio against small businesses that did not respond to the Defendants' letters.

39. From the beginning of their campaign through November 18, 2013, the Defendants had not initiated any legal actions for infringement against any of the approximately 4,870 small businesses that were sent the Third Letters and accompanying Complaints. On November 19, 2013, a complaint alleging infringement of two of the MPHJ Portfolio patents was filed in the Eastern District of Texas with MPHJ and its subsidiary Networked Scanning Solutions, LLC, identified as the plaintiffs.

VIOLATIONS OF THE FTC ACT

40. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

41. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

Count I

42. In numerous instances in connection with the promotion, offering for sale, and sale of licenses relating to U.S. patents, the Defendants have represented, directly or indirectly, expressly or by implication, that they intend to and will initiate legal action for patent infringement against small businesses that do not respond to the Defendants’ letters, and that such legal action is imminent.

43. In truth and in fact, in numerous instances, Defendants did not intend to and did not initiate legal action for patent infringement against small businesses that do not respond to the Defendants’ letters.

44. Therefore, Defendants’ representation as set forth in Paragraph 42 of this Complaint is false or misleading and constitutes a deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

Count II

45. In numerous instances in connection with the promotion, offering for sale, and sale of licenses relating to U.S. patents, the Defendants have represented, directly or indirectly, expressly or by implication, that substantial numbers of businesses who had received the Defendants’ letters had purchased licenses for the MPHJ Portfolio.

46. In truth and in fact, at the time of the representations, substantial numbers of businesses who had received the Defendants' letters had not purchased patent licenses for the MPHJ Portfolio.

47. Therefore, the Defendants' representation as set forth in Paragraph 45 of this Complaint is false or misleading and constitutes a deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

48. Consumers have suffered substantial injury as a result of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

49. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

A. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies;

C. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

Jonathan E. Nuechterlein
General Counsel

[DATE], 2014

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FEDERAL TRADE COMMISSION

EXHIBIT A

DesNot, LLC

40 East Main Street, #19
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855-812-2117
licensing@desnot.org
November 29, 2012

Re: DesNot Patent Licensing Program – File No. 1015296

We are the licensing agent for certain U.S. patents listed below. We have identified your company as one that appears to be using the patented technology, and we are contacting you to initiate discussions regarding your need for a license. In this letter, we explain what the patents cover, how you likely have an infringing system, explain why a license is needed, and provide you the general terms for such a license. We also answer some frequently asked questions, as well as explain how you can determine whether you do have an infringing system that requires a license. We should note that we have written you with the understanding that you are the proper person to contact on behalf of [REDACTED]. If you are not the proper person to handle this matter on behalf of the company, please provide this letter to the proper person, and notify us so that we may update our records and contact them directly in the future.

To turn to the matter at hand, the patents for which we are the licensing agent are listed below. The list includes both issued U.S. patents, as well as a patent application which is expected to issue in the future as an additional U.S. patent.

1. U.S. Pat. No. 7,986,426 (“Distributed Computer Architecture And Process For Document Management”);
2. U.S. Pat. No. 7,477,410 (“Distributed Computer Architecture And Process For Virtual Copying”);
3. U.S. Pat. No. 6,771,381 (“Distributed Computer Architecture And Process For Virtual Copying”);
4. U.S. Pat. No. 6,185,590 (“Process And Architecture For Use On Stand-Alone Machine And In Distributed Computer Architecture For Client Server And/Or Intranet And/Or Internet Operating Environments”); and
5. 13/182,857 filed July 14, 2011 (“Distributed Computer Architecture And Process For Document Management”).

You can find and review each of the issued patents listed above at www.google.com/patents.

As you may know, a patent's scope is defined by its claims, and you will see that each of the above-listed patents have different claims. While those differences matter and mean each patent is distinct, the patents listed above do, as a group, generally relate to the same technology field, and cover what at the time was a groundbreaking distributed computer architecture and process for digital document management. An illustrative embodiment of the architecture of the patents is provided in Figure 28, which is reproduced here for your reference.

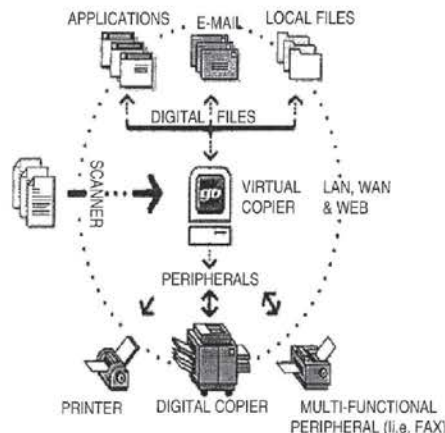


Fig. 28

A good example of an infringing system, and one your company likely uses, is an office local area network ("LAN") which is in communication with a server, employee computers having email software such as Outlook or Lotus, and a third-party scanner (or a multi-function printer with scanning functionality) which permits the scanning of a document directly to employee email address as a pdf attachment. Such a system would be a typical example of what infringes. There are other examples listed further below.

We note here that the scope of the patents is technically defined by the claims, and the language of the claims defines the legal scope of the patents. The more generalized examples provided in this letter are for your convenience and should not be considered exact substitutes for the more detailed claims. As such, you may find it useful to consider, as illustrative examples, claims 1-5 of the '426 Patent. Reviewing those you can see that the patent claims are directed to a system having a digital copier/scanner/multifunction device with an interface to office equipment (or to the web) and related software, for scanning or copying and transmitting images electronically to one or more destinations such as email, applications or other local files. Coverage of this type of system, and of the more generally worded example in the previous paragraph, is further reflected in claims 1, 8 and 15 of the '410 Patent, claims 12 and 15 of the '381 Patent, and claims 9 and 16 of the '590 Patent. Obviously each claim is separately drafted and you should consider the scope of each claim separately.

To assist you in confirming that you need a license, we provide illustrative examples of infringing systems below in the form of a brief set of fact checklists that you can use to determine if your system is one for which you should contact us about a license. If you can answer "YES" to each question under any of the scenarios A through C below, then you should contact us promptly.

A. Internetworking of Scanner/MFP and Email (SMTP, IMAP, POP3)**Yes No**

- ☐ ☐ 1. Does your company use document scanning equipment that is network addressable (*i.e.*, it has an IP address and can communicate on your network);
- ☐ ☐ 2. Does your company use Microsoft Exchange/Outlook, Lotus Domino/Notes or a comparable system for company email;
- ☐ ☐ 3. Are at least some of your employees' email addresses loaded into the scanner, so that you can select to whom you wish to send a scanned document by email; or, alternatively, can you manually input an employee's email address into the scanner to whom you wish a scanned document to be sent; and
- ☐ ☐ 4. Can you cause your scanner to transform your paper document to a .pdf file, and have it automatically transmitted to one or more of your employees by email. By automatically, we mean that pressing a "Start" or "Go" button instigates both the copying of the document and the automatic transmission of the document to its intended destination (such as a Microsoft Outlook email inbox).

B. Scanner/MFP and Sharepoint (HTTP and HTTPS)

- ☐ ☐ 1. Does your company use document scanning equipment that is network addressable (*i.e.*, it has an IP address and can communicate on your network);
- ☐ ☐ 2. Does your company use Microsoft Sharepoint; and
- ☐ ☐ 3. Is your scanner equipment configured so that you can scan a document and automatically transmit it to a Sharepoint site address.

C. Scanner/MFP and FTP/SFTP Site

- ☐ ☐ 1. Does your company use document scanning equipment that is network addressable (*i.e.*, it has an IP address and can communicate on your network);
- ☐ ☐ 2. Does your company use File Transfer Protocol and/or Secure File Transfer Protocol; and
- ☐ ☐ 3. Is your scanner equipment configured so that you can scan a document and automatically transmit it to an FTP or SFTP site.

Our research, which includes review of several marketplace trends and surveys, including various IDC reports, Infotrends reports and market share analyses, as well as a recent survey of an IT service company about the internal network environments of its clients, has led us to the conclusion that an overwhelming majority of companies like yours utilize systems that are set up to practice at least one of scenarios A through C above. Indeed, such practices are now standard in many industries. As a common example, our investigation has shown that most businesses have migrated to the usage of corporate email servers running Exchange or Lotus Domino/Notes and have further incorporated digital scanning into their workflows.

As your organization almost certainly uses in its day-to-day operations digital copier/scanner/multifunction equipment which is interfaced to a separate central office computer (an office network), so that digital images may be scanned and transmitted to one or more destinations such as email accounts and other applications, you should enter into a license agreement with us at this time.

If you believe you are in the unusual position of not having a system that can practice any of scenarios A through C outlined above, or otherwise avoids the requirements of the patent claims, please contact us so we may discuss means for confirming that. Upon appropriate confirmation, we would agree you have no need of a license and would not intend to pursue the matter further unless circumstances changed in a way to warrant reopening a reasonable inquiry. The materials we likely would require could include copies of the user manuals for your office copying/scanning equipment, along with the IP addresses and 2012 daily activity logs for each of them, as well as the registry of each of the email servers and file servers used in your company. These would allow us to determine whether we agree with your assessment. Of course, we are willing to treat any information you provide us as confidential and we will sign a non-disclosure agreement to that effect if you so desire. We should note that the examples A through C above are not an exhaustive list of the systems which may infringe, and that it may be determined that your system nevertheless requires a license even if it does not exactly fit one of the more common examples we have provided in this letter. However, when you provide us with the above information, we will be able to make that determination and explain that situation to you, if it exists.

You should know also that we have had a positive response from the business community to our licensing program. As you can imagine, most businesses, upon being informed that they are infringing someone's patent rights, are interested in operating lawfully and taking a license promptly. Many companies have responded to this licensing program in such a manner. Their doing so has allowed us to determine that a fair price for a license negotiated in good faith and without the need for court action is a payment of \$1,200 per employee. We trust that your organization will agree to conform your behavior to respect our patent rights by negotiating a license rather than continuing to accept the benefits of our patented technology without a license. Assuming this is the case, we are prepared to make this pricing available to you.

As part of our licensing program, we have received certain common inquiries that frequently are asked. In anticipation that you might have some of those same questions, and with an interest in addressing those sooner than later, we wish to provide some additional information as well.

One common question we have been asked is why we are not contacting the manufacturers of the scanning equipment or application software directly. The answer is our patent rights do not claim any scanning equipment, network file systems, FTP or Sharepoint sites, or email systems *alone*. Instead, our patent rights are addressed to end user enterprise systems which use network scanners or MFPs interoperably with other software/systems in order to practice the patented solution. As such, we would not, and do not, expect any manufacturer of a particular piece of equipment or software to accept any responsibility for the infringement created by the overall system, of which their product is only a part. Further, we expect that if you review your own agreements with these manufacturers, you will find that likewise they do not owe you any duty to indemnify you for situations where you combine a piece of equipment or software with other equipment or software to make a larger, more integrated (and useful) system.

Another common question is whether (or why) you have been singled out to receive this letter, as you may believe there are other companies like you that have not been contacted. Our response to that is to assure you that we have an ongoing vigorous licensing program that is being handled as promptly as possible, and that we fully expect to address the companies who are in need of a license. That said, your infringement of the patent rights is not justified by the infringement by others, as we are sure you understand.

We do invite you to consult with a patent attorney regarding this matter. Patents are exclusive property rights granted by law, and there can be serious consequences for infringement. Infringers who continue to infringe in the face of an objectively high risk of infringement of a valid patent can be forced to pay treble (triple) the actual damages, as well as the patent owner's litigation costs, including all attorney's fees.

Please let us hear from you within two weeks of the date of this letter, so that we may agree with you upon an appropriate license arrangement if one is needed. You may answer by contacting us by mail, phone, or email at the address provided at the start of this letter. We look forward to hearing from you.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Martin", enclosed within a faint, light-colored rectangular border.

David Martin

EXHIBIT B

FARNEY DANIELS PC

800 South Austin Ave., Suite 200
Georgetown, Texas 78626-5845

*Silicon Valley**Dallas*www.farneydaniels.com*Delaware**Austin/Georgetown*

November 16, 2012



Re: DesNot, LLC Patent Licensing

We are writing on behalf of our client, DesNot, LLC ("DesNot"). Several weeks ago, they wrote you a letter regarding their licensing program with respect to certain U.S. patents. The patents related to systems that, among other things, can permit scanning a document and have it automatically sent over a local area network to an email account. These patents included U.S. Pat. Nos. 7,986,426; 7,477,410; 6,771,381; 6,185,590. In their letter, our client described these patents, the technology, and infringement. They then asked you either to respond by entering into discussions to take a license, or, if appropriate, to provide confirmation that your company does not have an infringing system. Having not heard from you, our client reasonably assumes you do have an infringing system and need a license. Accordingly, they have referred the matter to us to determine whether we may be able to work out a license with you, or whether additional steps might be required.

As background, our firm practices nationally and specializes solely in patent litigation and licensing. While our representation of DesNot can involve litigation, it is our client's preference here that we first make all reasonable efforts to reach agreement on a license. To that end, we do need to hear from you within the next two weeks.

We also wish to reiterate the position of our client in its first letter that they have no interest in seeking a license from someone who does not infringe. If your company does not use a system covered by the patents, or does not have a system that would perform any of the Scenarios A through C mentioned in the first letter, then we will discuss with you how your position can be confirmed so that we may discontinue further unnecessary correspondence. In the far more likely scenario that you do need a license, we are prepared to work with you to reach an agreement on reasonable terms.

We do encourage you to retain competent patent counsel to assist you in this matter, if you have not already done so. If you have already retained patent counsel, please forward this letter to them, and have them advise us of their representation (or you may so inform us directly) so that we may direct all future correspondence to them.

You may contact us at 512-508-8481.

Sincerely,

A handwritten signature in dark ink, appearing to read "Maeghan Whitehead".

Maeghan Whitehead, Esq.

EXHIBIT C

FARNEY DANIELS LLP

*Silicon Valley
Dallas*

800 South Austin Ave., Suite 200
Georgetown, Texas 78626-5845
www.farneydaniels.com

*Delaware
Austin/Georgetown*

January 21, 2013

Via First Class Mail

Re: CalNeb, LLC Patent Licensing

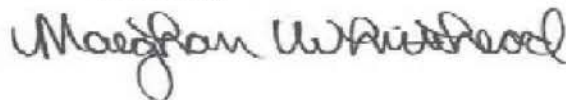
We write with respect to the patent licensing efforts of our client, CalNeb, LLC. This is the third letter you have received on this topic. The first letter, sent to you some time ago, provided a detailed explanation of what our client's patents cover, how you likely have an infringing system and therefore require a license, and provided you with the general terms for such a license. We then wrote you several weeks ago, noting that our client had not received a response from you, and had turned the matter over to us in hopes that we would be able to work out a license agreement. Both letters advised you to seek patent counsel for assistance. As you have not contacted us to explain that you do not have an infringing system, we reasonably can only assume that the system you are using is covered by the patents. In that case, you do need a license.

Accordingly, if we do not hear from you within two weeks from the date of this letter, our client will be forced to file a Complaint against you for patent infringement in Federal District Court where it will pursue all of the remedies and royalties to which it is entitled. The Complaint is attached, so that you may review it and show it to your counsel. Please note that we reserve the right to modify the Complaint, including adding additional patents, before we file. While our client would like to avoid litigation, it takes its licensing responsibilities seriously, as well as its responsibilities to protect the interests of all the companies who have already taken the proper step of obtaining a license. As stated in both the first and second letters you received, our client has no interest in seeking a license from someone who does not infringe. To reiterate this point one last time, if your company does not use a system covered by the patents, we urge you to contact us to confirm non-infringement so that we may discontinue our correspondence with you and avoid the unnecessary expense associated with a lawsuit.

In the far more likely scenario that you do need a license, we are prepared to work with you to reach an agreement on reasonable terms, but we must hear from you within two weeks of the date of this letter. Given that litigation will ensue otherwise, we again encourage you to retain competent patent counsel to assist you in this matter. If you have already retained patent counsel, please forward this letter to them and inform us of your choice of counsel so that we may direct all future correspondence to them.

You may contact me at (512) 508-8481.

Sincerely,



Maeghan Whitehead

**IN THE UNITED STATES DISTRICT COURT
Southern District of New York**

CalNeb, LLC

Plaintiff,

v.

[REDACTED]

Defendant.

Civil Action No. _____

JURY TRIAL REQUESTED

COMPLAINT

Plaintiff CalNeb, LLC ("CalNeb" or "Plaintiff"), by way of Complaint against Defendant

[REDACTED] or "Defendant"), hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*

THE PARTIES

2. Plaintiff CalNeb is a limited liability company organized under the laws of Delaware with its principal place of business at 40 East Main Street, #19, Newark, DE 19711.

3. Defendant [REDACTED] is a business with a principal place of operation at

[REDACTED]

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b&c) and 1400(b).

5. This Court has personal jurisdiction over Defendant for at least the following reasons: (i) [REDACTED] has, upon information and belief, knowingly and intentionally committed acts of patent infringement at least in this District and (ii) [REDACTED] regularly does business or solicits business, engages in other persistent courses of conduct, and/or derives substantial revenue from products and/or services provided to individuals in this District.

RELEVANT FACTS

6. This is a case where the Plaintiff owns valuable patent rights through a combination of issued patents and patents pending which cover the Defendant's ability to operate an information technology system within which its employees are able to scan a document into such things as (a) an email attachment, including transmittal of the attachment over a local area network or across the Internet; (b) a digital document file format, transmitted over a local area network or across the Internet, including storage of the document into its network files so that it can be accessed by Defendant's employees through one or more software applications; (c) a digital document, including transmittal of the document to a Sharepoint site or an FTP site. These patent rights are valuable because of the efficiencies they add to the workplace via the fast, reliable transmission of data without the added cost, delay and unreliability of paper-based systems of the prior art.

7. Defendant obtained this technology by integrating hardware, software and other equipment provided by various companies, none of which individually are accused of infringing the Plaintiff's patent rights. However, the Defendant has brought these diverse elements together into a data management system that infringes Plaintiff's patent rights.

8. Plaintiff has previously communicated in writing with Defendant about its patent rights, including setting forth its view that Defendant should take a license to one or more of its

patents. Defendant has not denied the use of the infringing technology, but has thus far been unwilling to share any of its own business information requested by Plaintiff, and has furthermore failed to cease its illegal theft of Plaintiff's patent rights.

9. Upon information and belief, Defendant has created and maintains a system for collecting, storing and accessing information.

10. Upon information and belief, Defendant utilizes a network addressable scanner and or a network addressable multifunction device (each of which is hereby described as an "IP scanner"). The IP scanner is capable of scanning paper into a digital form. Said IP scanner has its own IP address. It is configured so that various employee email addresses may be inputted into it in advance. Said IP scanner also includes a user interface which permits the user to input, *inter alia*, an intended recipient's email address, and then to press a button, which in turn triggers the scanning of paper into a digitally-formatted file that is automatically emailed to the intended recipient's email address. Upon information and belief, such IP scanner is configured to support similar related functionality such as scanning a document into a digital file that it transmitted to a Sharepoint site and/or to an FTP site, where it may be accessed by one or more of Defendant's employees. To be clear, Plaintiff is not alleging or contending that IP scanner equipment alone infringes any patent rights.

11. Upon information and belief, Defendant utilizes within its IT infrastructure an email system. Upon information and belief, Defendant utilizes Microsoft Exchange and Outlook, which runs on at least one server, in order to aid the process of communicating a digital image from an IP scanner to an intended email destination. Again, Plaintiff is not alleging or contending that these Microsoft products (or servers running them) by themselves infringe any patent rights.

12. Upon information and belief, Defendant utilizes an IP scanner capable of scanning paper into a digital form. Said IP scanner includes a user interface which permits the user of the IP scanner to input, *inter alia*, an intended network file destination, and to then press a button, which in turn triggers the scanning of paper into a digitally-formatted file that is automatically transmitted to and stored within the designated network file destination. To be clear, Plaintiff is not alleging or contending that the IP scanner equipment alone infringes any patent rights.

13. Upon information and belief, Defendant utilizes Microsoft Windows in a client server configuration, in order to aid the process of communicating a digital image from a scanner/copier to an intended file destination accessible to a file server. Again, Plaintiff is not alleging or contending that these Microsoft products (or server running Microsoft products) by themselves infringe any patent rights.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,477,410

14. CalNeb repeats and re-alleges the allegations of all of the preceding paragraphs as if fully set forth herein.

15. On January 13, 2009, United States Patent No. 7,477,410 (hereinafter referred to as the "'410 Patent"), entitled DISTRIBUTED COMPUTER ARCHITECTURE AND PROCESS FOR VIRTUAL COPYING, was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '410 Patent is attached as Exhibit A to this Complaint.

16. CalNeb is the exclusive licensee for the field pertinent to the Defendant in and to the '410 Patent, with sufficient rights and interest in the '410 Patent as to have standing to

assert all causes of action arising under said patent and the right to any remedies for infringement of it with respect to [REDACTED].

17. Upon information and belief, Defendant has in the past and continues to directly infringe at least Claim 8 and other claims of the '410 Patent by making and using in this judicial district and elsewhere in the United States, a data management system possessing all of the elements of at least these claims.

18. Upon information and belief, Defendant uses at least one network addressable scanner, digital copier or other multifunction peripheral (collectively, "digital copying devices") capable of creating a digital copy of a physical document (*e.g.*, a paper document).

19. Upon information and belief, Defendant uses one or more central computer(s) or server(s) for sharing access to information (collectively, Defendant's "file server") among desktop computers and/or other computers used by Defendant's employees (collectively, "client computers") and/or mobile devices used by Defendant's employees such as Blackberry® devices and other smartphones.

20. Upon information and belief, Defendant uses one or more central computer(s) or server(s) running corporate electronic email software (collectively, Defendant's "email server").

21. Upon information and belief, Defendant's file server and its email server are each connected to data stored in an electronic storage medium ("Defendant's data storage") such that certain of Defendant's data located in Defendant's data storage is accessible to Defendant's file server and/or email server.

22. Upon information and belief, Defendant uses memory in its file server and/or email server which stores software permitting electronic communication between Defendant's file server and at least one of the Defendant's digital copying devices.

23. Upon information and belief, Defendant uses memory in its file server and/or email server which stores software permitting electronic communication between Defendant's file server and at least one of the Defendant's client computers.

24. Upon information and belief, Defendant uses memory in its file server and/or email server which stores software permitting electronic communication between Defendant's email server and at least one of the Defendant's digital copying devices.

25. Upon information and belief, Defendant uses memory in its file server and/or email server which stores software permitting electronic communication between Defendant's email server and at least one of the Defendant's client computers.

26. Upon information and belief, Defendant uses software operated on or in conjunction with its file server and/or its email server and/or its data storage to replicate and transmit one or more digital copies of physical documents such as paper documents to one or more servers or client computers.

27. This replication and transmission occurs as a result of a user-command communicated through a graphical user interface (GUI), without any modification of any of Defendant's client computers, and without any modification of Defendant's software source code.

28. As a consequence of the infringement of the '410 Patent by the aforesaid Defendant, Plaintiff is entitled to recovery of past damages in the form of, at a minimum, a reasonable royalty.

29. Defendant's conduct since at least Defendant's receipt of the first communication from Plaintiff to Defendant regarding the '410 Patent also has induced infringement and/or contributed to infringement by others. For this indirect infringement, Plaintiff also is entitled to recover damages in the form of, at a minimum, a reasonable royalty.

30. Moreover, as a consequence of the prior communication of patent rights by Plaintiff to Defendant, combined with Defendant's failure to cease and desist from further infringement in the face of the objective risk of infringement, the infringement is willful, giving rise to Plaintiff's claims for trebling of the damages in this case, as well as to Plaintiff's claims that this is a case where Defendant should reimburse Plaintiff for its attorneys' fees and other costs of litigation pursuant to 35 U.S.C. Section 285.

COUNT II- INFRINGEMENT OF U.S. PATENT NO. 7,986,426

31. CalNeb reasserts and incorporates herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

32. On July 26, 2011, U.S. Patent No. 7,986,426 (hereinafter referred to as the "'426 Patent"), entitled DISTRIBUTED COMPUTER ARCHITECTURE AND PROCESS FOR DOCUMENT MANAGEMENT, was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the '426 Patent is attached as Exhibit B to this Complaint.

33. CalNeb is the exclusive licensee for the field pertinent to the Defendant in and to the '426 Patent, with sufficient rights and interest in the '426 Patent as to have standing to assert all causes of action arising under said patent and the right to any remedies for infringement of it with respect to [REDACTED].

34. As a result of the Defendant's scan-to-file and scan-to-email functionality described in the preceding paragraphs, which are incorporated herein in their entirety, the '426 patent is directly infringed by Defendant. The infringement includes infringement of Claim 1.

35. As a consequence of the infringement of the '426 Patent by the aforesaid Defendant, Plaintiff is entitled to recovery of past damages in the form of, at a minimum, a reasonable royalty.

36. Defendant's conduct since at least Defendant's receipt of the first communication from Plaintiff to Defendant regarding the '426 Patent also has induced infringement and/or contributed to infringement by others. For this indirect infringement, Plaintiff also is entitled to recover damages in the form of, at a minimum, a reasonable royalty.

37. Moreover, as a consequence of the prior communication of patent rights by Plaintiff to Defendant, combined with Defendant's failure to cease and desist from further infringement in the face of the objective risk of infringement, the infringement is willful, giving rise to Plaintiff's claims for trebling of the damages in this case, as well as to Plaintiff's claims that this is a case where Defendant should reimburse Plaintiff for its attorneys' fees and other costs of litigation pursuant to 35 U.S.C. Section 285.

JURY DEMAND

38. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, CalNeb demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, CalNeb respectfully demands judgment for itself and against Defendant as follows:

- A. An adjudication that Defendant has infringed the '410 Patent;
- B. An adjudication that Defendant has infringed the '426 Patent;
- C. An award of damages to be paid by Defendant adequate to compensate CalNeb for its past infringements of the '410 and '426 Patents and any continuing or future

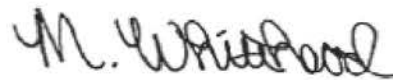
infringement through the date such judgment is entered, including interest, costs, expenses and enhanced damages for any willful infringement as justified under 35 U.S.C. § 284 and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

D. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

E. An award to CalNeb of such further relief at law or in equity as the Court deems just and proper.

Dated: January 21, 2013

Respectfully,

A handwritten signature in black ink, appearing to read "M. Whitehead".

Maeghan Whitehead
Farney Daniels LLP
800 S. Austin, Suite 200
Georgetown TX 78626-5845
(512) 582-2828
www.farneydaniels.com

ATTORNEYS FOR PLAINTIFF