IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division

FEDERAL TRADE COMMISSION, Petitioner, v. THE MEDICI PORTFOLIO, LLC, Respondent.	)	Case No.

PETITION OF THE FEDERAL TRADE COMMISSION FOR A SHOW CAUSE HEARING AND AN ORDER ENFORCING COMPULSORY PROCESS

Preamble

The Federal Trade Commission petitions this Court under Sections 6(b) and 9 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 46(b), 49, for an order requiring Respondent, The Medici Portfolio, LLC ("Medici"), to comply with an FTC Order to File a Special Report ("Order"), a form of administrative compulsory process. The FTC's Order seeks documents and information necessary for an ongoing Commission study of patent assertion entities ("PAEs") – firms that buy patents and then seek to generate revenue by asserting these patents against, and securing licenses from, persons already using the patented technology. The FTC is seeking data and information to assess the impact of PAEs and their activities on competition and consumers.

Medici's initial production in response to the Order was incomplete and

lacked responsive information required for Medici and several subsidiary entities. Medici has failed to complete its response even though, according to its co-founder and CEO, it has gathered the materials and is otherwise ready to produce them. Repeated contacts by Commission staff – including offers to pick up the materials from Medici's offices – have proved fruitless. Under these circumstances, the Commission has no choice but to ask this Court to enforce the FTC's Order and direct Medici to show cause why it cannot comply.

The Declaration under penalty of perjury of FTC attorney Neal Hannan, which verifies the allegations of this Petition, is attached hereto as Petition Exhibit ("Pet. Exh.") 1. Additional exhibits are as follows:

Pet. Exh. 2 Resolution Directing Use of Compulsory Process (FTC File No. 131203) (Sept. 12, 2014);

Pet. Exh. 3 Order to File Special Report and related correspondence directed to the Medici Portfolio, LLC (Sept. 15, 2014);

Pet. Exh. 4 Email from Michael Connelly, The Medici Portfolio, LLC, to Suzanne Munck and Neal Hannan, FTC Office of Policy Planning (Oct. 22, 2014);

Pet. Exh. 5 Letter from Suzanne Munck to Michael Connelly (Jan. 9, 2015);

Pet. Exh. 6 Email correspondence between The Medici Portfolio and FTC staff (Apr. 23, 2015 – May 29, 2015.

Petition Allegations

To support this Petition, the Commission alleges the following:

1. The Commission is an administrative agency of the United States government, organized and existing pursuant to the FTC Act, 15 U.S.C. § 41 *et seq*. The Commission is authorized and directed by Section 5(a) of the FTC Act, 15

U.S.C. § 45(a), to prevent the use of unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce.

2. Section 3 of the Act, 15 U.S.C. § 43, empowers the Commission to prosecute any inquiry necessary to its duties in any part of the United States.

3. Section 6 of the Act, 15 U.S.C. § 46, empowers the Commission to gather and compile information concerning, and to investigate from time to time, the organization, business, conduct, practices, and management of, any person, partnership, or corporation engaged in or whose business affects commerce, with certain exceptions not relevant here. Section 6 specifically authorizes the Commission to require these entities to "file . . . special . . . reports or answers in writing to specific questions, furnishing to the Commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective persons, partnerships, and corporations filing such reports or answers in writing." 15 U.S.C. § 46(b). Section 6 permits the FTC to compile this information for use in a public report, provided the report does not disclose trade secrets or confidential commercial or financial information. 15 U.S.C. § 46(f).

4. Section 9 of the Act, 15 U.S.C. § 49, grants jurisdiction to this Court to enforce Section 6(b) orders. Specifically, Section 9 provides in pertinent part that "the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person, partnership, or corporation to comply." 15 U.S.C. § 49. The Federal Rules provide, and courts have held, that the remedy of

mandamus is available to parties, and specifically to the Commission, to obtain compliance with Section 6(b) orders. Fed. R. Civ. P. 81(b); *see also Appeal of FTC Line of Business Report Litigation*, 595 F.2d 685, 704-05 (D.C. Cir. 1978).

5. Venue is proper in this judicial district because respondent, The Medici Portfolio, LLC, a Texas Corporation, is headquartered at 4601 Willard Avenue, Chevy Chase, Maryland. Pet. Exh. 1, ¶ 3. Under 28 U.S.C. § 1391, a case may be brought in "a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located." 28 U.S.C. § 1391(b)(1).

6. In October 2013, the Commission announced its intent to use its authority under Section 6(b) of the FTC Act in connection with its study of PAEs. *See* Pet. Exh. 1, ¶ 7; Agency Information Collection, Activities; Proposed Collection; Comment Request, 78 Fed. Reg. 6152, 6152-68 (Oct. 3, 2013); *see also* Agency Information Collection Activities; Submission for OMB Review; Comment Request, 79 Fed. Reg. 28715, 28715-29 (May 19, 2014). The Office of Management and Budget reviewed and approved the proposed study and orders to file special reports for compliance with the Paperwork Reduction Act. *See* Pet. Exh. 1, ¶ 7; Notice of Office of Management and Budget Action, ICR Reference No. 201405-3084-002 (Aug. 8, 2014), available at

http://www.reginfo.gov/public/do/DownloadNOA?requestID=258433.

7. On September 12, 2014, the Commission issued a Resolution Directing Use of Compulsory Process (FTC File No. P131203) "[t]o investigate the impact on United States competition and consumers since January 1, 2009, of persons, firms,

or entities, and those persons, firms, or entities related to, affiliated with, or assisting them, in the business of patent assertion activity." Pet. Exh. 1, ¶ 8; Pet. Exh. 2. Following this Resolution, the FTC issued Orders to File a Special Report to each of the firms selected for the study, including Medici. Pet. Exh. 1, ¶ 8; Pet. Exh. 3. The FTC selected these firms according to a stratified sampling process. Pet. Exh. 1, ¶ 8.

8. On September 15, 2014, the Commission issued a Section 6(b) order to Medici. Pet. Exh. 1, ¶ 8. The Order required Medici to provide three kinds of submissions: (1) a spreadsheet using an FTC-created template to provide for data consistency across respondents; (2) a "narrative" document in Word format for responses that were not well suited to data entry in a spreadsheet; and (3) documents that validated the information in the spreadsheet and narrative documents. This Order had a deadline of November 21, 2014. Pet. Exh. 1, ¶ 10; Pet. Exh. 3.

9. On October 7, 2014, FTC staff granted Medici's request to limit its responses to information about itself and 17 direct subsidiaries of Medici. Pet. Exh. 1, ¶ 11. Although Medici requested extensions of time to comply, the firm did not proffer a reasonable schedule for compliance and the deadline remained November 21, 2014. Pet. Exh. 1, ¶¶ 12-13.

10. Medici did not file an administrative petition to limit or quash the Order. Pet. Exh. 1, ¶ 13; Pet. Exh. 4. Instead, on November 21, 2014, it provided a partial response to the Order that omitted the requested spreadsheet, several

narrative responses, and other required documents. Medici stated that it would complete its production before the end of 2014, but to date has failed to do so. Pet. Exh. 1, ¶ 14.

11. On January 9, 2015, FTC staff informed Medici that the firm was in default, but that the Commission would forbear from seeking judicial enforcement if Medici agreed to comply with a series of deadlines. Pet. Exh. 1, ¶ 15; Pet. Exh. 5. In response, Medici proposed a schedule for weekly productions that would result in full compliance by February 27, 2015. Pet. Exh. 1, ¶15.

12. Medici met some initial deadlines, but stopped producing information after February 18, 2015 and has not produced additional materials since that date. Pet. Exh. 1, ¶¶ 16-18.

13. To date, Medici has produced spreadsheets for 8 of its 17 subsidiaries and 143 documents. Medici has not provided spreadsheets for the remaining 9 subsidiaries, or any of the required narrative responses. Pet. Exh. 1, ¶ 18.

14. Since February 18, 2015, Medici has stated repeatedly that the omitted materials have been collected and are ready for production. Nonetheless, Medici has not provided them. Pet. Exh. 1, ¶¶ 19-22; Pet. Exhs. 6.

15. Medici's failure to comply with the Commission's Order materially impedes the Commission's study of patent assertion entities. Medici oversees a wide range of patent assertion subsidiaries. Public data indicates that these entities are responsible for filing lawsuits against several dozen defendants throughout the United States. Medici is the only source of information about the

revenue it received as a result of settlement agreements reached in such litigation, the amounts it paid for the patents at issue in those litigations, and the extent to which it shared its revenues with contingency counsel, inventors and others. Pet. Exh. 1, ¶ 23. Therefore, the Commission respectfully requests that this Court enforce the Order and direct Medici to provide the omitted narrative responses and spreadsheets and to complete production of the responsive documents.

16. No previous application for the relief sought herein has been made to this Court or any other.

Prayer for Relief

WHEREFORE, the Commission invokes the aid of this Court and prays:

a. For the immediate issuance of an order directing Medici to show cause why it should not comply in full with the Order to File Special Report;

b. For a prompt determination of this matter and an order requiring Medici to fully comply with the Order to File Special Report within five (5) days of such order;

c. For such other relief as the Court deems just and proper.

Respectfully submitted,

SUZANNE MUNCK
Deputy Director
Office of Policy Planning

NEAL HANNAN
Office of Policy Planning

Dated: August 5, 2015

JONATHAN E. NUECHTERLEIN
General Counsel

DAVID C. SHONKA
Principal Deputy General Counsel

JOEL MARCUS
Director of Litigation

LESLIE RICE MELMAN
Assistant General Counsel for Litigation

s/ Burke W. Kappler
BURKE W. KAPPLER
Assigned bar number 801057

BRADLEY GROSSMAN
Attorneys for Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580
(202) 326-2043
(202) 326-2477 (fax)
bkappler@ftc.gov

PETITION EXHIBIT 1

Declaration of Neal Hannan,
(August 4, 2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division

FEDERAL TRADE COMMISSION, Petitioner, v. THE MEDICI PORTFOLIO, LLC, Respondent.	)	Case No.

DECLARATION OF NEAL HANNAN

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am an attorney employed by the U.S. Federal Trade Commission ("FTC" or "Commission"), in Washington, D.C., in the Office of Policy Planning.

2. I am authorized to execute a declaration verifying the facts that are set forth in the Petition of the Federal Trade Commission for an Order Enforcing Compulsory Process. I have read the petition and exhibits thereto (hereinafter referred to as "Pet. Exh."), and verify that Pet. Exh. 2 through Pet. Exh. 7 are true and correct copies of the original documents, or have been prepared from true and correct copies. The facts set forth herein are based on my personal knowledge or information made known to me in the course of my official duties.

3. The FTC is seeking judicial enforcement of an FTC Order to File Special Report ("Order") lawfully issued to The Medici Portfolio, LLC ("Medici"), under Section 6(b) of the FTC Act, 15 U.S.C. § 46(b). Medici is a Texas limited liability company headquartered in Chevy Chase, MD at 4601 Willard Avenue. Medici owns 17 subsidiary companies that have a primary business of acquiring and asserting patents through litigation. Medici was co-founded by two intellectual property lawyers, Michael Connelly and Matthew Cunningham. Medici's website provides its Chevy Chase address and identifies Mr. Connelly as its Chief Executive Officer.[1]

4. The Order required Medici to provide a spreadsheet, narrative responses, and documents concerning its corporate structure, activities, and relationships to other businesses. Medici has partially responded to the FTC's requests but has failed to provide the remaining information, even though statements from Medici's own Chief Executive Officer indicate that the information is gathered, ready for production, and not unduly large.

5. The FTC is conducting an ongoing study of patent assertion entities ("PAEs"). PAEs are firms that buy patents and then seek to generate revenue by asserting these patents against, and securing licenses from, persons who are already using the patented technology. The FTC is conducting its study of

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1 *See* http://www.mediciportfolio.com/company.php (visited July 28, 2015).

PAEs in order to further one of the agency's key missions – to study cutting-edge competition and consumer protection topics that may have a significant effect on the U.S. economy.

6. In 2012, the FTC sought to study PAEs using publicly available information, and held a public workshop to examine PAEs with the Department of Justice in December 2012.[2] FTC staff realized, however, that studying PAEs based on public information was not feasible because the public data consists almost entirely of filings from lawsuits, which contain little information about the PAEs' corporate structures, assertion activity, or their relationships with interested third parties.

7. In 2013, the FTC decided to use its authority under Section 6(b) of the FTC Act, 15 U.S.C. § 46(b), to require PAEs to produce information about their organization, patent acquisition and licensing activity, and business relationships. The Commission sought public comment on the proposed study in an October 2013 *Federal Register* notice.[3] The Commission then revised its information requests and sought additional public comment.[4] On

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2 *See* http://www.justice.gov/atr/public/workshops/pae/index.html for further information about the December 2012 workshop.

3 Agency Information Collection, Activities; Proposed Collection; Comment Request, 78 Fed. Reg. 6152, 6152-68 (Oct. 3, 2013); FTC Press Release (Sept. 27, 2013) available at https://www.ftc.gov/news-events/press-releases/2013/09/ftc-seeks-examine-patent-assertion-entities-their-impact.

4 Agency Information Collection Activities; Submission for OMB Review; Comment Request, 79 Fed. Reg. 28715, 28715-29 (May 19, 2014); FTC Press Release (May 13, 2014), available at https://www.ftc.gov/news-events/press-releases/2014/05/ftc-announces-second-federal-register-notice-revised-proposed.

August 8, 2014, the Office of Management and Budget approved the study and its information requests under the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq*.[5]

8. On September 12, 2014, after receiving OMB approval, the Commission issued a Resolution Directing Use of Compulsory Process (FTC File No. P131203) "[t]o investigate the impact on United States competition and consumers since January 1, 2009, of persons, firms, or entities, and those persons, firms, or entities related to, affiliated with, or assisting them, in the business of patent assertion activity." Pet. Exh. 2. The Commission issued Orders to File a Special Report to a number of entities determined to be PAEs, including Medici. The FTC selected the companies according to a stratified sampling process that was described in the FTC's publicly available Supporting Statement Part B and that was submitted to OMB.[6]

9. On September 15, 2014, FTC staff sent the Order to Medici. Pet. Exh. 3. FedEx tracking information states that Medici received the Order on September 19, 2014.

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[5] Notice of Office of Management and Budget Action, ICR Reference No. 201405-3084-002 (Aug. 8, 2014), available at http://www.reginfo.gov/public/do/DownloadNOA?requestID=258433. The documents the FTC submitted to OMB are available at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201405-3084-002.

[6] A copy of Supporting Statement Part B is available at http://www.reginfo.gov/public/do/DownloadDocument?documentID=475634&version=1 (uploaded May 15, 2014).

10. Under the Order, Medici was required to provide a complete response on behalf of each of its subsidiary companies by November 21, 2014. The Order required Medici to provide three kinds of submissions: (1) a spreadsheet using an FTC-created template to provide for data consistency across respondents; (2) a "narrative" document in Word format for responses that were not well suited to data entry in a spreadsheet; and (3) documents that validated the information in the spreadsheet and narrative documents.

11. On October 7, 2014, FTC staff met with Messrs. Connelly and Cunningham at FTC headquarters to discuss the status of Medici's compliance. After discussions, FTC staff agreed to limit the information requests to Medici itself and 17 subsidiaries that are directly owned by Medici, and to exclude affiliate entities that Mr. Connelly or Mr. Cunningham owns in another capacity.

12. On October 20, 2014, FTC staff conferred with Medici to discuss a schedule proposed by Medici for complying with the Order. Because Medici's proposal sought an extension of time to comply into March 2015, FTC staff asked Medici to suggest a more expedited schedule for its compliance.

13. On October 22, 2014, Medici notified FTC staff by email that it did not intend to seek to limit or quash the Order – an administrative remedy provided by the Commission's Rules of Practice – and that it intended to submit another

proposed compliance schedule. Pet. Exh. 4. Medici, however, did not contact FTC staff again until the Order's November 21, 2014 compliance deadline.

14. Medici's submission on that date did not include the required spreadsheet or any supporting documents. Additionally, Medici failed to submit complete responses to the interrogatories or to fully respond to all of the specifications in the Order. Medici promised to submit a document production by the end of the year, but failed to do so.

15. On January 9, 2015, FTC staff formally notified Medici that it was in default. Pet. Exh. 5. Shortly thereafter, Medici contacted FTC staff and proposed the following schedule for a rolling production over five weeks:

    a. On January 29, 2015, Medici would provide a complete narrative response to Specifications A and B for itself and each of its 17 subsidiaries, as well as a complete document production.

    b. On February 6, 13, 20, and 27, respectively, Medici would submit complete responses (both spreadsheet and narrative) to Specifications C-J for subgroups of the 17 subsidiaries, with the required information for all subsidiaries provided by the final deadline of February 27, 2015.

16. FTC staff accepted this proposal. Medici met its January 29, 2015 deadline for providing narrative responses to Specifications A and B for itself and each of its 17 subsidiaries.

17. Medici initially met its deadlines for spreadsheet responses, with some minor technical difficulties. Medici also submitted a document production on February 6 with its first spreadsheet responses. Although Medici failed to follow the instructions in the Order and attempted to provide its document production through Dropbox, an online third-party file-sharing site that is not accessible on the FTC's network, staff viewed Medici's attempts to submit documents as evidence of good faith.

18. By February 18, 2015, staff had received from Medici spreadsheet responses for only 8 of 17 subsidiaries and a total of 143 documents. However, Medici did not provide the required narrative responses for itself or any of the 17 subsidiaries, or produce the required spreadsheet responses for the other 9 of 17 subsidiaries. Since February 18, 2015, staff has not received any additional submissions from Medici.

19. FTC staff has contacted Medici several times since March 2015 regarding the status of Medici's compliance, but these contacts were unsuccessful in getting Medici to complete its production. FTC staff were either not able to reach Medici directly, or did reach Mr. Connelly, only to be told repeatedly that the remaining responsive materials would be produced soon. In at least one of these contacts, Mr. Connelly represented to staff that the remaining materials had been gathered and were ready for production. Mr. Connelly

also represented in this conversation that the materials comprised approximately 700 megabytes of data.

20. Despite these representations, Medici made no follow-up production and did not provide the materials. The Order provided clear instructions that productions under 10 gigabytes could be made via CD-R, CD-ROM, DVD-ROM, or USB 2.0 flash drive. A production that consisted of 700 megabytes of data could easily fit on a single CD-ROM, DVD-ROM, or flash drive.

21. In order to expedite Medici's compliance and to assist Medici in producing the remaining materials called for by the Order, FTC staff made available to the firm on multiple occasions an electronic file transfer system that was not offered to any other recipient. But Medici claimed to have difficulty using this system to complete its production. After several tries, on April 28, 2015, I emailed Mr. Connelly and offered to pick up the materials from Medici's offices in Chevy Chase, but Medici did not respond to my offer. *See*, *e.g.*, Pet. Exh. 6.

22. I spoke with Mr. Connelly on June 24, 2015. Also on the line were attorneys with the FTC's Office of General Counsel. At that time, Mr. Connelly initially claimed to have complied, but then admitted he had not and agreed to provide the required documents. Mr. Connelly stated that he was out of the office on vacation and would provide the documents when he returned to

the Washington, D.C. area on June 25, 2015. However, Mr. Connelly did not provide the documents as he stated.

23. Medici has not produced any information since its deficient production on February 18, 2015. Medici's failure to comply with the Commission's Order materially impedes the Commission's study of PAEs. Medici oversees a wide range of patent assertion subsidiaries. Public data indicates that these entities are responsible for filing lawsuits against several dozen defendants throughout the United States. Medici is the only source of information about the revenue it received as a result of settlement agreements reached in such litigation, the amounts it paid for the patents at issue in those litigations, or the extent to which it shared its revenues with contingency counsel, inventors and others.

24. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on August 4, 2015

Neal Hannan
Attorney Advisor for Intellectual Property
Federal Trade Commission

PETITION EXHIBIT 2

Resolution Directing Use of Compulsory Process
(FTC File No. 131203)
(Sept. 12, 2014)

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS

File No. P131203

Nature and Scope of Investigation: To investigate the impact on United States competition and consumers since January 1, 2009, of persons, firms, or entities, and those persons, firms, or entities related to, affiliated with, or assisting them, in the business of patent assertion activity.

The Federal Trade Commission hereby resolves and directs that any and all compulsory process available to it be used in connection with this investigation.

Authority:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1; FTC Procedures and Rules of Practice, 16 C.F.R. §§ 1.1 *et seq.* and supplements thereto.

By direction of the Commission.

Donald S. Clark,
Secretary

SEAL:
ISSUED: September 12, 2014

PETITION EXHIBIT 3

Order to File Special Report
and related correspondence
directed to the Medici Portfolio, LLC
(Sept. 15, 2014)

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning

September 15, 2014

The Medici Portfolio LLC
Attn: Michael G. Cunningham
4601 Willard Avenue
Chevy Chase, MD 20815

Re: U.S. Federal Trade Commission, Patent Assertion Entity Activity Study
FTC File No. P131203
OMB Control Number 3084-0162

Dear Mr. Cunningham,

The United States Federal Trade Commission (FTC) is conducting a study of Patent Assertion Entity (PAE) activity pursuant to Section 6 of the Federal Trade Commission Act, 15 USC § 46. The study collects information from PAEs. In the wireless chipset sector, it also collects information from non-practicing entities and firms that manufacture products. Following two public notice and comment periods, the Office of Management and Budget (OMB) approved the Commission's study on August 8, 2014.

Enclosed, please find an Order to File a Special Report ("Order") directing The Medici Portfolio LLC to respond to the Commission's information requests. The Medici Portfolio LLC must provide its response to the Order ("your Report") by November 21, 2014. The Order contains the Commission's questions and instructions for formatting your Report. Please read the questions and instructions carefully. Except as noted, all data responsive to the Order must be submitted using the Microsoft Excel workbook provided at the link in the Instructions.

Please note that Request B.2 requires that you "provide an organizational chart stating the names of all parents, wholly or partially owned subsidiaries, incorporated or unincorporated divisions, affiliates, branches, joint ventures, franchises, operations under assumed names, websites, or other Person(s) over which the Firm exercises or has exercised supervision or control since January 1, 2009," and that you "separately provide all information for the Firm and each related Person(s) identified" in this response. Based upon publicly available information, the FTC has determined that your response to this request must include information for at least the following, non-exhaustive, list of Persons:

- Abarta, LLC
- Abnoba IP LLC
- Abnobla IP LLC
- Accasvek, LLC
- Alisanos, LLC
- Almha LLC
- Anu IP, LLC
- Balor IP LLC
- Bel IP LLC
- Boann LLC
- Cian IP LLC
- Condatis, LLC
- Dagda IP LLC
- Elen IP LLC
- Ibormeith IP LLC
- Jernberg Dental LLC
- Lamina Packaging Innovations LLC
- Lugus IP LLC
- Macha IP LLC
- Medici Industrial Licensing Company LLC
- Medici Life Sciences Licensing Company LLC (f/k/a Airmid IP, LLC)
- Medici Portfolio Acquisition LLC
- Ogma, LLC
- Safety Innovations LLC
- Taranis IP LLC
- VStream Technologies LLC
- Welding Innovation Solutions, LLC

Documents submitted in compliance with this Order that are marked "confidential" will not be disclosed without first giving you ten days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f) and 57b-2. No documents containing confidential commercial or financial information within the meaning of Section 6(f) of the FTC Act may be disclosed publicly without your consent.

Any petitions to quash or modify this order must comply with the instructions and with Rule 2.10 of the FTC's Rules of Practice, 16 C.F.R. § 2.10. A copy of the Commission's Rules of Practice is available online at http://bit.ly/FTCRulesofPractice. Paper copies are available upon request.

If you have any questions about the Order or your Report, please contact me at (202) 326-2429 or smunck@ftc.gov.

Sincerely,

Suzanne Munck
Deputy Director, Office of Policy Planning

cc: Michael W. Connelly
Robert Grant
C T Corporation System.

ORDER TO FILE SPECIAL REPORT

OMB Control No. 3084-0162
Expires: 08/31/2017

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

File No. P131203

Pursuant to the resolution of the Federal Trade Commission dated September 12, 2014, entitled "Resolution Directing Use of Compulsory Process," a copy of which is enclosed, The Medici Portfolio LLC, hereinafter "the Firm" is ordered to file a Special Report with the Commission not later than November 21, 2014, containing the information specified herein.

The information provided in the Special Report will assist the Commission in compiling a study of Patent Assertion Entity (PAE) activity.

Your Special Report is required to be subscribed and sworn to by an official of the Firm who has prepared or supervised the preparation of the Special Report from books, records, documents, correspondence, and other data and material in your possession.

The Special Report must restate each item of this Order with which the corresponding answer is identified. If the Firm cannot answer any question fully, give the information that is available and explain in what respects and why the answer is incomplete.

The information requests to which you must respond are set forth in Specifications, consistent with the instructions in Appendix A.

Confidential or privileged commercial or financial information will be reported by the Commission on an aggregate or anonymous basis, consistent with sections 6(f) and 21(d) of the FTC Act. Individual submissions to this Order that are marked "confidential" will not be disclosed without first giving the Firm ten (10) days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21(d) of the FTC Act, 15 U.S.C. §§ 46(b) and 57b-2.

You are advised that penalties may be imposed under applicable provisions of federal law for failure to file special reports or for the filing of false reports.

Any petition to limit or quash this Order must be received by the Secretary of the Commission no later than twenty (20) days after service of this Order. Such petition shall set forth all assertions of protected status or other factual and legal objections to the Order, including all appropriate arguments, affidavits, and other supporting documentation. 16 C.F.R. § 2.10(a)(1). Such petition shall not exceed 5,000 words as set forth in 16 C.F.R. § 2.10(a)(1) and

must include the signed separate statement of counsel required by 16 C.F.R. § 2.10(a)(2). **The Commission will not consider petitions to quash or limit absent a pre-filing meet and confer session with Commission staff and, absent extraordinary circumstances, will consider only issues raised during the meet and confer process. 16 C.F.R. § 2.7(k); *see also* § 2.11(b).**

By direction of the Commission.

Edith Ramirez, Chairwoman

SEAL

September 12, 2014

The Report required by this Order, or any inquiry concerning it, should be addressed to:

Suzanne Munck
Federal Trade Commission
Office of Policy Planning
600 Pennsylvania Avenue, N.W., Mailstop H-394
Washington, D.C. 20580
smunck@ftc.gov

SPECIFICATIONS

A. Identification of Report Author: Identify by full name, title, business address, telephone number, email address, and official capacity the Person(s) who prepared or supervised the preparation of the Firm's response to the Information Requests.

B. Firm Information

1. State the Firm's complete legal name and all other names under which it has done business since January 1, 2009, its corporate mailing address, all addresses and websites from which it does or has done business since January 1, 2009, and the date(s) and state(s) of its incorporation.
2. Describe the Firm's business and corporate structure; provide an organizational chart stating the names of all parents, wholly or partially owned subsidiaries, incorporated or unincorporated divisions, affiliates, branches, joint ventures, franchises, operations under assumed names, websites, or other Person(s) over which the Firm exercises or has exercised supervision or control since January 1, 2009. When responding to these Information Requests, separately provide all information for the Firm and each related Person(s) identified in response to Request B2.
3. Has more than one Person identified in response to Request B2 engaged in Assertions against the same Person? (Y/N) If yes, name the Person(s) identified in response to Request B2 that made the Assertions, name the Person subject to the Assertions, state the date of each Assertion; and identify the Patent(s) related to each Assertion.
4. Identify each Person(s) with a contractual or other legal right or obligation to a share of revenues, profits, costs or other Economic Interest in the Firm. For each such Person, describe the Person's relationship with the Firm, including their percentage of ownership, control, or other legal entitlement to a share of revenues, profits or financial performance of the Firm and, if relevant, their positions and responsibilities within the Firm.

C. Patent Information

1. For each Patent Held by the Firm since January 1, 2009
    a. State the Person within the Firm who Holds the Patent, *e.g.* if the Patent is Held by a Firm subsidiary, state the subsidiary.
    b. State the Patent number.
    c. State the Patent's priority date.
    d. State the application to which the Patent claims earliest priority.
    e. Does the Patent expire either 17 years from the date of issuance, if the Patent was filed before June 7, 1995, or 20 years from the priority date, if the Patent was filed after June 7, 1995? (Y/N) If no:
        (1) state the Patent's expiration date; and

(2) produce, and provide a narrative response that identifies by Reference Number, Documents sufficient to demonstrate the Patent's expiration date.

f. Has the Patent been subject to review by the Patent and Trademark Office since January 1, 2009? (Y/N) If yes:

(1) provide the docket number for each review.

g. Do(es) any Person(s) outside the Firm Hold any Legal Rights to the Patent? (Y/N) If yes:

(1) identify the Person(s) who Hold(s) any Legal Rights to the Patent;

(2) for each Person identified above, provide a narrative response that identifies and describes the Legal Rights Held; and

(3) produce, and provide a narrative response that identifies by Reference Number, all agreements relating to the Legal Rights Held.

h. Do(es) any Person(s) outside the Firm Hold an Economic Interest in the Patent? (Y/N) If yes:

(1) identify the Person(s) who Hold(s) any Economic Interest in the Patent;

(2) for each Person identified above, provide a narrative response that identifies and describes the Economic Interest Held; and

(3) produce, and provide a narrative response that identifies by Reference Number, all agreements relating to the Economic Interest Held.

i. Does the Firm have an exclusive License to the Patent? (Y/N) If yes:

(1) produce, and provide a narrative response that identifies by Reference Number, the agreement(s) providing the exclusive License;

(2) produce, and provide a narrative response that identifies by Reference Number, all Reports that evaluate or analyze the Firm's reasons for entering into the exclusive License;

(3) if the exclusive License is limited by geography, list the geographic restrictions; and

(4) if the exclusive License is limited by field of use:

(a) state the specific field of use restriction; and

(b) identify, from the following list, in which sector(s) is the field of use restriction: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.

j. Has the Firm Asserted the Patent? (Y/N) If yes:

(1) state whether the patent is a Wireless Patent; and

(2) identify, from the following list, in which sector(s) the Patent was Asserted: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.

k. Has the Firm included the Patent in any Demand? (Y/N)

l. Has the Firm brought Litigation involving the Patent? (Y/N)

m. Has the Firm Licensed the Patent to any Person(s)? (Y/N)

n. Has the Firm, or any other Person, assigned a value to the Patent? (Y/N) If yes:

(1) state the date of the most recent valuation;

(2) state the amount of the most recent valuation;

(3) provide a narrative response identifying, by date and amount, all prior valuations by, or on behalf of, the Firm; and

(4) produce, and provide a narrative response that identifies by Reference Number, all related Reports.

o. State the number of known Assignments of the Patent before the Patent was Acquired by the Firm. As part of your response do not include the assignment of Legal Rights to a Patent by a Firm employee who is bound to assign Legal Rights to the Firm at the time of invention.

p. Provide a narrative response identifying all Person(s) to whom the Patent was assigned before the Firm Acquired the Patent and the date(s) of each assignment.

q. State whether the Patent was Asserted in Litigation before the Firm Acquired the Patent. (Y/N) If yes:

(1) state the number of times the Patent was Asserted in Litigation before the Firm Acquired the Patent;

(2) produce, and provide a narrative response that identifies by Reference Number, all agreements relating to the Litigation, including License, settlement, and non-disclosure agreements; and

(3) for each Litigation provide a narrative response:

(a) identifying the Person(s) who Asserted the Patent;

(b) identifying the jurisdiction and docket number of each Litigation;

(c) identifying all claims that were found infringed, valid, and enforceable;

(d) stating whether an injunction or exclusion order issued; and

(e) stating the amount of any damages awarded.

2. To the extent not otherwise identified in response to the Information Requests, if the Firm has entered into any agreement since January 1, 2009 relating to any Economic Interest or Legal Right to any Patent Held by the Firm, for each agreement
    a. Submit the agreement, and provide a narrative response that identifies it by Reference Number; and
    b. Submit all Reports that evaluate or analyze the reasons for entering into the agreement, and provide a narrative response that identifies the Reference Number(s) of the Reports.

D. Standard Setting Commitments

1. If any Person has committed to a Standard Setting Organization that it will License any Patent(s) Held by the Firm since January 1, 2009, for each commitment
    a. State the date the commitment was made.
    b. Identify the Person who made the commitment.
    c. Identify the Standard Setting Organization.
    d. Identify the standard(s) to which the commitment applies.
    e. Provide a narrative response identifying any Wireless Patents held by the Firm that are subject to the commitment.
    f. State whether the commitment is to License the Patent(s) or any Patent claim(s) on reasonable and non-discriminatory (RAND); fair, reasonable, and non-discriminatory (FRAND); royalty-free (RF); or other terms.
        (1) if the commitment is to License on terms other than RAND, FRAND, or RF, provide a narrative response describing the terms.
    g. Is the commitment subject to a field of use restriction? (Y/N) If yes:
        (1) state the specific field of use restriction(s); and
        (2) identify, from the following list, in which sector(s) is the field of use restriction: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.
    h. Provide a narrative response listing all Patent(s) that any Person has declared, or otherwise identified to any Person, as subject to the commitment.
    i. Produce, and provide a narrative response identifying by Reference Number, all agreements embodying the commitment.

E. Patent Portfolio Information

1. For each Patent Portfolio Held by the Firm since January 1, 2009
    a. Has the Firm organized the Portfolio by field of use? (Y/N) If yes:
        (1) state the specific field of use; and

(2) identify, from the following list, in which sector(s) is the field of use: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.

b. Does the Firm identify the Patent(s) included in the Patent Portfolio? (Y/N) If yes:

(1) provide a narrative response stating the numbers of the Patents included in the Patent Portfolio.

c. Has the Firm assigned a value to the Patent Portfolio? (Y/N) If yes:

(1) state the date of the most recent valuation;

(2) state the amount of the most recent valuation;

(3) provide a narrative response identifying, by date and amount, all prior valuations by, or on behalf of, the Firm; and

(4) produce, and provide a narrative response identifying by Reference Number, all related Reports.

d. Produce, and provide a narrative response identifying by Reference Number, all Reports that evaluate how the Firm organizes and names the Portfolio and the Firm's reasons or business strategy for organizing the Patent Portfolio and for allocating specific Patent(s) into any identified Patent Portfolio.

e. To the extent not identified above, provide a narrative response describing how the Firm organizes and names the Portfolio.

F. Patent Acquisition Information

1. For each transaction in which the Firm Acquired Patent(s) since January 1, 2009

a. State the date of the transaction.

b. State the Person who Acquired the Patent(s).

c. State the Person(s) from whom the Patent(s) were Acquired.

(1) did the Firm Acquire the Patent(s) from a named inventor of the Patent? (Y/N)

(2) did the Firm Acquire the Patent(s) from an employer of the named inventor? (Y/N)

(3) did the Firm Acquire the Patent from a Person that the Firm identifies as a Patent Assertion Entity? (Y/N)

d. State the total number of Patents Acquired in this transaction.

e. Did the Firm Acquire any Wireless Patent(s) in this transaction? (Y/N)

f. For <u>each</u> Patent Acquired in the transaction:

(1) state the Patent Number.

(2) did the Firm assign the Patent in connection with this transaction? (Y/N) If yes:

(a) was the assignment recorded with the United States Patent and Trademark Office? (Y/N)

(3) did the Firm obtain an exclusive License to the Patent in connection with the transaction? (Y/N)

(4) did the Firm License the Patent back to its previous owner? (Y/N)

g. Did the Firm assume existing License obligations for the Patent(s)? (Y/N) If yes:

(1) state the total number of License obligations assumed;

(2) state the total revenue obtained by the Firm as a result of assuming existing License obligations to the date of this request; and

(3) state the total revenue expected to be obtained by the Firm in the future as a result of assuming existing License obligations.

h. Did the Firm Acquire the Patent(s) in connection with any proceeding before a United States Bankruptcy Court? (Y/N) If yes:

(1) state the jurisdiction; and

(2) state the docket number.

i. For each Person receiving payment as a result of this transaction:

(1) state the Person to whom the payment was made.

(a) was the Person a named inventor of a Patent included in the transaction? (Y/N)

(b) was the Person an employer of a named inventor of a Patent included in the transaction? (Y/N)

(c) was the Patent(s) Acquired from the Person? (Y/N)

(2) did the Firm make a lump-sum payment(s), *i.e.* a payment not directly affected by the Firm's future revenue or unit sales, to this Person to Acquire the Patents? (Y/N) If yes:

(a) state the total amount of the lump-sum payment(s) made;

(b) state the total amount of the lump-sum payment(s) expected to be made in the future;

(c) if any agreement defines the lump-sum payment terms, produce, and provide a narrative response identifying by Reference Number, the agreement; and

(d) provide a narrative response describing the method for calculating the payment.

(3) did the Firm pay, or is the Firm expecting to pay, an on-going payment, *i.e.*, a payment that is directly affected by either the Firm's future revenue or unit sales, to this Person to Acquire the Patent(s)? (Y/N) If yes:

(a) state the total amount paid in on-going payments, by calendar year, to the date of this Request;

(b) state the total amount from on-going payments expected to be made in the future derived from the Patents Acquired;

(c) if any agreement defines the payment terms, produce, and provide a narrative response identifying by Reference Number, the agreement; and

(d) provide a narrative response describing the method for calculating the past and future ongoing payment(s).

j. Does the Acquisition involve a cross-License? (Y/N) If yes:

(1) state the date of the cross-License agreement.

(2) has the Firm assigned a value to the cross-License? (Y/N) If yes:

(a) state the date of the most recent valuation;

(b) state the amount of the most recent valuation;

(c) provide a narrative response identifying , by date and amount, all prior valuations by, or on behalf of, the Firm; and

(d) produce, and provide a narrative response identifying by Reference Number, all related Reports.

(3) produce, and provide a narrative response identifying by Reference Number, the cross-License; and

(4) produce, and provide a narrative response identifying by Reference Number, all related Reports.

k. Did any Person outside the Firm financially contribute to the Acquisition? (Y/N) If yes:

(1) state the Person(s) who contributed to the Acquisition;

(2) state the total amount contributed by other Person(s) to the Acquisition;

(3) state the total amount expected to be contributed by other Person(s) in the future as a result of the Acquisition;

(4) produce, and provide a narrative response identifying by Reference Number, all related agreements;

(5) produce, and provide a narrative response identifying by Reference Number, all related Reports; and

(6) for each Person identified, provide a narrative response stating each Person's financial contribution, the method for calculating this amount, and each Person's Legal Right to the Patent(s).

l. Do(es) any Person(s) outside the Firm Hold any Legal Rights to any of the Patents Acquired in this transaction? (Y/N) If yes:

(1) state the Person(s) who Holds any Legal Rights to any Acquired Patents;

(2) produce, and provide a narrative response identifying by Reference Number, all related agreements;

(3) produce, and provide a narrative response identifying by Reference Number, all related Reports; and

(4) for each Person identified, provide a narrative response identifying each Person's Legal Rights, and the Patent(s) to which the Person Holds each Legal Right.

m. Produce, and provide a narrative response identifying by Reference Number, all Reports related to the Acquisition.

n. Produce, and provide a narrative response identifying by Reference Number, all agreements related to the Acquisition.

2. To the extent not identified in these Information Requests, produce, and provide a narrative response identifying by Reference Number, all agreements between the Firm and any Person executed since January 1, 2009 relating to any Acquisition by the Firm of any Legal Right to a Patent

a. for any such agreement produced, also produce, and provide a narrative response identifying by Reference Number, all Reports that (i) evaluate or analyze the reasons for entering into the agreement or (ii) evaluate or analyze the calculation of any payment relating to the Acquisition.

G. Patent Transfer Information

1. For each transaction in which the Firm Transferred Patent(s) since January 1, 2009

a. State the date of the transaction.

b. State the Person(s) who Transferred the Patent(s).

c. State the Person(s) to whom the Patent(s) were Transferred.

(1) did the Firm Transfer the Patent(s) to a Person that the Firm identifies as a Patent Assertion Entity? (Y/N)

d. State the total number of Patent(s) Transferred in the transaction.

e. Did the Firm transfer any Wireless Patent(s) in this transaction? (Y/N)

f. For <u>each</u> Patent Transferred in the transaction:

(1) state the Patent number.

(2) did the Firm assign the Patent in connection with the transaction? (Y/N) If yes:

(a) was the assignment recorded with the United States Patent and Trademark Office? (Y/N)

(3) did the Firm grant an exclusive License to the Patent(s) in connection with the transaction? (Y/N)

g. Did the Firm transfer existing License obligations to the Patent(s)? (Y/N) If yes:

(1) state the total number of License obligations transferred; and

(2) state the total revenue received by the Firm from these Licenses.

h. Did the Firm Transfer the Patent(s) in connection with any proceeding before a United States Bankruptcy Court? (Y/N) If yes:

(1) state the jurisdiction; and

(2) state the docket number.

i. Was the Firm paid a lump-sum payment(s), *i.e.* a payment not directly affected by the transferee's future revenue or unit sales, to Transfer the Patent(s)? (Y/N) If yes, for <u>each</u> Person making payments to the Firm:

(1) state the Person from whom the payment(s) was received;

(2) state the total amount of the lump-sum payment(s) received;

(3) state the total amount of the lump-sum payment(s) expected to be received in the future;

(4) if any agreement(s) define(s) the payment terms, produce, and provide a narrative response identifying by Reference Number, the agreement(s); and

(5) provide a narrative response describing the method for calculating the payment(s).

j. Did the Firm receive, or is it receiving, an on-going payment, *i.e.*, a payment that is directly affected by either the transferee's future revenue or unit sales, from the Person(s) receiving the Patent(s)? (Y/N) If yes, for <u>each</u> Person making payments to the Firm:

(1) state the Person(s) from whom the payment(s) are received;

(2) state the total amount of the on-going payments received from this Person(s), by calendar year, made to the date of this Request;

(3) state the total amount of on-going payments expected to be received in the future;

(4) if any agreement(s) define(s) the payment terms, produce, and provide a narrative response identifying by Reference Number, the agreement(s); and

(5) provide a narrative response describing the method for calculating the on-going payment(s).

k. Does the Transfer involve a cross-License? (Y/N) If yes:

(1) state the date of the cross-License agreement;

(2) has the Firm assigned a value to the cross-License? (Y/N) If yes:

(a) state the date of the most recent valuation;

(b) state the amount of the most recent valuation;

(c) provide a narrative response identifying, by date and amount,, all prior valuations by, or on behalf of, the Firm; and

(d) produce, and provide a narrative response identifying by Reference Number, all related Reports.

(3) produce, and provide a narrative response identifying by Reference Number, the cross-License; and

(4) produce, and provide a narrative response identifying by Reference Number, all related Reports.

l. Did any Person outside the Firm share in the proceeds from the Transfer? (Y/N) If yes:

(1) state the Person(s) who shared in the proceeds from the Transfer;

(2) state the total amount shared with other Person(s) to the date of this Request;

(3) state the total amount expected to be shared with other Person(s) in the future;

(4) produce, and provide a narrative response identifying by Reference Number, all related agreements;

(5) produce, and provide a narrative response identifying by Reference Number, all related Reports; and

(6) for each Person identified, provide a narrative response stating the amount shared with each Person, the amount expected to be shared in the future, and the method for calculating this amount.

m. Produce, and provide a narrative response identifying by Reference Number, all Reports related to the Transfer.

n. Produce, and provide a narrative response identifying by Reference Number, all agreements related to the Transfer.

2. To the extent not identified in these Information Requests, produce, and provide a narrative response identifying by Reference Number, all agreements between the Firm and any Person executed since January 1, 2009 relating to any Transfer by the Firm of any Legal Right to a Patent

a. For any such agreement produced, also produce, and provide a narrative response identifying by Reference Number, all Reports that (i) evaluate or analyze the reasons for entering into the agreement or (ii) evaluate or analyze the calculation of any payment relating to the Acquisition.

H. Patent Assertion Information

1. Demand Information: For each Demand made by, or on behalf of, the Firm since January 1, 2009
    a. State the date of the Demand.
    b. State the Person(s) who made the Demand, *e.g.* the Firm or one of its related Person(s).
    c. State the Person(s) to whom the Demand was made.
    d. State the Patent(s) that formed the basis of the Demand.
    e. Did the Demand relate to a Wireless Patent? (Y/N)
    f. Identify, from the following list, in which sector(s) the Demand was made: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.
    g. Was the Demand limited to geographic area(s)? (Y/N) If yes:
        (1) identify the geographic area(s).
    h. State all accused product(s) relating to the Demand.
    i. Produce, and provide a narrative response identifying by Reference Number, a copy of each Demand Document and all appendices, including, but not limited to, claim charts, and all Reports related to the Demand.
2. Litigation Information: For each Litigation commenced since January 1, 2009 relating to a Patent Held by the Firm, or a Patent in which the Firm has an Economic Interest, separately for each Person (collectively including its parents, subsidiaries, and affiliates) named as a defendant (if the Firm is a plaintiff) or as a declaratory judgment plaintiff (if the Firm is a defendant)
    a. State the jurisdiction in which the Litigation was commenced.
    b. State the docket number of the Litigation.
    c. State the date the Litigation was commenced.
    d. State all plaintiffs named or otherwise joined in the Litigation.
    e. State the defendant (including parents, subsidiaries, and affiliates) named or otherwise joined in the Litigation.
    f. State all Patents Asserted.
    g. Was any Patent Asserted a Wireless Patent? (Y/N)
    h. Identify, from the following list, in which sector(s) the Patents were asserted: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.
    i. Produce, and provide a narrative response identifying by Reference Number, all orders relating to all dispositive motions.

j. Produce, and provide a narrative response identifying by Reference Number, all expert reports exchanged during Litigation that offer an opinion related to the valuation of the Patent(s) or damages relating to the Litigation.

k. Is the Litigation pending? (Y/N) If no:

(1) state the date of termination.

(2) state whether the Litigation terminated upon successful dispositive motion, jury verdict, judgment following trial on the merits, appeal, settlement, or other (if other, explain).

(3) provide a narrative response identifying all Patent claims found infringed, valid, and enforceable.

(4) did a permanent injunction, exclusion order, or cease and desist order issue? (Y/N)

(5) did the court award damages? (Y/N) If yes:

(a) state the amount awarded; and

(b) state the amount actually paid to the prevailing party.

(6) did the court award fees pursuant to 35 U.S.C. 285? (Y/N) If yes:

(a) state the fees awarded; and

(b) state the amount actually paid to the prevailing party.

(7) did the court issue sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure? (Y/N)

(8) did the Litigation terminate upon exhaustion of appellate process? (Y/N)

l. Did the Litigation settle? (Y/N) If yes:

(1) did the settlement result in a License agreement? (Y/N) If yes:

(a) state the date of the License agreement;

(b) state the Licensee; and

(c) state the Licensor.

(2) when was settlement reached: after the complaint was filed; after a successful dispositive motion, after a jury verdict, after judgment following trial on the merits, after appeal, or other (if other, explain)?

(3) did the Court issue an order construing any claim(s) of the Patent(s) Asserted before settlement was reached? (Y/N) If yes:

(a) produce, and provide a narrative response identifying by Reference Number, the order.

(4) state the total revenue the Firm has received under the terms of the settlement agreement from January 1, 2009 to the date of this Request.

Do not report revenue reported for any License identified in response to H.3 below.

(a) was any part of this revenue received as a lump-sum payment, *i.e.* a payment not directly affected by the defendant's future revenue or unit sales? (Y/N) If yes:

(1) state the total revenue the Firm has received to the date of this request in lump-sum payments; and

(2) state the total revenue the Firm expects to receive in the future in lump-sum payments.

(b) was any part of this revenue received as an on-going payment, *i.e.*, a payment that is directly affected by either the defendant's future revenue or unit sales? (Y/N) If yes:

(1) state the total revenue the Firm has received to the date of this request in on-going payments; and

(2) state the total revenue the Firm expects to receive in the future as on-going payments.

(c) is this revenue shared with anyone outside the Firm? (Y/N) If yes:

(1) state the total amount shared outside the Firm.

(2) if the revenue is part of an ongoing payment, state the total amount the Firm expects to share in the future.

(3) is any revenue shared pursuant to a contingency fee or risk-sharing agreement? (Y/N) If yes:

(A) state the total amount shared pursuant to a contingency fee or risk-sharing agreement;

(B) state the Person(s) outside the Firm who is party to the agreement; and

(C) provide a narrative response stating the amount the Firm shared with each Person, the amount the Firm expects to share in the future, and describing the method for calculating this amount.

(4) state all Person(s) with whom this revenue is shared.

(A) are any of these Person(s) the named inventor of any Patent Asserted in the Litigation? (Y/N)

(B) are any of these Person(s) the employer of the named inventor of any Patent Asserted in the Litigation? (Y/N)

(5) produce, and provide a narrative response identifying by Reference Number, all revenue sharing agreements.

(6) provide a narrative response stating the amount shared with each Person and describing the method for calculating this amount.

m. State the Firm's total expenses relating to the Litigation from January 1, 2009 to the date of this Request.

(1) are these expenses shared with any Person(s) outside the Firm? (Y/N) If yes:

(a) state the total amount of expenses shared outside the Firm;

(b) identify all Person(s) with whom expenses are shared;

(c) produce, and provide a narrative response identifying by Reference Number, all expense sharing agreements;

(d) produce, and provide a narrative response identifying by Reference Number, all Reports related to all expense sharing agreements; and

(e) provide a narrative response stating the amount shared with each Person and describing the method for calculating this amount.

n. State all projected revenues relating to the Litigation from the date of this Request.

(1) provide a narrative response describing the method for calculating the projected revenue, *e.g.* as a fraction of revenue or a fee per unit sold.

o. To the extent not identified above, produce, and provide a narrative response identifying by Reference Number, all agreements related to the Litigation and produce, and provide a narrative response identifying by Reference Number, all Reports related to the Litigation.

3. License Information: For each License executed since January 1, 2009 relating to a Patent Held by the Firm or a Patent in which the Firm has an Economic Interest

a. Who is the Licensor(s)?

b. Who is the Licensee(s)?

c. Identify all Patent(s) Licensed.

d. What is the effective date of the License agreement?

e. Does the License relate to a Patent Held by the Firm? (Y/N)

f. Does the License relate to a Wireless Patent Held by the Firm? (Y/N)

g. Does the License relate to a Patent in which the Firm has an Economic Interest? (Y/N)

h. Does the License relate to a Wireless Patent in which the Firm has an Economic Interest? (Y/N)

i. For each Litigation related to the License:

   (1) state the jurisdiction in which the Litigation was commenced.

   (2) state the docket number of the Litigation.

j. Does the License contain a field of use restriction? (Y/N) If yes:

   (1) state the specific field of use restriction ; and

   (2) identify, from the following list, in which sector(s) is the field of use restriction: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.

k. Does the License contain a geographic restriction? (Y/N) If yes:

   (1) identify the geographic restriction(s).

l. State the duration of the License agreement?

m. State the Licensed products or services.

n. Does the License include any cross-License? (Y/N) If yes:

   (1) has the Firm assigned a value to the cross-License? (Y/N) If yes:

      (a) state the date of the most recent valuation; and

      (b) state the amount of the most recent valuation; and

      (c) provide a narrative response identifying by date and amount all prior valuations by, or on behalf of, the Firm; and

      (d) produce, and provide a narrative response identifying by Reference Number, all related Reports.

   (2) produce, and provide a narrative response identifying by Reference Number, the cross-License.

   (3) provide a narrative response identifying the number of Patents cross-Licensed, as well as whether the cross-License is exclusive, whether there are any geographic limitations to the cross-License, whether there are any field of use limitations to the cross-License, and whether the field of use restriction is in the following sectors: Chemical, Computers & Communications, Drugs & Medical, Semiconductors, Other Electrical & Electronic, Mechanical, or Other.

o. State the total revenue the Firm has received under the terms of the License from January 1, 2009 to the date of this Request.

(1) was any part of this revenue received as a lump-sum payment, *i.e.* a payment not directly affected by the defendant's future revenue or unit sales? (Y/N) If yes:

(a) state the total revenue the Firm has received to the date of this request in lump-sum payments.

(2) was any part of this revenue received as an on-going payment, *i.e.*, a payment that is directly affected by either the defendant's future revenue or unit sales? (Y/N) If yes:

(a) state the total revenue the Firm has received to the date of this request in on-going payments.

(3) is this revenue shared with anyone outside the Firm? (Y/N) If yes:

(a) state the total amount shared outside the Firm.

(b) if the revenue is part of an ongoing payment, state the total amount the Firm expects to share in the future.

(c) state all Person(s) with whom this revenue is shared.

(1) are any of these Person(s) the named inventor of any of the Licensed Patents? (Y/N)

(2) are any of these Person(s) the employer of the named inventor of any of the Licensed Patents? (Y/N)

(d) produce, and provide a narrative response identifying by Reference Number, all revenue sharing agreements.

(e) provide a narrative response stating the amount the Firm shared with each Person and the amount the Firm expects to share in the future and describing the method for calculating this amount.

p. State the Firm's total expenses relating to the License agreement from January 1, 2009 to the date of this Request.

(1) are these expenses shared with any Person(s) outside the Firm? (Y/N) If yes:

(a) state the total amount of expenses shared outside the Firm;

(b) identify all Person(s) with whom expenses are shared;

(c) produce, and provide a narrative response identifying by Reference Number, all expense sharing agreements;

(d) produce, and provide a narrative response identifying by Reference Number, all Reports related to all expense sharing agreements; and

(e) provide a narrative response stating the amount of expenses shared with each Person and describing the method for calculating this amount.

q. State all projected revenues relating to the License from the date of this Request.

(1) provide a narrative response describing the method for calculating the projected revenue, *e.g.* as a fraction of revenue or a fee per unit sold.

r. Produce, and provide a narrative response identifying by Reference Number, all Reports related to the License.

s. Produce, and provide a narrative response identifying by Reference Number, all agreements related to the License.

4. To the extent not identified above, produce, and provide a narrative response identifying by Reference Number, all agreements related to any Assertion relating to a Patent Held by the Firm, or a Patent in which the Firm has an Economic Interest and produce, and provide a narrative response identifying by Reference Number, all related Reports

I. Aggregate Cost Information

1. Separately, for each year since January 1, 2009

a. State the total cost to the Firm relating to all Acquisitions identified in response to Request F.

(1) did the Firm share Acquisition costs with Person(s) outside the Firm? (Y/N) If yes:

(a) state all Person(s) with whom these costs are shared;

(b) state the total amount paid by Person(s) outside the Firm; and

(c) state the total amount paid by the Firm.

b. State the total cost to the Firm relating to all Litigations identified in response to Request H.2.

(1) did the Firm share Litigation costs with Person(s) outside the Firm? (Y/N) If yes:

(a) state all Person(s) with whom these costs are shared;

(b) state the total amount paid by Person(s) outside the Firm; and

(c) state the total amount paid by the Firm.

c. State the total cost to the Firm relating to all Licenses identified in response to Request H.3.

(1) did the Firm share License costs with Person(s) outside the Firm? (Y/N) If yes:

(a) state all Person(s) with whom these costs are shared;

(b) state the total amount paid by Person(s) outside the Firm; and

(c) state the total amount paid by the Firm.

2. For all forecasted costs expected to be paid after the date of this Request
   a. State the total cost expected to be paid by the Firm relating to all Acquisitions identified in Request F.
   b. State the total cost expected to be paid by all other Person(s) outside the Firm relating to all Acquisitions identified in Request F.
   c. State the total cost expected to be paid by the Firm relating to all Litigations identified in Request H.2.
   d. State the total cost expected to be paid by all other Person(s) outside the Firm relating to all Litigations identified in Request H.2.
   e. State the total cost expected to be paid by the Firm relating to all License Agreements identified in Request H.3.
   f. State the total cost expected to be paid by all other Person(s) outside with the Firm relating to all License Agreements identified in Request H.3.
   g. Produce, and provide a narrative response identifying by Reference Number, all Reports related to all forecasted costs identified in response to this Request.
3. Since January 1, 2009, has the Firm engaged in any research and development related to the Patents identified in Request C? (Y/N) If yes:
   a. What is the total cost of the Firms' research and development activity?
   b. Produce, and provide a narrative response identifying by Reference Number, Documents sufficient to show the total cost of the Firms' research and development activity.
4. Produce, and provide a narrative response identifying by Reference Number, Documents sufficient to show all costs and payments identified in response to Request I
5. Has the Firm made any payment related to the Acquisition of any Patent by any Person not otherwise identified in response to these Requests? (Y/N) If yes:
   a. State the Person(s) to whom the payments were made;
   b. State the total amount paid;
   c. State the total amount expected to be paid in the future; and
   d. For each Person who received payments from the Firm, provide a narrative response identifying the amount paid, identifying the amount expected to be paid in the future, and describing the Acquisition.

J. Aggregate Revenue Information

1. Separately, for each year since January 1, 2009
    a. State the total revenue received by the Firm relating to all Transfers identified in response to Request G.
        (1) did the Firm share Transfer revenue with Person(s) outside the Firm? (Y/N) If yes:
            (a) state all Person(s) with whom this revenue is shared;
            (b) state the amount of revenue shared with Person(s) outside the Firm; and
            (c) state the amount retained by the Firm.
    b. State the total revenue received by the Firm relating to all Litigations identified in response to Request H.2.
        (1) did the Firm share Litigation revenue with Person(s) outside the Firm? (Y/N) If yes:
            (a) state all Person(s) with whom this revenue is shared;
            (b) state the total revenue shared with Person(s) outside the Firm; and
            (c) state the amount retained by the Firm.
    c. State the total revenue received by the Firm relating to all Licenses identified in response to Request H.3.
        (1) did the Firm share License revenue with Person(s) outside the Firm? (Y/N) If yes:
            (a) state all Person(s) with whom this revenue is shared;
            (b) state the total revenue shared with Person(s) outside the Firm; and
            (c) state the amount retained by the Firm.
2. For all forecasted revenues expected to be received by the Firm after the date of this Request
    a. State the total revenue expected to be received by the Firm relating to all Transfers identified in Request G.
    b. State the total revenue expected to be received by all other Person(s) outside the Firm relating to all Transfers identified in Request G.
    c. State the total revenue expected to be received by the Firm relating to all Litigations identified in Request H.
    d. State the total revenue expected to be received by all other Person(s) outside the Firm relating to all Litigations identified in Request H.2.
    e. State the total revenue expected to be received by the Firm relating to all License Agreements identified in Request H.3.

f. State the total revenue expected to be received by all other Person(s) outside the Firm relating to all License Agreements identified in Request H.3.

3. Produce, and provide a narrative response identifying by Reference Number, Documents sufficient to show all revenue identified in response to Request J

4. Produce, and provide a narrative response identifying by Reference Number, all Reports related to all forecasted revenues identified in response to Request J

5. Has the Firm received any revenue, either directly or indirectly, from the Assertion of any Patent by any Person not otherwise identified in response these requests? (Y/N) If yes:

   a. State the Person(s) who paid this revenue to the Firm;

   b. State the total amount of revenue received;

   c. State the total amount of revenue expected to be received in the future; and

   d. For each Person who paid this revenue to the Firm, provide a narrative response identifying the amount paid, identifying the amount expected to be paid in the future, and describing the Assertion.

6. Has the Firm received any revenue, either directly or indirectly, from the Acquisition of any Patent by any Person not otherwise identified in response these requests? (Y/N) If yes:

   a. State the Person(s) who paid this revenue to the Firm;

   b. State the total amount of revenue received;

   c. State the total amount of revenue expected to be received in the future; and

   d. For each Person who paid this revenue to the Firm, provide a narrative response identifying the amount paid, identifying the amount expected to be paid in the future, and describing the Acquisition.

7. Has the Firm received any revenue, either directly or indirectly, from the Transfer of any Patent by any Person not otherwise identified in response these requests? (Y/N) If yes:

   a. State the Person(s) who paid this revenue to the Firm;

   b. State the total amount of revenue received;

   c. State the total amount of revenue expected to be received in the future; and

   d. For each Person who paid this revenue to the Firm, provide a narrative response identifying the amount paid, identifying the amount expected to be paid in the future, and describing the Transfer.

APPENDIX A

A. General Instructions

1. The Firm's Special Report must be filed by November 21, 2014.

2. The Special Report must restate each item of the Information Requests with which the corresponding answer is identified.

3. The Special Report shall be entered into the Microsoft Excel workbook spreadsheets at http://go.usa.gov/V6vA with this Order whenever possible. The FTC has entered the information request numbers and the type of information that must be provided in the header row of each column. When it is not possible to enter the required answer or information into the applicable worksheet, the Firm shall provide the required answer in a Microsoft Word document.

4. Requests that require narrative responses shall be provided in a Microsoft Word document.

5. Requests that require a narrative response that identifies Reference Numbers shall be submitted in a Microsoft Word table, with two columns. The left column shall contain the request number, and the right column shall contain all responsive Document IDs or Document ID ranges. Where the same request requires multiple responses (e.g., where a request requires a separate response for each relevant person), provide each response in a separate row and note in brackets a differentiating characteristic following the Request Number.

REQUEST NUMBER	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX

or

REQUEST NUMBER[PERSON_1]	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX
REQUEST NUMBER[PERSON_2]	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX
REQUEST NUMBER[PERSON_3]	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX

6. If any requested information cannot be provided fully, give the information that is available and explain in detail in what respects and why the response is incomplete.

7. The Firm shall submit all written responses in native electronic format. For narrative responses or responses identifying Reference Numbers, the Firm shall provide both

Microsoft Word and PDF versions. For all responses to be submitted via spreadsheet, the Firm shall submit its responses in native Microsoft Excel format.

B. Definitions

"**Acquire**" and "**Acquisition**" mean to purchase or obtain from another Person any Legal Right to a Patent, or to purchase or obtain a Person who Holds any Legal Right to a Patent. This definition does not include the assignment of Legal Rights to a Patent by a Firm employee who is bound to assign his or her Legal Rights to the Firm at the time of invention.

"**Assert**" and "**Assertion**" mean: (i) any Demand; (ii) any civil action threatened or commenced (by the Firm or other Person) relating to any Patent; or (iii) any investigation pursuant to 19 U.S.C. 1337 threatened or initiated (by the Firm or other Person) relating to any Patent. For Manufacturing Firms, "**Assert**" and "**Asserted**" do not include sales of products manufactured by the Firm, or on behalf of the Firm, that practice the claimed invention.

"**Class**" and "**Subclass**" have the meanings defined by the United States Patent and Trademark Office (USPTO).

"**Demand**" means any effort since January 1, 2009 to License any Patent, in whole or in part, and any other attempt to generate revenue by authorizing a Person outside the Firm to practice an invention claimed in a Patent. Demand does not include complaints or pleadings filed with a United States District Court or the United States International Trade Commission.

"**Documents**" means all electronically stored information, and written, recorded, and graphic materials of every kind in the possession, custody, or control of the Firm. Unless otherwise specified, the term "**Documents**" excludes: (i) bills of lading, invoices, purchase orders, customs declarations, and other similar documents of a purely transactional nature; (ii) architectural plans and engineering blueprints; and (iii) documents solely relating to environmental, human resources, OSHA, or ERISA compliance.

"**Economic Interest**" means any right or claim to current or future revenues derived from a Patent, including, but not limited to: lump-sum payments; royalties; access to other Patent(s) as part of a cross-Licensing agreement; a debt or equity interest in a Person that Asserts Patents; use of the Firm's Legal Rights to any Patent as collateral for a Person's loan or investment; or any other form of compensation relating to the Assertion, Acquisition, or Transfer of Patents Held by the Firm. "**Economic Interest**" does not include shareholders of publicly traded Firms that own less than 5% of the outstanding shares of any class of stock in the Firm.

"**Firm**" means the Person served with the information requests described in this notice.

"**Hold**" and "**Held**" mean to possess a Legal Right to a Patent.

"**Legal Right**" means any ownership interest in, an exclusive License to, or other rights adequate to License or enforce a Patent.

"**Litigation**" means any civil action commenced in a United States District Court or with the United States International Trade Commission.

"**License**" means authorization by the Patent holder to practice the claimed invention, including, but not limited to, a covenant not to sue and a covenant not to assert.

"**Maintenance Fee(s)**" has the meaning defined by the USPTO.

"**Patent**" means a United States patent or United States patent application as defined by 35 U.S.C. 101, *et seq*.

"**Patent Portfolio**" means a collection of patents Held by the Firm, including all of the patents Held by the Firm and any sub-groups into which the Firm organizes its patents.

"**Person**" means any natural person, corporation, association, firm, partnership, joint venture, trust, estate, agency, department, bureau, governmental, judicial, or legal entity, however organized or established.

"**Reference Number**" means a Bates number or other sequential identification number.

"**Report**" means all studies, analyses, and reports which were prepared by or for any officer(s) or director(s) of a corporate entity (or, in the case of unincorporated entities, individuals exercising similar functions) or presented to any Person outside the Firm (including, but not limited to, investment presentations and documents filed with the United States Internal Revenue Service or Securities and Exchange Commission).

"**Standard Setting Organization**" or "**SSO**" means any organization, group, joint venture, or consortium that develop standards for the design, performance, or other characteristics of products or technologies.

"**Transfer**" means the sale or exchange of any Legal Right to a Patent, including for monetary or other consideration or for no compensation.

"**Wireless Chipset**" means any baseband processor, radio frequency transceiver, integrated circuit, chip, or chipset, or any combination thereof, and any related software, used to implement wireless communication.

"**Wireless Communications Device**" means any device, including wireless chipsets, which implements wireless communication, including, but not limited to, software, user equipment, base stations, and network infrastructure.

"**Wireless Patent**" means any Patent Asserted against a Wireless Communication Device.

C. Data Submissions

1. Numerical Data

Unless modified by agreement in writing with the Office of Policy Planning Deputy Director, all requests for dollar amounts shall be entered as rounded to the nearest whole dollar, without commas or dollar signs.

Percentages shall be entered as a decimal, i.e., fifty percent shall be entered as <0.50>.

Dates shall be entered as <MM/DD/YYYY>.

2. Patents and Patent Applications

U.S. Patent numbers shall be provided as a seven-digit number <9999999>, without commas or spaces.

Reissue patents shall be provided as a six-digit number following the prefix "RE": <RE999999>. Leading zeroes must be entered between "RE" and the number to create six digits.

Design patents shall be provided as a seven-digit number following the prefix "D": <D9999999>. Leading zeroes must be entered between "D" and the number to create seven digits.

U.S. Patent application numbers shall be provided using the two-digit series code followed by the six-digit serial number assigned by the USPTO, in the following format: <99/999999>.

PCT or International Applications can be entered in either the old (14 character) or new WIPO formats. The old (14 character) format includes a two-digit year and five-character sequence number, *e.g.*, 'PCT/US99/12345'. The new (17 character) format includes a four-digit year, *e.g.*, 'PCT/US1999/123456'. The acceptable formats are as follows: <PCT/CCYY/99999 or PCT/CCYYYY/999999>, where

PCT = "PCT"
CC = 2 character Country Code
YY – last 2 digits of the year filed
YYYY = four digit year filed
99999, 999999 = is the 5 or 6 digit sequence number.

3. Jurisdiction and Docket Information

Responses to requests for the jurisdiction of a Litigation or bankruptcy proceeding should use the following formats:

For district court cases, give the district but not the division:

E.g., D.N.J.; or D.D.C.; or C.D. Cal.

For bankruptcy court cases, write the term "Bankr." followed by the federal district name:

E.g., Bankr. D.N.J.; Bankr. D.D.C.

For International Trade Commission cases, write "USITC".

Responses to requests for docket number shall be provided as follows:

For district court and bankruptcy cases, provide the docket number in any of the following formats:

<YY-NNNNN>
<YY-TP-NNNNN>
<YY TP NNNNN>
<YYTPNNNNN>
<O:YY-NNNNN>
<O:YY-TP-NNNNN>
<O:YY TP NNNNN>
<O:YYTPNNNNN>, where

YY = Two or four digit code for the year filed
NNNNN = Case number (up to five digits)
TP = Case type (up to two characters)
O = Office where the case was filed (1 digit)

For International Trade Commission Cases, write the Investigation Number:

E.g., No. 731-TA-1070B

For proceedings before the Patent Trial and Appeal Board at the United States Patent and Trademark Office, provide the docket number as <Proceeding Type><Year>-<Number>:

E.g., CBM2012-0001; or IPR2012-00001

For proceedings before the Board of Patent Appeals and Interferences at the United States Patent and Trademark Office, provide the docket number as:

BPAI<Year>-<Appeal Number>, where

<Year> = four digit number
<Appeal Number> = six digit number, with leading zeroes where necessary.

D. Production of Documents

1. Form of Production. The Firm shall submit documents as instructed below absent written consent signed by an Office of Policy Planning Deputy Director.

(a) Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in the following electronic format provided that such copies are true, correct, and complete copies of the original documents:

(i) Submit Microsoft Excel, Access, and PowerPoint files in native format with extracted text and metadata.

(ii) Submit emails in image format with extracted text and the following metadata and information:

Metadata/Document Information	Description
Beginning Reference Number	The beginning Reference Number of the document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.
To	Recipients(s) of the email.
From	The person who authored the email.
CC	Person(s) copied on the email.
BCC	Person(s) blind copied on the email.
Subject	Subject line of the email.
Date Sent	Date the email was sent.
Time Sent	Time the email was sent.
Date Received	Date the email was received.
Time Received	Time the email was received.
Attachments	The Document ID of attachment(s).
Mail Folder Path	Location of email in personal folders, subfolders, deleted items or sent items.
Message ID	Microsoft Outlook Message ID or similar value in other message systems.

(iii) Submit email attachments other than those identified in subpart (a)(i) in image format with extracted text and the following metadata and information:

Metadata/Document Information	Description
Beginning Reference	The beginning Reference Number of the

Number	document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.
Parent Email	The Document ID of the parent email.
Modified Date	The date the file was last changed and saved.
Modified Time	The time the file was last changed and saved.
Filename with extension	The name of the file including the extension denoting the application in which the file was created.
Originating Path	File path of the file as it resided in its original environment.
Production Link	Relative file path to production media of submitted native files. Example: FTC-001\NATIVE\001\FTC-00003090.xls.
Hash	The Secure Hash Algorithm (SHA) value for the original native file.

(iv) Submit all other electronic documents other than those described in subpart (a)(i) in image format accompanied by extracted text and the following metadata and information:

Metadata/Document Information	**Description**
Beginning Reference Number	The beginning Reference Number of the document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.
Modified Date	The date the file was last changed and saved.
Modified Time	The time the file was last changed and saved.

Filename with extension	The name of the file including the extension denoting the application in which the file was created.
Production Link	Relative file path to production media of submitted native files. Example: FTC-001\NATIVE\001\FTC-00003090.xls.
Hash	The Secure Hash Algorithm (SHA) value for the original native file.

(v) Submit documents stored in hard copy in image format accomplished by OCR with the following information:

Metadata/Document Information	**Description**
Beginning Reference Number	The beginning Reference Number of the document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.

(vi) Submit redacted documents in PDF format accompanied by OCR with the metadata and information required by relevant document type in subparts (a)(i) through (a)(v) above. For example, if the redacted file was originally an attachment to an email, provide the metadata and information specified in subpart (a)(iii) above. Additionally, please provide a basis for each privilege claim as detailed in Instruction D.2.

(b) Submit data compilations in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact.

(c) If the Firm intends to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in the Company's computer systems or electronic storage media, or if the Firm's computer systems contain or utilize such software, the Firm must contact the Commission to determine, with the assistance of the appropriate Commission representative, whether and in what manner the Firm may use such software or services when producing materials in response to this Order.

(d) Produce electronic file and image submissions as follows:

(i) For productions over 10 gigabytes, use hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data in USB 2.0 or 3.0 external enclosure;

(ii) For productions under 10 gigabytes, CD-R CD-ROM optical disks, DVD-ROM optical disks for Windows-compatible personal computers, and USB 2.0 Flash Drives are acceptable storage formats; and

(iii) All documents produced in electronic format shall be scanned for and free of viruses prior to submission. The Commission will return any infected media for replacement, which may affect the timing of the Firm's compliance with this Order.

(iv) Encryption of productions using NIST FIPS-Compliant cryptographic hardware or software modules, with passwords sent under separate cover, is strongly encouraged.

(e) Each production shall be submitted with a transmittal letter that includes the FTC matter number; production volume name; encryption method/software used; passwords for any password protected files; total number of documents; and a list of load file fields in the order in which they are organized in the load file.

2. Privileged Material

(a) Privilege Log

(i) If any documents are withheld from production based on a claim of privilege, provide a statement of the claim of privilege and all facts relied upon in support thereof, in the form of a log that includes each document's authors, addressees, date, a description of each document, and all recipients of the original and any copies.

(ii) Attachments to a document should be identified as such and entered separately on the log.

(iii) For each author, addressee, and recipient, state the person's full name, title, and employer or firm, and denote all attorneys with an asterisk.

(iv) The description of the subject matter shall describe the nature of each document in a manner that, though not revealing information itself privileged, provides sufficiently detailed information to enable Commission staff, the Commission, or a court to assess the applicability of the privilege claimed.

(v) For each document withheld under a claim that it constitutes or contains attorney work product, also state whether the company asserts that the

document was prepared in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon which the assertion is based.

(vi) Submit all non-privileged portions of any responsive document (including non-privileged or redactable attachments) for which a claim of privilege is asserted (except where the only nonprivileged information has already been produced in response to this instruction), noting where redactions in the document have been made. On the log, list the Reference Number of the non-privileged portions of such responsive documents.

3. All documents responsive to this Order:

(a) Shall be produced in complete form, unredacted unless privileged, and in the order in which they appear in the Firm's files;

(b) Shall be marked on each page with corporate identification and consecutive document control numbers when produced in image format;

(c) Shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black-and-white photocopying or conversion to TIFF format of any document (e.g., a chart or graph), makes any substantive information contained in the document unintelligible, the Firm must submit the original document, a like-colored photocopy, or a JPEG format image);

(d) Shall be accompanied by an affidavit of an officer of the Firm stating that the copies are true, correct, and complete copies of the original documents; and

(e) Shall be accompanied by an index that identifies (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control numbers(s) used to identify that person's documents. The Commission representative will provide a sample index upon request.

APPENDIX B

Certification

This Special Report, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with instructions issued by the Federal Trade Commission in its Special Orders for the Patent Assertion Entity Study. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required information, the information is, to the best of my knowledge, true, correct, and complete. Where copies rather than original documents have been submitted, the copies are true, correct, and complete.

_____
Type or Print Name and Title

_____
Type or Print Firm Name and Address

_____
Type or Print Phone Number and Email Address

_____
(*Signature*)

Subscribed and sworn to before me at the City of _____.

State of _____, this, ____ day of _____, 201___.

_____
(Notary Public)

My Commission Expires: _____

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISIONERS: **Edith Ramirez, Chairwoman**
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeny

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS

File No. P131203

Nature and Scope of Investigation: To investigate the impact on United States competition and consumers since January 1, 2009, of persons, firms, or entities, and those persons, firms, or entities related to, affiliated with, or assisting them, in the business of patent assertion activity.

The Federal Trade Commission hereby resolves and directs that any and all compulsory process available to it be used in connection with this investigation.

Authority:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1; FTC Procedures and Rules of Practice, 16 C.F.R. §§ 1.1 *et seq.* and supplements thereto.

By direction of the Commission.

Donald S. Clark,
Secretary

SEAL:
ISSUED: September 12, 2014

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning

September 15, 2014

The Medici Portfolio LLC
Attn: Michael W. Connelly
4601 Willard Avenue
Chevy Chase, MD 20815

Re: U.S. Federal Trade Commission, Patent Assertion Entity Activity Study
FTC File No. P131203
OMB Control Number 3084-0162

Dear Mr. Connelly,

Enclosed, please find a courtesy copy of an Order to File a Special Report ("Order") directing The Medici Portfolio LLC to respond to the Commission's information requests. The Medici Portfolio LLC must provide its full response to the Order no later than November 21, 2014. The original Order has been sent to The Medici Portfolio LLC at the following address:

The Medici Portfolio LLC
Attn: Michael G. Cunningham
4601 Willard Avenue
Chevy Chase, MD 20815

If you have any questions about the Order, please contact me at (202) 326-2429 or smunck@ftc.gov.

Sincerely,

Suzanne Munck
Deputy Director, Office of Policy Planning

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning

September 15, 2014

The Medici Portfolio, LLC
c/o Robert Grant
8401 Connecticut Ave
Chevy Chase, MD 20815-5803

Re: U.S. Federal Trade Commission, Patent Assertion Entity Activity Study
FTC File No. P131203
OMB Control Number 3084-0162

Dear Mr. Grant,

Enclosed, please find a courtesy copy of an Order to File a Special Report ("Order") directing The Medici Portfolio LLC to respond to the Commission's information requests. The Medici Portfolio LLC must provide its full response to the Order no later than November 21, 2014. The original Order has been sent to The Medici Portfolio LLC at the following address:

The Medici Portfolio LLC
Attn: Michael G. Cunningham
4601 Willard Avenue
Chevy Chase, MD 20815

If you have any questions about the Order, please contact me at (202) 326-2429 or smunck@ftc.gov.

Sincerely,

Suzanne Munck
Deputy Director, Office of Policy Planning

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning

September 15, 2014

The Medici Portfolio LLC
c/o C T Corporation System
1999 Bryan St., Ste. 900
Dallas, TX 75201-3136

Re: U.S. Federal Trade Commission, Patent Assertion Entity Activity Study
FTC File No. P131203
OMB Control Number 3084-0162

To Whom It May Concern:

Enclosed, please find a courtesy copy of an Order to File a Special Report ("Order") directing The Medici Portfolio LLC to respond to the Commission's information requests. The Medici Portfolio LLC must provide its full response to the Order no later than November 21, 2014. The original Order has been sent to The Medici Portfolio LLC at the following address:

The Medici Portfolio LLC
Attn: Michael G. Cunningham
4601 Willard Avenue
Chevy Chase, MD 20815

If you have any questions about the Order, please contact me at (202) 326-2429 or smunck@ftc.gov.

Sincerely,

Suzanne Munck
Deputy Director, Office of Policy Planning

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning

September 15, 2014

The Medici Portfolio LLC
Attn: Michael G. Cunningham
3301 W. Marshall Ave., Suite 303
Longview, TX 75604

Re: U.S. Federal Trade Commission, Patent Assertion Entity Activity Study
FTC File No. P131203
OMB Control Number 3084-0162

Dear Mr. Cunningham

Enclosed, please find a courtesy copy of an Order to File a Special Report ("Order") directing The Medici Portfolio LLC to respond to the Commission's information requests. The Medici Portfolio LLC must provide its full response to the Order no later than November 21, 2014. The original Order has been sent to The Medici Portfolio LLC at the following address:

The Medici Portfolio LLC
Attn: Michael G. Cunningham
4601 Willard Avenue
Chevy Chase, MD 20815

If you have any questions about the Order, please contact me at (202) 326-2429 or smunck@ftc.gov.

Sincerely,

Suzanne Munck
Deputy Director, Office of Policy Planning

PETITION EXHIBIT 4

Email from Michael Connelly, The Medici Portfolio, LLC, to Suzanne Munck and Neal Hannan, FTC Office of Policy Planning
(Oct. 22, 2014)

Kappler, Burke

From: Michael Connelly <mike@mediciportfolio.com>
Sent: Wednesday, October 22, 2014 4:23 PM
To: Munck, Suzanne; Hannan, Neal C.
Cc: Matt Cunningham
Subject: Medici

Suzanne/Neal,

Thank you for taking time to discuss the 6(b) survey on our call. We are assessing the modifications discussed and whether we can propose a new timeline for response. In light of this progress, we will not be filing a quash/limit motion at this time. Medici does reserve its rights to object. We will get back to you shortly on the scheduling issue.

Regards,

Mike

Michael Connelly

THE MEDICI PORTFOLIO

+1.800.961.5462 ext. 11 Direct | +1.800.931.2846 Fax | mike@mediciportfolio.com | www.mediciportfolio.com

PETITION EXHIBIT 5

Letter from Suzanne Munck to Michael Connelly (Jan. 9, 2015)

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of Policy Planning

January 9, 2015

VIA EMAIL

Mr. Michael Connelly, CEO
Medici Portfolio, LLC
4601 Willard Avenue
Chevy Chase, MD 20815
mike@mediciportfolio.com

Re: U.S. Federal Trade Commission, Patent Assertion Entitiy Activity Study
FTC File No. P131203
OMB Control Number 3084-0162

Dear Mr. Connelly,

I write regarding the Order to File Special Report ("Order"), issued to Medici Portfolio, LLC ("Medici") on September 12, 2014. This Order was issued to Medici and several other recipients to gather information on patent assertion activities in support of a forthcoming FTC study. Congress authorized and empowered the FTC to conduct such studies and to obtain such information in section 6(b) of the Federal Trade Commission Act, 15 U.S.C. § 46(b).

As the Order stated, Medici was required to submit a complete Special Report no later than November 21, 2014. For the reasons discussed below, Medici failed to submit a Special Report that is either timely or complete.

I. Background

After receiving the Order, Medici contacted Commission staff on October 1, 2014 and asked for an extension of time to file objections and/or a petition to quash the Order. Staff granted Medici's request, extended the deadline for filing a petition to quash to October 16, and suggested an in-person meeting to discuss Medici's response to the Order. Staff met with both you and Matt Cunningham on October 7. At that meeting, Staff stated that it would be willing to consider a partial response from Medici prior to November 21, provided that Medici set forth a reasonable proposal for full compliance with the Order.

On October 16, you sent Staff a proposed compliance schedule that would extend until March 15, 2015. Also on October 16, you sought assurances from the Commission that Medici's submission would be kept confidential. On the same day, Staff replied that materials would be kept confidential consistent with statutory mandates. Staff suggested another call to discuss Medici's proposed compliance schedule. A call was scheduled for October 20, and Staff granted another extension of your deadline for a petition to quash until October 22.

On October 20, Staff had a teleconference with you and Mr. Cunningham. During that meeting, staff declined your proposed deadlines, which would have given Medici over 4 additional months to comply. Staff asked that you submit a new proposal if you wanted to submit part of your response after the November 21, 2014 deadline.

On October 22, 2014, you informed Commission Staff that Medici would not be filing a petition to quash. Despite staff's suggestion, however, Medici did not respond with an alternative proposed deadline and there were no further communications regarding the time for Medici's compliance.

II. November 21 Submission

On November 21, 2014, I received an email from you that attached a series of objections, partial responses, and a unilateral proposal to produce a limited selection of documents of Medici's choosing. This submission is deficient, for the following reasons.

A. The submission raises objections that are improper and untimely.

Rule 2.10 of the Commission's Rules of Practice state that a petition to quash is the means by which a recipient of compulsory process may make "*all* assertions of protected status or other factual or legal objections to the Commission's compulsory process." 16 C.F.R. 2.10(a) (emphasis added). This rule further specifies the form, manner, and determination of such a petition. *See generally* 16 C.F.R. § 2.10. The purpose of this rule is to enable the Commission to resolve those issues that are in dispute fully and fairly. Indeed, one of the requirements for a petition to quash is that the petitioner certify that it has conferred with FTC staff in a good faith effort to resolve the issues. You told us that you did not intend to file a petition to quash, and, in fact, you did not do so. Then, nearly a month after the deadline for filing a petition to quash, you included objections in your November 21 submission. As a result, you have waived the right to file such a petition and the objections in your submission are both improper and untimely.

B. The submission raises objections that are substantively erroneous.

In addition to being improperly lodged, several of the objections are substantively and legally deficient.

For example, in Paragraph 3, Medici objects to the Order to the extent it seeks "confidential business information and/or trade secrets." The FTC routinely seeks and obtains confidential business information from recipients through compulsory process, including Orders to File Special Reports, Civil Investigative Demands, and subpoenas. Statutory safeguards

described in the Order provide protection of this information. Section 6(f) of the FTC Act states that "the Commission shall not have authority to make public any trade secret or confidential commercial or financial information which is obtained from any person and which is privileged or confidential," except for certain disclosures to other law enforcement agencies. 15 U.S.C. § 46(f). Thus, the fact that some of the information requested is confidential is no basis for withholding it. *FTC v. Rockefeller*, 441 F. Supp. 234, 242 (S.D.N.Y. 1977), *aff'd*, 591 F.2d 182 (2d Cir. 1979); *see also FTC v. Invention Submission Corp.*, 1991 U.S. Dist. LEXIS 5523, *15-16 (D.D.C. Feb. 14, 1991), *aff'd*, 965 F.2d 1086 (D.C. Cir. 1992).

Instead, Medici should mark any such material as confidential when submitting it. Under Section 21(c) of the FTC Act, if the Commission determines that designated material is not in fact confidential within the meaning of Section 6(f), it will give a submitting party at least 10 days written notice before disclosing such material in a public report. If the submitter disagrees with our determination, it can bring an action in federal district court to prevent disclosure prior to the date the material is set for release. 15 U.S.C. § 57b-2(c).

Medici's objection in Paragraph 4 to producing information subject to a nondisclosure obligation is similarly deficient. Medici may not refuse to "produce such documents or responsive information without the consent of the relevant third party" to such non-disclosure obligation. As I have advised other respondents, Medici should notify each third party of its receipt of the Order and then produce any responsive documents subject to a nondisclosure obligation consistent with the relevant nondisclosure agreement.

In addition, you previously stated that Medici would respond on behalf of what you call the "Other Companies" – 24 entities for which Medici is or was the sole member. In the November 21 response, however, Medici did not answer on behalf of the Other Companies because it denies that it supervises or controls these entities. This noncompliance runs counter to your previous representation, as well as the fact that Medici is the sole member for each of these Limited Liability Companies. In any event, as set forth in the cover letter accompanying the Order, those Other Companies fall within the scope of the Order and Medici is thus obligated to respond on their behalf, regardless of its control of these entities.

C. <u>The submission fails to answer several of the Information Requests.</u>

Our review of your production is ongoing. As a threshold matter, however, the materials you provided on November 21 appear to correspond to only 2 of 10 Information Request categories; they do not include any responses to Request categories C, D, E, F, G, H, I, or J.

Further, even where Medici did answer to an Information Request, these responses are incomplete. For instance, Medici did not provide a full response to Request B. The Order instructed Medici, "When responding to these Information Requests, *separately provide all information for the firm and each related Person(s) identified* in Response to Request B.2." Order at Specification B.2 (emphasis added). This instruction was also highlighted in the third paragraph of the September 15, 2014 cover letter accompanying the Order. Medici appears to have disregarded this instruction when responding to Request B.2 and B.4. Separate responses are required for each Firm for which Medici is a member.

III. Schedule for Compliance

In your November 21, 2014 submission, you proposed – for the first time – that Medici would provide by December 31, 2014, four categories of documents. This unilateral modification was not proper because it was not accepted by an FTC official with authority to modify the terms of the Order. *See* 16 C.F.R. § 2.7(l). In any event, it is irrelevant because Medici did not follow-through and provide the information it promised by December 31.

The Order obligated Medici to provide all of the information specified no later than November 21, 2014. Medici did not do so and therefore is in default of the Order. Nonetheless, upon consideration of our communications to date and the initial information you provided, I am prepared to forbear at this time from recommending that this matter be referred to the Commission's Office of General Counsel for judicial enforcement. I do so provided that you meet the following production schedule:

January 16, 2015: Complete Responses to Specifications A and B;

February 6, 2015: Production of all documents called for in the Specifications; and

February 20, 2015: Submission of Excel Workbook and Narrative Responses called for in the Specifications and Instructions

Your failure to comply fully with any of the deadlines provided in the schedule above may result in your referral to the FTC's Office of General Counsel for enforcement. This letter does not modify any of the terms of the Order.

If you have any questions, please contact me at 202.326.2429.

Sincerely,

Suzanne Munck
Deputy Director, Office of Policy Planning

PETITION EXHIBIT 6

Email correspondence between The Medici Portfolio and FTC staff (Apr. 23, 2015 – May 29, 2015)

Kappler, Burke

From: Hannan, Neal C.
Sent: Friday, May 29, 2015 3:39 PM
To: 'Michael Connelly'
Cc: Munck, Suzanne
Subject: RE: Medici Productions

Tracking:

Recipient	Delivery
'Michael Connelly'	
Munck, Suzanne	Delivered: 5/29/2015 3:39 PM

Mike,

It's been more than a month without hearing from you. Can you please let me know when we can expect to receive the final production?

While we wait for the production, can you send the remaining spreadsheets via email?

Thank you,

Neal

From: Hannan, Neal C.
Sent: Tuesday, April 28, 2015 5:47 PM
To: 'Michael Connelly'
Cc: Munck, Suzanne
Subject: RE: Medici Productions

Mike,

700 MB is too large for us to accept by email. If you could put it on a USB drive that would probably be easiest. You can ship it to me at:

Neal Hannan
Federal Trade Commission, H-394
600 Pennsylvania Ave. NW
Washington, DC 20580

As an alternative, if you are in the office tomorrow morning I could possibly come get from you. I have to be in Friendship Heights at 10:15 AM, and could swing by before then.

Neal Hannan
Attorney Advisor – Intellectual Property
Office of Policy Planning
Federal Trade Commission
202.326.2565

From: Michael Connelly [mailto:mike@mediciportfolio.com]
Sent: Tuesday, April 28, 2015 5:07 PM
To: Hannan, Neal C.
Cc: Munck, Suzanne
Subject: RE: Medici Productions

Its probably 700MB or so? Work for you in zip file?

Michael Connelly

+1.800.961.5462 ext. 11 Direct | +1.800.931.2846 Fax | mike@mediciportfolio.com | www.mediciportfolio.com

From: Hannan, Neal C. [mailto:nhannan@ftc.gov]
Sent: Tuesday, April 28, 2015 5:06 PM
To: 'Michael Connelly'
Cc: Munck, Suzanne
Subject: RE: Medici Productions

Mike,

While it is unfortunate that an electronic production didn't work out, we still need to get Medici's data. You have a few options. You can mail us a disk (or USB stick) with the relevant data. If the production is small, you could send me an encrypted .zip file with the information. If we have received all of Medici's document productions, and all that remains are narratives and spreadsheets, then this might be a practical solution.

Thanks,

Neal

From: Hannan, Neal C.
Sent: Friday, April 24, 2015 12:03 PM
To: 'Michael Connelly'
Cc: Boynton, Evelyn J.; Velikson, Igor; Munck, Suzanne
Subject: RE: Medici Productions

I should also mention, a USB stick can work. We had a few USB submissions come in that required proprietary software to open, and those were unsuccessful.

But a standard USB stick with an encrypted zip file is fine.

From: Hannan, Neal C.
Sent: Friday, April 24, 2015 11:41 AM
To: 'Michael Connelly'
Cc: Boynton, Evelyn J.; Velikson, Igor; Munck, Suzanne
Subject: RE: Medici Productions

Michael,

I misspoke earlier. I got an email notification from your address through Accellion, but there were no documents there.

I think the easiest way to proceed would be to just burn the documents to a DVD or CD. If you can do that, please ship them to:

Neal Hannan
Federal Trade Commission
600 Pennsylvania Ave NW, H-394
Washington, DC 20580

From: Michael Connelly [mailto:mike@mediciportfolio.com]
Sent: Friday, April 24, 2015 9:13 AM
To: Hannan, Neal C.; Boynton, Evelyn J.
Subject: RE: Medici Productions

I says sent and the link does not work now, so I assume successful

Michael Connelly

+1.800.961.5462 ext. 11 Direct | +1.800.931.2846 Fax | mike@mediciportfolio.com | www.mediciportfolio.com

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From: Hannan, Neal C. [mailto:nhannan@ftc.gov]
Sent: Thursday, April 23, 2015 4:35 PM
To: 'Michael Connelly'; Boynton, Evelyn J.
Cc: 'Matthew Cunningham'; Munck, Suzanne
Subject: RE: Medici Productions

A new invitation was just sent. Please confirm receipt.

From: Michael Connelly [mailto:mike@mediciportfolio.com]
Sent: Thursday, April 23, 2015 4:10 PM
To: Hannan, Neal C.; Boynton, Evelyn J.
Cc: 'Matthew Cunningham'; Munck, Suzanne
Subject: RE: Medici Productions

Neal – the last invite from mbrown4 was used and cannot be accessed again.

Michael Connelly

+1.800.961.5462 ext. 11 Direct | +1.800.931.2846 Fax | mike@mediciportfolio.com | www.mediciportfolio.com

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From: Hannan, Neal C. [mailto:nhannan@ftc.gov]
Sent: Thursday, April 23, 2015 4:07 PM
To: Boynton, Evelyn J.
Cc: 'Michael Connelly'; 'Matthew Cunningham'; Munck, Suzanne
Subject: Medici Productions
Importance: High

Hi Evelyn,

We still have not received the last productions from Medici Portfolio LLC for the PAE study.

Medici has indicated that its productions have been ready to load. In response, we have sent multiple Accellion invitations in for Medici to use in lieu of the normal method of producing documents to the Commission. On March 31, Mike Connelly of Medici has confirmed receiving our March 30 invitation and had promised upload materials on April 1. I have not seen a production in response to that or the earlier invitations. Each invitation expires after a few days.

We are trying to avoid referring Medici for judicial enforcement. I just spoke with Mike Connelly and he promises to get us an update on Medici's production status by 5 PM today. If Medici is able to upload today, we would like to make it easy to do so. To that end, please send another Accellion invitation to Mike Connelly, who is CC'd on this email to enable Medici to upload the remaining productions.

Thanks,

Neal Hannan
Attorney Advisor – Intellectual Property
Office of Policy Planning

Federal Trade Commission
202.326.2565

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division

FEDERAL TRADE COMMISSION, Petitioner, v. THE MEDICI PORTFOLIO, LLC, Respondent.	)	Case No.

MEMORANDUM IN SUPPORT OF PETITION OF THE FEDERAL TRADE COMMISSION FOR A SHOW CAUSE HEARING AND AN ORDER ENFORCING COMPULSORY PROCESS

I. INTRODUCTION

The Federal Trade Commission petitions this Court under Sections 6(b) and 9 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 46, 49, for an order requiring Respondent, The Medici Portfolio, LLC ("Medici"), to appear and show cause why it should not comply with FTC compulsory process. Medici generates revenue by threatening patent litigation against, and selling licenses to, persons who are already practicing the patented technology. It is one of a number of so-called "patent assertion entities" ("PAEs") that were selected at random for inclusion in an ongoing FTC study of the scope and impact of PAEs on competition and consumers. To obtain the needed information, the Commission, on September 15, 2014, issued an Order to File Special Report ("Order") under Section 6(b) of the FTC Act, 15 U.S.C. 46(b), to Medici and others. Although Medici claims that it has

gathered all the required materials, Medici has not yet corrected the deficiencies in its prior production.

Because the requested information is not available from any other source, Medici's failure to comply with the Commission's Section 6(b) Order has impeded the FTC's efforts to complete its study. The Commission, accordingly, respectfully requests that the Court enter an order directing Medici to appear and show cause why it should not comply with the FTC's Order in full.

II. THE COMMISSION'S AUTHORITY TO REQUIRE REPORTS

Section 6(b) of the FTC Act authorizes the Commission to issue orders requiring persons, partnerships, and corporations to "file . . . special . . . reports or answers in writing to specific questions, furnishing to the Commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective persons, partnerships, and corporations filing such reports or answers in writing." 15 U.S.C. § 46(b).

If the recipient of an order issued under Section 6(b) fails to comply, the Commission may seek, and the district courts may issue, a "writ[] of mandamus commanding any person, partnership, or corporation to comply." 15 U.S.C. § 49. Although amendments to the Federal Rules of Civil Procedure have abolished formal writs of mandamus, the Rules provide that the *remedy* of mandamus remains available to parties, including the Commission, when it seeks compliance with Section 6(b) orders. FED. R. CIV. P. 81(b); *see also Appeal of FTC Line of*

Business Report Litigation, 595 F.2d 685, 704-05 (D.C. Cir. 1978); *In re Corporate Patterns Report Litigation*, 432 F. Supp. 274, 280 (D.D.C. 1977) ("The effect of Rule 81(b) therefore is not earthshaking since it merely substitutes in place of the writ practice an action or motion under the Rules."); *see also United States v. Nanlo, Inc.*, 519 F. Supp. 723, 725 n.1 (D. Mass. 1981) ("While the writ of mandamus has been formally abolished . . . the Federal Trade Commission may nevertheless proceed to secure the same remedy by an action of the nature brought here."). As such, orders issued under Section 6(b) are a judicially enforceable form of administrative compulsory process, similar to a subpoena or civil investigative demand.

The Commission may enforce Section 6(b) orders in "a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located." 28 U.S.C. § 1391(b)(1). A defendant resides "in any judicial district in which [it] is subject to the court's personal jurisdiction with respect to the civil action in question." 28 U.S.C. § 1391(c)(2). Medici maintains its headquarters in Chevy Chase, Maryland, and is thus subject to this Court's personal jurisdiction. Pet. Exh. 1, ¶ 3.

III. STATEMENT OF FACTS

A. The Parties

The Commission is an administrative agency of the United States, organized and existing pursuant to the FTC Act, 15 U.S.C. § 41, *et seq*. The Commission is authorized and directed by Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), to prevent "unfair methods of competition" and "unfair or deceptive acts or practices in or

affecting commerce." Section 3 of the FTC Act empowers the Commission to prosecute any inquiry necessary to its duties in any part of the United States. 15 U.S.C. § 43. Section 6 of the Act empowers the Commission "[t]o gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce," with certain exceptions not relevant here. 15 U.S.C. § 46(a). The FTC is also authorized to collect information for use in a public report, provided the report does not disclose trade secrets or confidential commercial or financial information. 15 U.S.C. § 46(b), (f).

Medici is a patent assertion entity located at 4601 Willard Avenue, Chevy Chase, Maryland. Pet. Exh. 1, ¶ 3. Medici owns 17 subsidiary companies that have a primary business of acquiring and asserting patents through litigation. *Id.*

B. The Commission's Study

1. Background

As part of its antitrust and consumer protection mission, the FTC conducts economic and policy studies in a number of industries and markets. This case concerns an ongoing study by the Commission's Office of Policy Planning (OPP) of PAEs in the U.S. and their impact on consumers and competition.

In 2012, the FTC conducted a preliminary study of PAEs and their activities using publicly-available information. Because there is only limited public information about PAEs and their activities, the Commission determined to use its

authority under Section 6(b) of the FTC Act, 15 U.S.C. § 46(b), to require PAEs to produce information about their organization, patent acquisition and licensing activity, and business relationships. Pet. Exh. 1, ¶¶ 5-7. In October 2013, the Commission sought public comment on an initial set of information requests,[1] which it revised after considering the public comments. Pet. Exh. 1, ¶ 7. In May 2014, the Commission republished the revised requests for a second round of comments.[2] *Id.* Finally, in August 2014, the Commission received clearance from the Office of Management and Budget (OMB), as required by the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*[3] *Id.*

On September 12, 2014, after receiving OMB approval, the Commission issued a Resolution Directing Use of Compulsory Process "[t]o investigate the impact on United States competition and consumers since January 1, 2009, of persons, firms, or entities, and those persons, firms, or entities related to, affiliated with, or assisting them, in the business of patent assertion activity." Pet. Exh. 1, ¶ 8; Pet. Exh. 2. Following this Resolution, the FTC issued Orders to File a Special Report ("Orders") to several PAEs, including Medici, using a stratified sampling

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1 Agency Information Collection, Activities; Proposed Collection; Comment Request, 78 Fed. Reg. 6152, 6152-68 (Oct. 3, 2013); FTC Press Release (Sept. 27, 2013) available at https://www.ftc.gov/news-events/press-releases/2013/09/ftc-seeks-examine-patent-assertion-entities-their-impact.

2 Agency Information Collection Activities; Submission for OMB Review; Comment Request, 79 Fed. Reg. 28715, 28715-29 (May 19, 2014); FTC Press Release (May 13, 2014), available at https://www.ftc.gov/news-events/press-releases/2014/05/ftc-announces-second-federal-register-notice-revised-proposed.

3 Notice of Office of Management and Budget Action, ICR Reference No. 201405-3084-002 (Aug. 8, 2014), available at http://www.reginfo.gov/public/do/DownloadNOA?requestID=258433. The documents the FTC submitted to OMB are available at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201405-3084-002.

process. Pet. Exh. 1, ¶ 8; Pet. Exh. 3. The Orders required each of the recipients to provide data in spreadsheet form, a set of narrative responses, and supporting documents. Pet. Exh. 1, ¶ 10; Pet Exh. 3.

2. The Order Issued to Medici

The FTC issued a Section 6(b) order to Medici on September 15, 2014, which was returnable on November 21, 2014. Pet. Exh. 1, ¶¶ 8, 10. On October 7, 2014, FTC staff granted Medici's request to limit its responses to Medici itself and 17 subsidiaries that are entirely owned by Medici. Medici requested an extension of the due date to March 2015, but FTC staff denied this request and asked Medici to propose a more expedited schedule for its compliance. Pet. Exh. 1, ¶¶ 11-12.

Medici did not propose a new compliance schedule. Instead, it submitted an incomplete set of materials on November 21, 2014 (the original deadline), and promised to complete its production by the year's end. Pet. Exh. 1, ¶¶ 13-14. Medici did not meet that deadline either. Nonetheless, FTC staff agreed to forbear from judicial enforcement if Medici would produce materials according to a set of rolling deadlines ending on February 20, 2015. Medici proposed instead a schedule of five weekly deadlines ending February 27, 2015. Pet. Exh. 1, ¶15; Pet. Exh. 5. FTC staff accepted this proposal. Pet. Exh. 1, ¶16

Despite repeated extensions of time, Medici has not yet produced all the materials and narrative responses required by the Commission's Section 6(b) order and, indeed, has not produced anything since February 18, 2015. Specifically, Medici has produced the required spreadsheets for only eight of its 17 subsidiaries

and a total of 143 documents. It has not produced spreadsheets for the remaining nine subsidiaries, and it has not produced several of the required narrative responses for itself or any of its subsidiaries. Pet. Exh. 1, ¶¶ 16-18.

Medici does not dispute that it has not completed its production, but has provided the Commission with no explanation for its failure to comply. Pet. Exh. 1, ¶¶ 19-22; Pet. Exh. 6. To assist the firm in complying, FTC staff provided Medici an electronic file transfer protocol for uploading the information directly to the FTC's server. Pet. Exh. 1, ¶ 21; Pet. Exh. 6. When Medici claimed to be unable to use the protocol, an FTC attorney offered to pick up the information from Medici's offices in Chevy Chase. Medici did not accept that offer. Pet. Exh. 1, ¶ 21; Pet. Exh. 6.

On June 24, 2015, FTC Office of Policy Planning and General Counsel staff contacted Michael Connelly, CEO and co-founder of Medici, who then offered to provide the remaining materials to the FTC within a few days. Pet. Exh. 1, ¶ 22. To date, however, Mr. Connelly has not produced these materials or even responded to an e-mail inquiring about the status of Medici's production.

Medici has not argued that producing the remaining information is burdensome or difficult. Indeed, it did not file a petition to limit or quash the Commission's Order. *See*, *e.g.*, Pet. Exh. 1, ¶ 13; Pet. Exh. 4. Nor has Medici explained why it cannot comply with the production instructions in the Order. In fact, Mr. Connelly informed FTC staff that the remaining production—which Medici claims it has currently assembled—is only 700 megabytes, an amount that would fit on a single CD-ROM, DVD-ROM, or Flash Drive. Pet. Exh. 1, ¶¶ 19-20; Pet. Exh. 6.

IV. LEGAL STANDARD FOR ENFORCEMENT

The Commission's investigative powers under Section 6(b) of the FTC Act are "broad." *Appeal of FTC Line of Business Report Litig.*, 595 F.2d 685, 701-02 (D.C. Cir. 1978) ("The FTC's authority to require reports under Section 6(b) is not limited to pursuing a focused theory of unlawful activity."). The standards governing enforcement of Section 6(b) orders are the same as those governing other forms of administrative compulsory process, such as subpoenas and civil investigative demands. *Id.* The Fourth Circuit "has emphasized that the district court's role in a proceeding to enforce an administrative subpoena is 'sharply limited.'" *Solis v. Food Employers Labor Relations Ass'n*, 644 F.3d 221, 226 (4th Cir. 2011) (citing *EEOC v. City of Norfolk Police Dept.*, 45 F.3d 80, 82 (4th Cir. 1995)); *FTC v. Texaco, Inc.*, 555 F.2d 862, 871-72 (D.C. Cir. 1977) (*en banc*). Specifically, a court must enforce an agency's compulsory process "if the inquiry is within the authority of the agency, the demand is not too indefinite and the information sought is reasonably relevant." *NLRB v. Interbake Foods, LLC*, 637 F.3d 492, 499 (4th Cir. 2011) (citing *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950)). An affidavit from a government official is sufficient to establish a prima facie showing that "these requirements have been met." *See*, *e.g.*, *Alphin v. United States*, 809 F.2d 236, 238 (4th Cir. 1987). The recipient of process must then bear the "heavy burden" of rebutting the government's showing. *Id.*

Accordingly, proceedings to enforce administrative process are entitled to

summary disposition.[4] *United States v. American Target Advertising, Inc.*, 257 F.3d 348, 353 (4th Cir. 2001) (citing *United States v. Sturm, Ruger & Co., Inc.*, 84 F.3d 1, 5 (1st Cir. 1996); *Alphin*, 809 F.2d at 238). They are properly instituted by a petition and order to show cause rather than by complaint and summons. *See*, *e.g.*, *Solis*, 644 F.3d at 223-24 (commencing subpoena enforcement with petition); *EEOC v. Maryland Cup Corp.*, 785 F.2d 471, 475 (4th Cir. 1986) (commencing subpoena enforcement with petition for an order to show cause).

V. ARGUMENT

The Commission's order meets the standards for judicial enforcement because it (1) is within the agency's authority; (2) is not "too indefinite"; and (3) seeks reasonably relevant information. *See NLRB v. Interbake Foods, LLC*, 637 F.3d 492, 499 (4th Cir. 2011) (citing *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950)). Medici made partial and incomplete productions in response to the order but has not produced any information since February 18, 2015 despite repeatedly promising to provide the information and representing that it had already compiled the information for production. Pet. Exh. 1, ¶¶ 19-22. As such, this Court should "command[]" Medici "to comply with the . . . order of the Commission." 15 U.S.C. § 49.

First, the Order is well within the Commission's statutory authority. *See* 15 U.S.C. § 46(b). The Commission may issue Section 6(b) orders to "satisfy [itself]

[4] For this reason, discovery in administrative compulsory process enforcement proceedings is "improper" and may only be permitted in "extraordinary circumstances," none of which are present here. *FTC v. Carter*, 636 F.2d 781, 789 (D.C. Cir. 1980) (quoting *United States v. Exxon Corp.*, 628

that corporate behavior is consistent with the law and the public interest," or to evaluate "the need for changes in the law." *FTC Line of Business Report Litig.*, 595 F.2d at 702 (citing *Morton Salt*, 448 U.S. at 642-43; *Texaco*, 555 F.2d at 875 n.28) Before issuing the Orders for the PAE study, the FTC submitted the study for public comment and sought approval from the Office of Management and Budget, as required by the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3521. Pet. Exh. 1, ¶ 7. There is no doubt that the Orders were authorized under the applicable provisions.

Second, the Order identifies the required information with specificity. Pet. Exh. 3. Having made one production and having represented that the remaining information has been collected and made ready for production, Medici is now hard pressed to claim that it does not understand what it is required to submit. Pet. Exh. 1, ¶¶ 18-19.

Third, the documents and data required by the Order are directly relevant to the FTC's PAE study. The Order seeks information about how the PAEs are organized, their activities in acquiring and licensing patents, and their business relationships. These areas are obviously central to the study.

Medici has no other colorable claim for refusing to fulfill the requirements of the Commission's Order. At various points in time, Medici asserted that compliance would cause undue burden, but it never formalized these objections in a petition to limit or quash, as required by the Commission's Rules of Practice and Procedure. *See* Pet. Exh. 1, ¶ 13; 16 C.F.R. § 2.10(a) (stating that "all" legal objections to

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F.2d 70, 77 n.7 (D.C. Cir. 1980)); *see also, e.g.,* Fed. R. Civ. P. 26(a)(1)(B)(v); *Alphin*, 809 F.2d at 238.

Commission compulsory process shall be included in a petition to limit or quash). Having failed to exhaust its administrative remedies, Medici may not raise such claims before this Court. *See, e.g.,*, *FTC v. O'Connell Assocs.*, *Inc.*, 828 F. Supp. 165, 168 (E.D.N.Y. 1993

In any event, even if Medici had preserved the issue, it would be unable to demonstrate that it will suffer undue burden in completing production of the required materials. An order recipient must show that compliance would "seriously disrupt" or "threaten its normal business operations." *Maryland Cup*, 785 F.2d at 477, 479. Medici cannot document such harm here. Medici has already partially complied with the Order and has represented to FTC staff that the remaining responsive materials have been collected and prepared for production. Pet. Exh. 1, ¶¶ 18-22. All that remains is the minimal effort required to load (according to Medici's CEO) approximately 700 megabytes of data onto a disk or storage device and produce it according to the instructions in the FTC's Order. Pet. Exh. 1, ¶¶ 19-20.

VI. CONCLUSION

For the foregoing reasons, this Court should issue its own order directing The Medici Portfolio, LLC to comply fully with the Commission's Order to File Special Report within five (5) days of the date of the Court's order.

Respectfully submitted,

SUZANNE MUNCK
Deputy Director
Office of Policy Planning

NEAL HANNAN
Office of Policy Planning

Dated: August 5, 2015

JONATHAN E. NUECHTERLEIN
General Counsel

DAVID C. SHONKA
Principal Deputy General Counsel

JOEL MARCUS
Director of Litigation

LESLIE RICE MELMAN
Assistant General Counsel for Litigation

s/ Burke W. Kappler
BURKE W. KAPPLER
Assigned bar number 801057

BRADLEY GROSSMAN
Attorneys for Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580
(202) 326-2043
(202) 326-2477 (fax)
bkappler@ftc.gov

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF MARYLAND

FEDERAL TRADE COMMISSION, Petitioner, v. THE MEDICI PORTFOLIO, LLC, Respondent.	)	Case No.

[PROPOSED] ORDER TO SHOW CAUSE

Pursuant to the authority conferred by Sections 6(b) and 9 of the Federal Trade Commission Act, 15 U.S.C. § 46(b) and 49, Petitioner, the Federal Trade Commission, has invoked the aid of this Court for an order requiring Respondent The Medici Portfolio, LLC ("Medici") to comply in full with a special order issued by the Commission in support of a study of patent assertion entities ("PAEs") and the effect of their activities on competition.

The Court has considered the Commission's Petition for an Order for a Show Cause Hearing and Order Enforcing Compulsory Process and the papers filed in support thereof; and it appears to the Court that Petitioner has shown good cause for the entry of this Order. It is by this Court hereby

ORDERED that Respondent Medici appear at _____ a.m./p.m. on the _____ day of _____, 2015, in Courtroom No. _____ of the United States District Court for the District of Maryland, Greenbelt (Southern) Division, 6500

Cherrywood Lane, Greenbelt, Maryland, 20770, and show cause, if any there be, why this Court should not grant said Petition and enter an Order enforcing the compulsory process issued to the Respondent and directing it to produce, within five (5) days of the date of the Order, all responsive documents and information in compliance with the compulsory process and without any redactions, except those redactions for which Respondents have established a privilege or for which they have sought and received the Commission's prior authorization. Unless the Court determines otherwise, notwithstanding the filing or pendency of any procedural or other motions, all issues raised by the Petition and supporting papers, and any opposition to the Petition, will be considered at the hearing on the Petition, and the allegations of said Petition shall be deemed admitted unless controverted by a specific factual showing.

IT IS FURTHER ORDERED that, if any Respondent believes it necessary for the Court to hear live testimony, it must file an affidavit reflecting such testimony (or if a proposed witness is not available to provide such an affidavit, a specific description of the witness's proposed testimony) and explain why the Respondent believes live testimony is required.

IT IS FURTHER ORDERED that, if any Respondent intends to file pleadings, affidavits, exhibits, motions or other papers in opposition to said Petition or to the entry of the Order requested therein, such papers must be filed with the Court and received by Petitioner's counsel on the _____ day of _____, 2015. Such submission shall include, in the case of any affidavits or exhibits not previously submitted, or objections not previously made to the Federal Trade

Commission, an explanation as to why such objections were not made or such papers or information not submitted to the Commission. Any reply by Petitioner shall be filed with the Court and received by Respondents on the _____ day of _____, 2015.

IT IS FURTHER ORDERED, pursuant to Fed. R. Civ. P. 26(a)(1)(B)(v) and 81(a)(5), that this is a summary proceeding and that no party shall be entitled to discovery without further order of the Court upon a specific showing of need; and that the dates for a hearing and the filing of papers established by this Order shall not be altered without prior order of the Court upon good cause shown; and

IT IS FURTHER ORDERED, pursuant to Fed. R. Civ. P. 81(a)(5) advisory committee note (1946), that a certified copy of this Order and copies of said Petition and Memorandum in support thereof filed herein, be served forthwith by Petitioner upon Respondents or their counsel by personal service, or by certified or registered mail with return receipt requested, or by overnight express delivery service.

SO ORDERED:

_____
United States District Judge

Dated: _____, Greenbelt, MD.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Federal Trade Commission

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Burke Kappler and Bradley Grossman; Office of General Counsel, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580; 202-326-2043 (Kappler)

DEFENDANTS
The Medici Portfolio, LLC

County of Residence of First Listed Defendant Montgomery County
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
Michael Connelly, The Medici Portfolio, LLC, 4601 Willard Avenue, Chevy Chase, MD, 20815

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☒ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☒ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
15 U.S.C. ss. 46(b), 49

Brief description of cause:
Enforcement of administrative compulsory process

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY
(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE
08/05/2015

SIGNATURE OF ATTORNEY OF RECORD
s/ Burke W. Kappler

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.