

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

RECOGNIA INC.

*Plaintiff,*

v.

MDIO SOFTWARE CC (a/k/a  
AUTOCHARTIST and/or  
AUTOCHARTIST.COM) and ILAN  
AZBEL, individually

*Defendants.*

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Civil Action No. \_\_\_\_\_

**Jury Trial Demanded**

**ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT**

Recognia Inc. makes the following allegations of patent infringement for its Complaint against the Defendants, MDIO Software CC (a/k/a Autochartist and/or Autochartist.com) (“MDIO”) and Mr. Ilan Azbel, individually, jointly, and severally (“Azbel”) (collectively, “Defendants”):

**Parties**

1. Plaintiff Recognia Inc. (“Recognia”) is a corporation organized under the laws of the province of Ontario, Canada, having its principal place of business at 200-301 Moodie Drive, Ottawa, Ontario K2H 9C4, Canada.

2. On information and belief, Defendant MDIO is a corporation organized under the laws of South Africa, having its principal place of business at

65 Phillip Engelbrecht Avenue, Meyersdal Office Park, Meyersdal Johannesburg, South Africa. MDIO may be served with summons through its chief executive officer and agent, Mr. Ilan Azbel, at 6800 Chalk Hill Dr., Austin, Texas 78759-7732, in Travis County or wherever he may be found. On information and belief, MDIO conducts business in this District on a regular and ongoing basis.

3. On information and belief, Defendant Azbel, an individual, is the founder and Chief Executive Officer (CEO) of MDIO who holds himself out as CEO of “Autochartist.” On information and belief, Azbel currently resides in Austin, Texas, from where he sells MDIO’s products and services to customers throughout the United States, including in this District. Azbel may be served with summons at 6800 Chalk Hill Dr., Austin, Texas 78759-7732, in Travis County or wherever he may be found. On information and belief, Azbel conducts business in this District on a regular and ongoing basis.

### **Jurisdiction and Venue**

4. This Court has subject matter jurisdiction over the claims set forth below based on applicable statutory provisions, including 28 U.S.C. §§ 1331 and 1338(a), because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

5. This Court has personal jurisdiction over the Defendants based on their business activities directed to this District or State and the acts complained of

in this Complaint. On information and belief, the Defendants have transacted business in this District directly or indirectly, continue to transact business in this District, have committed, contributed to, and/or induced acts of infringement in this District, and continue to commit, contribute to, and/or induce acts of infringement in this District including but not limited to the development, maintenance, use, sale, offer for sale, licensing, support and/or importing of products, services, methods and/or systems in this District that infringe the patents-in-suit. Moreover, on information and belief, Defendant Azbel resides in this District or State and conducts business on behalf of MDIO from that residence using the internet to target customers in this District.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District or State. On information and belief, Defendants have transacted business in this District directly or indirectly, continue to transact business in this District, have committed, contributed to, and/or induced acts of infringement in this District, and continue to commit, contribute to, and/or induce acts of infringement in this District including but not limited to the development, maintenance, use, sale, offer for sale, licensing, support and/or importing of products, services, methods and/or systems in this District that infringe the patents-in-suit. Moreover, on information and belief, Defendant Azbel resides in

this District or State and conducts business on behalf of MDIO from that residence using the internet to target customers in this District.

### **Background Facts**

7. On October 5, 2004, the United States Patent & Trademark Office (“USPTO”) issued U.S. Patent No. 6,801,201 (“the ’201 Patent”), entitled “Method for Chart Markup and Annotation in Technical Analysis”, from an application having a priority date of December 17, 2001. Recognia is the owner by assignment of all right, title, and interest in the ’201 Patent, including the right to recover damages for past, present, and future infringement of the patent and the right to seek injunctive relief against infringement of the patent. A true and correct copy of the ’201 Patent is attached as Exhibit A.

8. On December 23, 2008, the USPTO issued U.S. Patent No. 7,469,226 (“the ’226 Patent”), entitled “Method of Providing a Financial Event Identification Service”, from an application having a priority date of December 11, 2001. Recognia is the owner by assignment of all right, title, and interest in the ’226 Patent, including the right to recover damages for past, present, and future infringement of the patent and the right to seek injunctive relief against infringement of the patent. A true and correct copy of the ’226 Patent is attached as Exhibit B.

9. On December 23, 2008, the USPTO issued U.S. Patent No. 7,469,238 (“the ’238 Patent”), entitled “Method of Rule Constrained Statistical Price Formation Recognition”, from an application having a priority date of December 11, 2001. Recognia is the owner by assignment of all right, title, and interest in the ’238 Patent, including the right to recover damages for past, present, and future infringement of the patent and the right to seek injunctive relief against infringement of the patent. A true and correct copy of the ’238 Patent is attached as Exhibit C.

10. On information and belief, MDIO was established in or around 2001, and is in the business of developing and maintaining software used to service traders and on-line brokers, including those that operate in this District or State in the United States, by, among other things, providing financial market research and/or analysis through its web application, plug-ins, and Application Program Interface (API), which are advertised under the name “Autochartist” through a website at [www.autochartist.com](http://www.autochartist.com). The financial research that MDIO’s products and services provide includes, but is not limited to, identifying technical chart pattern formations, and providing confirmation signals/information in relation thereto, in the Forex, Indices, Commodities, Stocks, Equities, Futures, CFD, and Spread Betting markets to assist traders in deciding what and when to trade. MDIO’s activities with respect to Autochartist products and services

include providing support, products, and services to customers that operate in this District or State.

11. On information and belief, Defendant Azbel is the CEO of MDIO and represents himself as the CEO of “Autochartist” in public interviews. On information and belief, Azbel currently resides in Austin, Texas, and from there he sells MDIO’s products and services to customers throughout the United States, including in this District.

**Count I – Infringement of the ’201 Patent**

12. Recognia incorporates the allegations contained in paragraphs 1-11 above as if set forth verbatim herein.

13. On information and belief, Defendants have committed and will continue to commit acts of infringement of the ’201 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the ’201 Patent.

14. On information and belief, Autochartist and MDIO have induced and will continue to induce acts of infringement of the ’201 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the ’201 Patent.

15. On information and belief, Defendants have committed and will continue to commit acts of contributory infringement of the '201 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the '201 Patent.

16. On information and belief, Defendants' past and future acts of infringement of the '201 Patent have caused and will cause damages to Recognia, entitling Recognia to recover damages from Defendants in an amount subject to proof at trial, but in no event less than a reasonable royalty extending through the life of the '201 Patent.

17. On information and belief, Defendants' continuing infringement of the '201 Patent will continue to damage Recognia, causing irreparable harm for which there is no adequate remedy at law, unless Autochartist and MDIO are enjoined by this Court from further acts of infringement.

18. On information and belief, Defendants have known of the '201 Patent since at least February 11, 2013. Neither defendant has obtained a license under the '201 Patent and Defendants have no sound or good faith basis to believe that they had the right to make, use, import, offer to sell, sell, and/or license products, services, methods and/or systems which otherwise infringe the '201 Patent. On information and belief, Defendants' infringements have been and

continue to be with full knowledge of the '201 Patent and therefore have been deliberate and willful.

**Count II – Infringement of the '226 Patent**

19. Recognia incorporates the allegations contained in paragraphs 1-11 above as if set forth verbatim herein.

20. On information and belief, Defendants have committed and will continue to commit acts of infringement of the '226 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the '226 Patent.

21. On information and belief, Defendants have induced and will continue to induce acts of infringement of the '226 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the '226 Patent.

22. On information and belief, Defendants have committed and will continue to commit acts of contributory infringement of the '226 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the '226 Patent.



23. On information and belief, Defendants' past and future acts of infringement of the '226 Patent have caused and will cause damages to Recognia, entitling Recognia to recover damages from Defendants in an amount subject to proof at trial, but in no event less than a reasonable royalty extending through the life of the '226 Patent.

24. On information and belief, Defendants' continuing infringement of the '226 Patent will continue to damage Recognia, causing irreparable harm for which there is no adequate remedy at law, unless Defendants are enjoined by this Court from further acts of infringement.

25. On information and belief, Defendants have known of the '226 Patent since at least February 11, 2013. Neither defendant has obtained a license under the '226 Patent and Defendants have no sound or good faith basis to believe that they had the right to make, use, import, offer to sell, sell, and/or license products, services, methods and/or systems which otherwise infringe the '226 Patent. On information and belief, Defendants' infringements have been and continue to be with full knowledge of the '226 Patent and therefore have been deliberate and willful.

**Count III – Infringement of the '238 Patent**

26. Recognia incorporates the allegations contained in paragraphs 1-11 above as if set forth verbatim herein.

27. On information and belief, Defendants have committed and will continue to commit acts of infringement of the '238 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the '238 Patent.

28. On information and belief, Defendants have induced and will continue to induce acts of infringement of the '238 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the '238 Patent.

29. On information and belief, Defendants have committed and will continue to commit acts of contributory infringement of the '238 Patent by making, using, importing, offering to sell, selling, and/or licensing products, services, methods and/or systems (including by way of example the Autochartist web application, Plug-ins, and API) which infringe the '238 Patent.

30. On information and belief, Defendants' past and future acts of infringement of the '238 Patent have caused and will cause damages to Recognia, entitling Recognia to recover damages from Autochartist and MDIO in an amount subject to proof at trial, but in no event less than a reasonable royalty extending through the life of the '238 Patent.

31. On information and belief, Defendants' continuing infringement of the '238 Patent will continue to damage Recognia, causing irreparable harm for which there is no adequate remedy at law, unless Autochartist and MDIO are enjoined by this Court from further acts of infringement.

32. On information and belief, Autochartist and MDIO have known of the '238 Patent since at least February 11, 2013. Neither defendant has obtained a license under the '238 Patent and Defendants have no sound or good faith basis to believe that they had the right to make, use, import, offer to sell, sell, and/or license products, services, methods and/or systems which otherwise infringe the '238 Patent. On information and belief, Defendants' infringements have been and continue to be with full knowledge of the '238 Patent and therefore have been deliberate and willful.

### **Remedies**

33. Recognia incorporates the allegations contained in paragraphs 1-32 above as if set forth verbatim herein.

34. As a result of Defendants' past and continuing infringement of the '201 Patent, the '226 Patent, and the '238 Patent, Recognia has suffered and will continue to suffer irreparable injury, for which there is no adequate remedy at law. Unless enjoined by this Court, Defendants will continue to infringe, contribute to

infringement, and induce infringement of the '201 Patent, the '226 Patent, and the '238 Patent.

35. In addition to monetary damages, Recognia also seeks a permanent injunction pursuant to 35 U.S.C. § 283 to prevent Defendants' continued infringement of the '201 Patent, the '226 Patent, and the '238 Patent.

36. In view of Defendants' deliberate and willful infringement of the '201 Patent, the '226 Patent, and the '238 Patent, Recognia seeks that its damages be trebled or otherwise enhanced pursuant to 35 U.S.C. § 284.

37. As a result of the actions of Defendants, Recognia has been forced to retain counsel to enforce its rights in the '201 Patent, the '226 Patent, and the '238 Patent.

38. Defendants' willful infringement makes this case exceptional pursuant to 35 U.S.C. § 285.

39. Pursuant to 35 U.S.C. § 285, and to the maximum extent permitted by law, Recognia seeks to recover its reasonable attorneys' fees incurred in prosecuting this action.

### **Prayer For Relief**

WHEREFORE, Recognia prays for entry of judgment that:

A. Defendants have infringed and continue to infringe one or more claims of the '201 Patent, the '226 Patent, and the '238 Patent;

B. Defendants account for and pay to Recognia all damages allowed by law for infringement of the '201 Patent, the '226 Patent, and the '238 Patent, including trebling or other enhancement of the damages pursuant to 35 U.S.C. § 284;

C. Defendants, and their officers, subsidiaries, agents, servants, employees, and those persons in active concert or participation with any of them, be preliminarily and permanently enjoined from any further infringement of the '201 Patent, the '226 Patent, and the '238 Patent, pursuant to 35 U.S.C. § 283;

D. Defendants and their officers, subsidiaries, agents, servants, employees, and those persons in active concert or participation with any of them, be ordered to deliver to Recognia, for destruction at Recognia's option, all products in the United States that infringe the '201 Patent, the '226 Patent, and the '238 Patent, and that were made, used, imported, sold, offered for sale, and/or licensed by the Defendants.

E. Defendants pay to Recognia pre-judgment and post-judgment interest at the rate allowed by law on all damages awarded based on their infringement of the '201 Patent, the '226 Patent, and the '238 Patent;

F. Defendants pay to Recognia all costs Recognia incurs in connection with this action;

G. This case be declared exceptional pursuant to 35 U.S.C. § 285 and

that the Defendants therefore pay Recognia all attorneys' fees and other monetary compensation deemed appropriate; and,

H. Recognia be granted such further and additional relief as the Court may deem just and proper under the circumstances.

**Demand For Jury Trial**

Recognia demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Date: July 26, 2013

/s/ Robert P. Lord

Robert P. Lord

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