

1 LARIVIERE, GRUBMAN & PAYNE, LLP  
2 Robert W. Payne, Esq. (Bar No. 073901)  
3 Email: rpayne@lgpatlaw.com  
4 Scott J. Allen, Esq. (Bar No. 178925)  
5 Email: sallen@lgpatlaw.com  
6 Post Office Box 3140  
7 19 Upper Ragsdale Drive  
8 Monterey, CA 93942-3140  
9 Telephone: (831) 649-8800  
10 Facsimile: (831) 649-8835

11 Attorneys for Plaintiff,  
12 MIS SCIENCES CORPORATION

13 IN THE UNITED STATES DISTRICT COURT  
14 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 MIS SCIENCES CORPORATION,	)	<b>Case No. 4:14-cv-00376-CW</b>
	)	
16 Plaintiff,	)	<b>AMENDED COMPLAINT FOR</b>
17 vs.	)	<b>DECLARATORY JUDGMENT OF</b>
	)	<b>PATENT, NON-INFRINGEMENT</b>
18 RPOST HOLDINGS, INC., RPOST	)	<b>AND INVALIDITY</b>
19 COMMUNICATIONS LIMITED, RPOST	)	
20 INTERNATIONAL LIMITED and RMAIL	)	<b>JURY DEMAND</b>
21 LIMITED,	)	
22 Defendants.	)	
	)	
	)	

23 Plaintiff MIS Sciences ("MIS Sciences") hereby pleads the following claims for  
24 Declaratory Judgment against Defendants RPost Holdings, Inc. ("RPost Holdings"), RPost  
25 Communications Limited ("RPost Communications"), RPost International Limited ("RPost  
26 International") and RMail Limited ("RMail") (collectively, "RPost"), and alleges as follows:

27 **NATURE OF THE ACTION**

28 1. This action is based on the patent laws of the United States, Title 35 of the United  
States Code. RPost has alleged infringement of one or more claims of U.S. Patent Nos.  
8,224,913 ("the '913 patent"), 8,209,389 ("the '389 patent") and 8,468,199 ("the '199 patent"),

1 8,161,104 (“the ‘104 patent”), 8,468,198 (“the ‘198”)(collectively, the "Patents-in-Suit") based  
2 on certain alleged ongoing activity by MIS Sciences. MIS Sciences contends that it does not  
3 engage (and has not engaged) in the alleged ongoing activity, and, even if it is found to engage  
4 (or has engaged) in such activity, MIS Sciences has and/or had the right to engage in the accused  
5 activity without license to any of the Patents-in-Suit. MIS Sciences thus seeks a declaration that  
6 it does not infringe the Patents-in-Suit and that the asserted claims of the Patents-in-Suit are  
7 invalid.  
8

9  
10 **PARTIES**

11 2. Plaintiff MIS Sciences is a California corporation having its principal place of  
12 business in the United States in Burbank, California. MIS Sciences provides products and/or  
13 services to customers located in this district.

14 3. According to the records of the California Secretary of State, Defendant RPost  
15 Holdings is a corporation organized under the laws of the State of Delaware that is registered to  
16 conduct, and does conduct, business in California and has designated in principal office in  
17 California as 6033 W. Century Blvd., Suite 1278, Los Angeles CA 90045-6422. On information  
18 and belief, RPost Holdings regularly engaged in business within this district, including but not  
19 limited to offering to sell and/or selling services to customers within this district and in mailing  
20 cease and desist letters regarding the Patents-in-Suit to companies located in this district.  
21

22 4. On information and belief, Defendant RPost Communications is a corporation  
23 organized under the laws of the Nation of Bermuda.

24 5. On information and belief, Defendant RPost International is a corporation  
25 organized under the laws of the Nation of Bermuda.  
26

27 6. On information and belief, Defendant RMail is a corporation organized under the  
28

1 laws of the Nation of Bermuda.

2 **JURISDICTION AND VENUE**

3 7. This is a civil action regarding allegations of patent infringement and patent  
4 invalidity arising under the patent laws of the United States, Title 35 of the United States Code,  
5 in which MIS Sciences seeks declaratory relief under the Declaratory Judgment Act. Thus, the  
6 Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338, 2201  
7 and 2202.

8  
9 8. An actual, justiciable controversy exists between MIS Sciences (on the one hand)  
10 and RPost (on the other) by virtue of RPost's allegations that MIS Sciences infringes one or more  
11 claims of the Patents-in-Suit by offering products and services, namely electronic message /  
12 email marketing, campaign, marketing automation, link tracking and message  
13 delivery/failure/opening reports. Attached hereto as Exhibits A and B, respectively, are letters  
14 that RPost sent to MIS Sciences accusing MIS Sciences of infringing one or more claims of the  
15 Patents-in-Suit.

16  
17 9. MIS Sciences contends that it does not (and has not) engaged in the alleged  
18 infringing activity, and, even if it does or has engaged in such activity, that MIS Sciences has a  
19 right to do so without license from RPost.

20  
21 10. The Court has personal jurisdiction over RPost because RPost has conducted  
22 substantial business in (and has substantial contact with) the Northern District of California.  
23 Among other things, RPost has sent letters to alleged infringing companies and their counsel in  
24 this District (and to MIS Sciences' counsel located in this district) accusing them of infringing  
25 the Patents-in-Suit. On information and belief, RPost also has accused others in this District of  
26 infringement, and negotiated and entered into agreements with others who reside in this District.

1 On further information and belief, RPost and/or its affiliated companies also market, offer for  
2 sale and sell products in this District. *See, e.g.,* www.rpost.com.

3 11. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 in that a  
4 RPost is subject to personal jurisdiction in this judicial district.  
5

6 **INTRADISTRICT ASSIGNMENT**

7 12. This is an Intellectual Property Action subject to district-wide assignment under  
8 Local Rule 3-2(c).

9 **FACTUAL BACKGROUND**

10 13. On June 18, 2013, the United States Patent and Trademark Office ("PTO") issued  
11 the '198 patent entitled "System And Method For Verifying Delivery And Integrity Of Electronic  
12 Messages." The '198 patent states on its face that it was assigned to RPost International Ltd. A  
13 true and correct copy of the '198 patent is attached to this Complaint as Exhibit C.  
14

15 14. On July 17, 2012, the PTO issued the '913 patent entitled "System And Method  
16 For Verifying Delivery And Integrity Of Electronic Messages." The '913 patent states on its face  
17 that it was assigned to RPost Communications. A true and correct copy of the '913 patent is  
18 attached to this Complaint as Exhibit D.

19 15. On June 26, 2012, the PTO issued the '389 patent entitled "System And Method  
20 For Verifying Delivery And Integrity Of Electronic Messages." The '389 patent states on its face  
21 that it was assigned to RPost Communications. A true and correct copy of the '389 patent is  
22 attached to this Complaint as Exhibit E.  
23

24 16. On June 18, 2013, the PTO issued the '199 patent entitled "System And Method  
25 For Verifying Delivery And Integrity Of Electronic Messages." The '199 patent states on its face  
26  
27  
28

1 that it was assigned to RPost International. A true and correct copy of the ' 199 patent is attached  
2 to this Complaint as Exhibit F.

3 17. On April 17, 2012, the PTO issued the '104 patent entitled "System and Method  
4 for Verifying Delivery and Integrity of Electronic Messages." The '104 patent states on its face  
5 that it was assigned to RPost International Limited. A true and correct copy of the '104 patent is  
6 attached to this Complaint as Exhibit G.

7  
8 18. On information and belief, RPost Communications asserts that it has right, title,  
9 and/or interest in one or more of the Patents-in-Suit.

10 19. On information and belief, RPost International asserts that it has right, title, and/or  
11 interest in one or more of the Patents-in-Suit.

12 20. On information and belief, RPost Holdings asserts that has right, title, and/or  
13 interest in one or more of the Patents-in-Suit.

14  
15 21. On October 30, 2013, Ray Owens of RPost sent a letter to Lauren Ross, President  
16 of MIS Sciences, with the Re: line "Claim Charts per Patent Infringement Notice." The October  
17 30 letter alleges that "MIS Sciences Corporation is offering products and services, namely  
18 electronic message / email marketing, campaign, marketing automation, link tracking and  
19 message delivery/failure/opening reports [that] may infringe certain patents owned by RPost. . . .  
20 [W]e have performed our own analysis and believe that you are offering infringing products and  
21 services." Exhibit A at 1.

22  
23 22. RPost's October 30 letter further includes as attachments "claim charts identifying  
24 selected claims of certain patents and your infringing conduct." Exhibit A at 2-5. The letter also  
25 names a number of other RPost patents. *Id.*

1           23.    On January 22, 2014, Ray Owens of RPost sent an email with attachment, to  
2 Robert Payne, legal counsel for MIS, with the subject line "Registered: RPost Patent Notice -  
3 Final Letter - Cease & Desist." That email states, in pertinent part: "We request that your client  
4 immediately cease and desist from making/manufacturing, using, and/or offering for sale RPost's  
5 patented technology. We request that your client immediately cease and desist from all  
6 infringement, whether direct or indirect, of RPost patents. [¶] We have noted for our records that  
7 despite our courteous outreach to you as discussed in this and previous letters, you have refused  
8 to cease and desist from your infringement of RPost patents identified in the previous letters.  
9 Your continued use of RPost technology without permission from RPost is willful, and is  
10 causing RPost irreparable harm." A true and correct copy of that email is attached to this  
11 Complaint as Exhibit B.  
12

13           24.    MIS Sciences does not infringe the Patents-in-Suit. Additionally, the Patents-in-  
14 Suit are invalid. Accordingly, an actual and justiciable controversy exists between MIS Sciences  
15 and RPost as to whether MIS Sciences infringes any valid claim of the Patents-in-Suit. Absent a  
16 declaration of non-infringement and/or invalidity, RPost will continue to wrongly assert the  
17 Patents-in-Suit against MIS , and thereby cause MIS irreparable harm.  
18

19   **COUNT I**

20   **(Declaratory Relief Regarding Noninfringement of '198 patent)**

21           25.    MIS Sciences restates and incorporates by reference each of the allegations set  
22 forth in paragraphs 1 through 24 above, as though fully set forth herein.  
23

24           26.    RPost contends that MIS Sciences has or is infringing one or more claims of the  
25 '198 patent.  
26

1 27. On information and belief, RPost claims to be the owner of all right, title and  
2 interest in the '198 patent, including the right to assert all causes of action arising under that  
3 patent and the right to any remedies for infringement of it.

4 28. MIS Sciences does not infringe any claim of the '198 patent, directly or indirectly,  
5 contributorily or otherwise, through its or its customer's activities in conjunction with any of MIS  
6 's products or services.

7 29. As set forth above, an actual and justiciable controversy exists between MIS  
8 Sciences and RPost as to MIS Sciences' noninfringement of the '198 patent.

9 30. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
10 MIS requests that this Court enter a judgment that MIS does not infringe, under any theory of  
11 infringement, any valid claim of the '198 patent.  
12  
13

14 **COUNT II**

15 **(Declaratory Relief Regarding Invalidity of the '198 patent)**

16 31. MIS Sciences restates and incorporates by reference each of the allegations set  
17 forth in paragraphs 1 through 30 above, as though fully set forth herein.

18 32. Upon information and belief, RPost contends that the '198 patent is valid.

19 33. The claims of the '198 patent are invalid for failure to comply with one or more of  
20 the conditions for patentability set forth in Title 35 of the United States Code, including without  
21 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.  
22

23 34. As set forth above, an actual and justiciable controversy exists between MIS  
24 Sciences and RPost as to whether the claims of the '198 patent are invalid.

25 35. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
26 MIS Sciences requests that this Court enter a judgment that the claims of the ' 628 patent are  
27  
28

1 invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§  
2 101, 102, 103, and/or 112.

3  
4 **COUNT III**

5 **(Declaratory Relief Regarding Noninfringement of '913 patent)**

6 36. MIS Sciences restates and incorporates by reference each of the allegations set  
7 forth in paragraphs 1 through 35 above, as though fully set forth herein.

8 37. RPost contends that MIS Sciences has or is infringing one or more claims of the  
9 '913 patent.

10 38. On information and belief, RPost claims to be the owner of all right, title and  
11 interest in the '913 patent, including the right to assert all causes of action arising under that  
12 patent and the right to any remedies for infringement of it.

13 39. MIS Sciences does not infringe any claim of the '913 patent, directly or indirectly,  
14 contributorily or otherwise, through its or its customer's activities in conjunction with any of MIS  
15 Sciences' products or services.

16 40. As set forth above, an actual and justiciable controversy exists between MIS  
17 Sciences and RPost as to MIS Sciences' noninfringement of the '913 patent.

18 41. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
19 MIS requests that this Court enter a judgment that MIS does not infringe, under any theory of  
20 infringement, any valid claim of the '913 patent.  
21  
22

23 **COUNT IV**

24 **(Declaratory Relief Regarding Invalidity of the '913 patent)**

25 42. MIS Sciences restates and incorporates by reference each of the allegations set  
26 forth in paragraphs 1 through 41 above, as though set forth herein.  
27  
28



1 43. Upon information and belief, RPost contends that the '913 patent is valid.

2 45. The claims of the '913 patent are invalid for failure to comply with one or more of  
3 the conditions for patentability set forth in Title 35 of the United States Code, including without  
4 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

5 45. As set forth above, an actual and justiciable controversy exists between MIS  
6 Sciences and RPost as to whether the claims of the '913 patent are invalid.

7 46. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
8 MIS Sciences requests that this Court enter a judgment that the claims of the '913 patent are  
9 invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§  
10 101, 102, 103, and/or 112.

11  
12 **COUNT V**

13 **(Declaratory Relief Regarding Noninfringement of the '389 patent)**

14 47. MIS Sciences restates and incorporates by reference each of the allegations set  
15 forth in paragraphs 1 through 46 above, as willfully set forth herein.

16 48. RPost contends that MIS Sciences has or is infringing one or more claims of the  
17 '389 patent.

18 49. On information and belief, RPost claims to be the owner of all right, title and  
19 interest in the '389 patent, including the right to assert all causes of action arising under that  
20 patent and the right to any remedies for infringement of it.

21 50. MIS Sciences does not infringe any claim of the '389 patent, directly or indirectly,  
22 contributorily or otherwise, through its or its customer's activities in conjunction with any of MIS  
23 Sciences' products or services.

1 51. As set forth above, an actual and justiciable controversy exists between MIS  
2 Sciences and RPost as to MIS Sciences' noninfringement of the '389 patent.

3 52. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
4 MIS Sciences requests that this Court enter a judgment that MIS Sciences does not infringe,  
5 under any theory of infringement, any valid claim of the '389 patent.  
6

7 **COUNT VI**

8 **(Declaratory Relief Regarding Invalidity of '389 patent)**

9 53. MIS Sciences restates and incorporates by reference each of the allegations set  
10 forth in paragraphs 1 through 52 above, as if fully set forth herein.

11 54. Upon information and belief, RPost contends that the '389 patent is valid.

12 55. The claims of the '389 patent are invalid for failure to comply with one or more of  
13 the conditions for patentability set forth in Title 35 of the United States Code, including without  
14 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.  
15

16 56. As set forth above, an actual and justiciable controversy exists between MIS  
17 Sciences and RPost as to whether the claims of the '389 patent are invalid.

18 57. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
19 MIS Sciences requests that this Court enter a judgment that the claims of the '389 patent are  
20 invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§  
21 101, 102, 103, and/or 112.  
22

23 **COUNT VII**

24 **(Declaratory Relief Regarding Noninfringement of '199 patent)**

25 58. MIS Sciences restates and incorporates by reference each of the allegations set  
26 forth in paragraphs 1 through 57 above, as if fully set forth herein.  
27

1 59. RPost contends that MIS Sciences has or is infringing one or more claims of the  
2 '199 patent.

3 60. On information and belief, RPost claims to be the owner of all right, title and  
4 interest in the '199 patent, including the right to assert all causes of action arising under that  
5 patent and the right to any remedies for infringement of it.  
6

7 61. MIS Sciences does not infringe any claim of the '199 patent, directly or  
8 indirectly, contributorily or otherwise, through its or its customer's activities in conjunction with  
9 any of MIS Sciences' products or services.

10 62. As set forth above, an actual and justiciable controversy exists between MIS  
11 Sciences and RPost as to MIS Sciences' noninfringement of the '199 patent.

12 63. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
13 MIS Sciences requests that this Court enter a judgment that MIS Sciences does not infringe,  
14 under any theory of infringement, any valid claim of the '199 patent.  
15

16 **COUNT VIII**

17 **(Declaratory Relief Regarding Invalidity of '199 patent)**

18 64. MIS Sciences restates and incorporates by reference each of the allegations set  
19 forth in paragraphs 1 through 63 above, as more fully set forth herein.  
20

21 65. Upon information and belief, RPost contends that the '199 patent is valid.

22 66. The claims of the '199 patent are invalid for failure to comply with one or more of  
23 the conditions for patentability set forth in Title 35 of the United States Code, including without  
24 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

25 67. As set forth above, an actual and justiciable controversy exists between MIS  
26 Sciences and RPost as to whether the claims of the '199 patent are invalid.  
27  
28

1 68. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
2 MIS Sciences requests that this Court enter a judgment that the claims of the ' 199 patent are  
3 invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§  
4 101, 102, 103, and/or 112.  
5

6 **COUNT IX**

7 **(Declaratory Relief Regarding Noninfringement of '104 patent)**

8 69. MIS Sciences restates and incorporates by reference each of the allegations set forth  
9 in paragraphs 1 through 68 above, as if fully set forth herein.

10 70. RPost contends that MIS Sciences has or is infringing one or more claims of the  
11 '104 patent.

12 71. On information and belief, RPost claims to be the owner of all right, title and  
13 interest in the '104 patent, including the right to assert all causes of action arising under that  
14 patent and the right to any remedies for infringement of it.  
15

16 72. MIS Sciences does not infringe any claim of the '104 patent, directly or indirectly,  
17 contributorily or otherwise, through its or its customer's activities in conjunction with any of MIS  
18 Sciences' products or services.

19 73. As set forth above, an actual and justiciable controversy exists between MIS  
20 Sciences and RPost as to MIS Sciences' noninfringement of the '104 patent.  
21

22 74. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
23 MIS Sciences requests that this Court enter a judgment that MIS Sciences does not infringe,  
24 under any theory of infringement, any valid claim of the '104 patent.  
25  
26  
27  
28

1 **COUNT X**

2 **(Declaratory Relief Regarding Invalidity of '104 patent)**

3 75. MIS Sciences restates and incorporates by reference each of the allegations set  
4 forth in paragraphs 1 through 74 above, as more fully set forth herein.

5 76. Upon information and belief, RPost contends that the '104 patent is valid.

6 77. The claims of the '104 patent are invalid for failure to comply with one or more of  
7 the conditions for patentability set forth in Title 35 of the United States Code, including without  
8 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

9 78. As set forth above, an actual and justiciable controversy exists between MIS  
10 Sciences and RPost as to whether the claims of the '104 patent are invalid.

11 79. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
12 MIS Sciences requests that this Court enter a judgment that the claims of the '104 patent are  
13 invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§  
14 101, 102, 103, and/or 112.

15 **COUNT XI**

16 **(Declaratory Relief Regarding Noninfringement of '198 patent)**

17 80. MIS Sciences restates and incorporates by reference each of the allegations set  
18 forth in paragraphs 1 through 79 above, as if fully set forth herein.

19 81. RPost contends that MIS Sciences has or is infringing one or more claims of the  
20 '198 patent.

21 82. On information and belief, RPost claims to be the owner of all right, title and  
22 interest in the '198 patent, including the right to assert all causes of action arising under that  
23 patent and the right to any remedies for infringement of it.

1 83. MIS Sciences does not infringe any claim of the '198 patent, directly or indirectly,  
2 contributorily or otherwise, through its or its customer's activities in conjunction with any of MIS  
3 Sciences' products or services.

4 84. As set forth above, an actual and justiciable controversy exists between MIS  
5 Sciences and RPost as to MIS Sciences' noninfringement of the '198 patent.  
6

7 85. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
8 MIS Sciences requests that this Court enter a judgment that MIS Sciences does not infringe,  
9 under any theory of infringement, any valid claim of the '198 patent.

10 **COUNT XII**

11 **(Declaratory Relief Regarding Invalidity of '198 patent)**

12 86. MIS Sciences restates and incorporates by reference each of the allegations set  
13 forth in paragraphs 1 through 85 above, as more fully set forth herein.  
14

15 87. Upon information and belief, RPost contends that the '198 patent is valid.

16 88. The claims of the '198 patent are invalid for failure to comply with one or more of  
17 the conditions for patentability set forth in Title 35 of the United States Code, including without  
18 limitation 35 U.S.C. §§ 101, 102, 103, and/or 112.

19 89. As set forth above, an actual and justiciable controversy exists between MIS  
20 Sciences and RPost as to whether the claims of the '198 patent are invalid.  
21

22 90. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*,  
23 MIS Sciences requests that this Court enter a judgment that the claims of the '198 patent are  
24 invalid pursuant to Title 35 of the United States Code, including without limitation 35 U.S.C. §§  
25 101, 102, 103, and/or 112.  
26  
27  
28

**COUNT XIII**

**(Declaratory Relief Regarding Non-Infringement And Invalidity of Additional Patents)**

91. MIS Sciences restates and incorporates by reference each of the allegations set forth in paragraphs 1 through 90 above.

92. In addition to the ‘913, ‘389, ‘199, ‘104, and ‘198 Patents, RPost’s cease and desist letters and related communications (including Exhibits A and B to this Complaint) assert that MIS infringes patents owned by RPost. The communications from RPost also state that the patents for which RPost provided claim charts (the ‘913, ‘398, ‘199, ‘104, and ‘198 Patents) are “simply examples of [MIS Sciences’] infringement and are by no means exhaustive”; and “[i]t is likely that your products and services are infringing other claims of RPost’s patents.” See, Exhibit A hereto, p. 1. The cease and desist communications from RPost include a lengthy “List of Patents”, including 13 issued US patents in addition to the patents at issue in Claims I-XII above, namely - 6182219c1, 6571334c2, 7240199, 7660989, 7698558, 7707624, 7865557, 7886008, 7966372, 8275845, 8478981, 8484706, and 8504628 (hereafter referred to as the “Additional Patents”).

93. On information and belief, one or more of the RPost defendants asserts ownership of and/or the right to enforce the Additional Patents.

94. The RPost defendants assert that the Additional Patents are infringed by MIS Sciences.

95. The RPost defendants assert that the Additional Patents are valid.

96. MIS Sciences asserts that the Additional Patents are neither valid nor infringed by MIS Sciences.

1 97. As set forth above, an actual and justiciable controversy exists between MIS  
2 sciences and RPost as to MIS Sciences' noninfringement of the Additional Patents and the  
3 invalidity of the Additional Patents.

4 98. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 et seq., MIS  
5 Sciences requests that this Court enter a judgment that MIS Sciences does not infringe, under any  
6 theory of infringement, any valid claim of the Additional Patents and/or that the claims of the  
7 Additional Patents asserted by RPost are invalid under the Patent Act, including but not limited  
8 to invalidity under §§ 101, 102, 103, and/or 112.

10 **REQUEST FOR RELIEF**

11 WHEREFORE, MIS Sciences respectfully prays for judgment in favor of MIS Sciences  
12 and against RPost, as follows:

13 A. For a judicial determination and declaration that MIS Sciences has not  
14 infringed and is not infringing, directly or indirectly, any claim of the Patents-in-Suit;

15 B. For a judicial determination and declaration that each claim of the Patents-in-  
16 Suit is invalid;

17 C. For injunctive relief against RPost, and all persons acting on its behalf or in  
18 concert with it, restraining them from further prosecuting or instituting any action against MIS  
19 Sciences or MIS Sciences' customers claiming that the Patents-in-Suit are valid or infringed,  
20 or for representing that MIS Sciences' products or services, or that others' use thereof, infringe  
21 the Patents-in-Suit;

22 D. For a declaration that this case is exceptional under 35 U.S.C. § 285 and for  
23 an award of attorneys' fees and costs in this action; and

24 E. For such other and further relief as this Court may deem just and proper.  
25  
26  
27  
28



**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38 and Civil L.R. 3-6, Plaintiff MIS Sciences Corporation  
demands a jury trial on all issues triable to a jury.

Respectfully submitted,

Dated: March 17, 2014

LARIVIERE, GRUBMAN & PAYNE, LLP

By: /s/ Scott J. Allen

Robert W. Payne

Scott J. Allen

Attorneys for Plaintiff,  
MIS SCIENCES CORPORATION