

1 Plaintiff Audatex North America, Inc. (“Audatex”) for its Supplemented First
2 Amended Complaint against Mitchell International, Inc. (“Mitchell”) alleges as
3 follows:

4 **THE PARTIES**

5 1. Audatex is a corporation duly organized and existing under the laws of
6 the State of Delaware, which transacts business in Delaware and throughout the
7 United States, and has its principal place of business at 15030 Avenue of Science,
8 Suite 100, San Diego, California 92128.

9 2. On information and belief, Mitchell is a corporation duly organized and
10 existing under the laws of the State of Delaware, which transacts business in
11 Delaware and throughout the United States, and has a principal place of business at
12 6220 Greenwich Drive, San Diego, California, 92122.

13 **JURISDICTION AND VENUE**

14 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
15 1331 and 1338(a) because this is an action for patent infringement under the patent
16 laws of the United States, 35 U.S.C. §§ 100 et seq., including 35 U.S.C. § 271.

17 4. This Court has personal jurisdiction over Defendant Mitchell because,
18 among other reasons, Mitchell’s headquarters and principal place of business is in
19 San Diego, California.

20 5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
21 1391(b)-(d) and 1400(b), because, among other reasons, Defendant Mitchell does
22 business in this district and is subject to personal jurisdiction in this judicial district.

23 **GENERAL ALLEGATIONS**

24 6. Audatex and Mitchell are two of the largest competitors in the
25 insurance estimation and loss valuation industry. The major customers of the
26 products offered by Audatex and Mitchell include insurance companies and
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1 collision repair facilities. Audatex and Mitchell compete with each other for these
2 customers.

3 7. One of Mitchell's primary products is its "WorkCenter" software.
4 Mitchell advertises its "WorkCenter" software to insurance companies, collision
5 repair facilities, and other customers via various media, including its website, paper
6 marketing materials, trade shows and/or presentations to its potential and actual
7 customers. Mitchell's marketing materials contain, among other things, information
8 about the features of its products, instructions about how to use the products, and
9 demonstrations of how the products are intended to work.

10 **CLAIM 1**

11 **(Infringement of U.S. Patent No. 7,912,740 B2)**

12 8. The allegations in paragraphs 1 through 7 above are incorporated as
13 though set forth fully herein.

14 9. On March 22, 2011, United States Patent No. 7,912,740 B2 ("the '740
15 Patent") was duly and legally issued for an invention entitled: "System and Method
16 for Processing Work Products for Vehicles Via the World Wide Web."

17 10. The '740 Patent was initially assigned to Claims Services Group, Inc.,
18 which subsequently assigned the '740 Patent to Audatex. Audatex currently holds
19 all rights, title, and interest in the '740 Patent. A true and correct copy of the '740
20 Patent is attached hereto as Exhibit A.

21 11. Audatex uses and sells an embodiment of the '740 Patent in
22 conjunction with its Audatex Estimating system and Autosource product which
23 generates valuation reports. Audatex marks by denoting the patent number on the
24 valuation reports. In other words, each time that an Audatex Autosource valuation
25 report is generated, the report contains a reference to the '740 Patent.

26 12. On February 6, 2012, Audatex filed its original complaint for patent
27 infringement against Mitchell, which contained a claim for infringement of the '740
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1 Patent. Mitchell has acknowledged in press releases that it thus has been on notice
2 of the ‘740 Patent at least since February of 2012.

3 13. On information and belief, Mitchell also had actual knowledge of the
4 ‘740 Patent before Audatex filed its original complaint. Because Mitchell and
5 Audatex are two of the largest competitors in the insurance estimation and loss
6 valuation industry, and regularly compete for the same customers, Mitchell closely
7 monitors Audatex’s technology, and Audatex’s products, which are marked with the
8 ‘740 patent. For example, on information and belief, Mitchell has obtained one or
9 more Audatex Autosource valuation reports. Indeed, hard copies of the Audatex
10 Autosource reports identifying the ‘740 patent are typically provided to each of the
11 hundreds of thousands of claimants for whom such reports are generated.
12 Additionally, customers of Audatex and Mitchell routinely perform competitive
13 analysis and frequently share the results of such analysis with Audatex and Mitchell.
14 Thus, on information and belief, Mitchell became aware of the ‘740 Patent through
15 its competitive monitoring of Audatex. Mitchell therefore knew or should have
16 known that there was an objectively high risk that its “WorkCenter” software was
17 infringing the claims of the ‘740 Patent.

18 14. Mitchell has infringed and is currently infringing the ‘740 Patent in
19 violation of 35 U.S.C. § 271, by making, using, selling and/or offering for sale
20 products that infringe the ‘740 Patent, including Mitchell’s “WorkCenter” software
21 and related services.

22 15. Mitchell also has actively induced, and continues to actively induce,
23 infringement of the ‘740 Patent by, among other things, using its marketing
24 materials to instruct its customers to operate the accused products in a manner that
25 infringes the claims of the ‘740 Patent. Mitchell intends that its customers will use
26 its “WorkCenter” software in a manner that infringes the ‘740 Patent and knows that
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1 its customers are using its “WorkCenter” software in a manner that infringes the
2 ‘740 Patent.

3 16. Mitchell also has contributorily infringed and continues to
4 contributorily infringe the ‘740 Patent by offering to sell and/or selling within the
5 United States to its customers one or more components of a machine, manufacture,
6 or combination covered by the ‘740 Patent that constitute a material part of the
7 invention, which is not a staple article or commodity of commerce suitable for
8 substantial non-infringing use. On information and belief, Mitchell knows that its
9 “WorkCenter” software is especially made or especially adapted for use in
10 infringing the ‘740 Patent.

11 17. Mitchell’s acts of infringement have caused damage to Audatex, and
12 Audatex is entitled to recover from Mitchell the damages sustained by Audatex as a
13 result of its individual wrongful acts in an amount subject to proof at trial.
14 Mitchell’s infringement of Audatex’s exclusive rights under the ‘740 Patent will
15 continue to damage Audatex, causing irreparable harm, for which there is no
16 adequate remedy at law, unless it is enjoined by this Court.

17 18. Despite its knowledge of the ‘740 Patent and its knowledge that there is
18 an objectively high likelihood that its actions constitute infringement of the ‘740
19 Patent, Mitchell has infringed and continues to infringe the ‘740 patent with its
20 “WorkCenter” software. Accordingly, Mitchell’s infringement has been and
21 continues to be willful.

22 **CLAIM 2**

23 **(Infringement of U.S. Patent No. 8,200,513 B2)**

24 19. The allegations in paragraphs 1 through 18 above are incorporated as
25 though set forth fully herein.

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1 20. On June 12, 2012, United States Patent No. 8,200,513 B2 (“the ‘513
2 Patent”) was duly and legally issued for an invention entitled: “System and Method
3 for Processing Work Products for Vehicles Via the World Wide Web.”

4 21. Audatex is the assignee of the ‘513 Patent and currently holds all rights,
5 title, and interest in the ‘513 Patent. A true and correct copy of the ‘513 Patent is
6 attached hereto as Exhibit B.

7 22. Audatex uses and sells an embodiment of the ‘513 Patent in
8 conjunction with its Audatex Estimating system and Autosource product that
9 generate valuation reports. Audatex marks by denoting the patent number on the
10 valuation reports. In other words, each time that an Audatex Autosource valuation
11 report is generated, the report contains a reference to the ‘513 Patent.

12 23. On information and belief, Mitchell had actual knowledge of the ‘513
13 Patent before Audatex filed its first amended complaint. Because Mitchell and
14 Audatex are two of the largest competitors in the insurance estimation and loss
15 valuation industry, and regularly compete for the same customers, Mitchell closely
16 monitors Audatex’s technology, and Audatex’s products, which are marked with the
17 ‘513 patent. For example, on information and belief, Mitchell has obtained one or
18 more Audatex Autosource valuation reports. Indeed, hard copies of the Audatex
19 Autosource reports identifying the ‘513 patent are typically provided to each
20 claimant for whom such reports are generated. Additionally, customers of Audatex
21 and Mitchell routinely perform competitive analysis and frequently share the results
22 of such analysis with Audatex and Mitchell. Thus, on information and belief,
23 Mitchell became aware of the ‘513 Patent through its competitive monitoring of
24 Audatex.

25 24. Moreover, the ‘513 Patent is a direct continuation of the ‘740 Patent’s
26 application. At the time that the ‘513 Patent issued, Mitchell had issued press
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1 releases regarding the ‘740 Patent and Audatex’s claims for infringement of the ‘740
2 Patent.

3 25. Mitchell therefore knew or should have known that there was an
4 objectively high risk that its “WorkCenter” software was infringing the claims of the
5 ‘513 Patent.

6 26. Moreover, and independent of Mitchell’s previous knowledge of the
7 ‘513 Patent, Mitchell also has knowledge of the ‘513 Patent based on its first
8 amended complaint.

9 27. Mitchell has infringed and is currently infringing the ‘513 Patent in
10 violation of 35 U.S.C. § 271, by making, using, selling and/or offering for sale
11 products that infringe the ‘513 Patent, including Mitchell’s “WorkCenter” software
12 and related services.

13 28. Mitchell also has actively induced, and continues to actively induce,
14 infringement of the ‘513 Patent by, among other things, using its marketing
15 materials to instruct its customers to operate the accused products in a manner that
16 infringes the claims of the ‘513 Patent. Mitchell intends that its customers will use
17 its “WorkCenter” software in a manner that infringes the ‘513 Patent and knows that
18 its customers are using its “WorkCenter” software in a manner that infringes the
19 ‘513 Patent.

20 29. Mitchell also has contributorily infringed and continues to
21 contributorily infringe the ‘513 Patent by offering to sell and/or selling within the
22 United States to its customers one or more components of a machine, manufacture,
23 or combination covered by the ‘513 Patent that constitute a material part of the
24 invention, which is not a staple article or commodity of commerce suitable for
25 substantial non-infringing use. On information and belief, Mitchell knows that its
26 “WorkCenter” software is especially made or especially adapted for use in
27 infringing the ‘513 Patent.

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1 36. On information and belief, Mitchell had actual knowledge of the ‘038
2 Patent before Audatex filed this supplemented complaint. Because Mitchell and
3 Audatex are two of the largest competitors in the insurance estimation and loss
4 valuation industry, and regularly compete for the same customers, Mitchell closely
5 monitors Audatex’s technology, and Audatex’s products, which are marked with the
6 ‘038 patent. For example, on information and belief, Mitchell has obtained one or
7 more Audatex Autosource valuation reports. Indeed, hard copies of the Audatex
8 Autosource reports identifying the ‘038 patent are typically provided to each
9 claimant for whom such reports are generated. Additionally, customers of Audatex
10 and Mitchell routinely perform competitive analysis and frequently share the results
11 of such analysis with Audatex and Mitchell. Thus, on information and belief,
12 Mitchell became aware of the ‘038 Patent through its competitive monitoring of
13 Audatex.

14 37. Moreover, the ‘038 Patent is a continuation of the ‘740 Patent’s
15 application. At the time that the ‘038 Patent issued, Mitchell had issued press
16 releases regarding the ‘740 Patent and Audatex’s claims for infringement of the ‘740
17 Patent.

18 38. Mitchell therefore knew or should have known that there was an
19 objectively high risk that its “WorkCenter” software was infringing the claims of the
20 ‘038 Patent.

21 39. Moreover, and independent of Mitchell’s previous knowledge of the
22 ‘038 Patent, Mitchell also has knowledge of the ‘038 Patent based on this complaint.

23 40. Mitchell has infringed and is currently infringing the ‘038 Patent in
24 violation of 35 U.S.C. § 271, by making, using, selling and/or offering for sale
25 products that infringe the ‘513 Patent, including Mitchell’s “WorkCenter” software
26 and related services.

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1 41. Mitchell also has actively induced, and continues to actively induce,
2 infringement of the ‘038 Patent by, among other things, using its marketing
3 materials to instruct its customers to operate the accused products in a manner that
4 infringes the claims of the ‘038 Patent. Mitchell intends that its customers will use
5 its “WorkCenter” software in a manner that infringes the ‘038 Patent and knows that
6 its customers are using its “WorkCenter” software in a manner that infringes the
7 ‘038 Patent.

8 42. Mitchell also has contributorily infringed and continues to
9 contributorily infringe the ‘038 Patent by offering to sell and/or selling within the
10 United States to its customers one or more components of a machine, manufacture,
11 or combination covered by the ‘038 Patent that constitute a material part of the
12 invention, which is not a staple article or commodity of commerce suitable for
13 substantial non-infringing use. On information and belief, Mitchell knows that its
14 “WorkCenter” software is especially made or especially adapted for use in
15 infringing the ‘038 Patent.

16 43. Mitchell’s acts of infringement have caused damage to Audatex, and
17 Audatex is entitled to recover from Mitchell the damages sustained by Audatex as a
18 result of its individual wrongful acts in an amount subject to proof at trial.
19 Mitchell’s infringement of Audatex’s exclusive rights under the ‘038 Patent will
20 continue to damage Audatex, causing irreparable harm, for which there is no
21 adequate remedy at law, unless it is enjoined by this Court.

22 44. Despite its knowledge of the ‘038 Patent and its knowledge that there is
23 an objectively high likelihood that its actions constitute infringement of the ‘038
24 Patent, Mitchell has infringed and continues to infringe the ‘038 patent with its
25 “WorkCenter” software. Accordingly, Mitchell’s infringement has been and
26 continues to be willful.

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PRAYER FOR RELIEF

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WHEREFORE, Audatex prays for judgment and seeks relief against Mitchell as follows:

1. That Mitchell has infringed, induced infringement of, and/or contributorily infringed one or more of the claims of each of the patents-in-suit;
2. That Mitchell and its affiliates, subsidiaries, directors, officers, employees, attorneys, agents, and all persons in active concert or participation with any of them be preliminarily and permanently enjoined from further acts of infringement, inducing infringement, and/or contributory infringement of the patents-in-suit;
3. That Mitchell pay Audatex damages which in no event shall be less than a reasonable royalty, together with interest and costs under 35 U.S.C. § 284;
4. That Mitchell be ordered to provide an accounting;
5. That this be adjudged an exceptional case and that Audatex be awarded its reasonable attorneys' fees under 35 U.S.C. § 285;
6. That Mitchell's infringement has been willful and that the damages will be increased under 35 U.S.C. § 284 to three times the amount found or measured;
7. That Mitchell be required to pay pre- and post-judgment interest on the assessed damages; and
8. That Audatex be awarded any other and further relief as this Court deems just and proper.

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DEMAND FOR JURY TRIAL

Audatex hereby demands a trial by jury on all issues so triable.

IRELL & MANELLA LLP

By: /s/ Patrick McGill

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*Attorneys for Plaintiff Audatex North
America, Inc.*

PROOF OF SERVICE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 840 Newport Center Drive, Suite 400, Newport Beach, California 92660-6324. I declare that I am a member of the bar of this Court.

On April 23, 2014, I served the foregoing document described as **SUPPLEMENTED FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT** on each interested party, as follows:

(BY E-FILE): I caused such documents to be transmitted by e-file with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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Attorneys for Defendant Mitchell International, Inc.

Executed on April 23, 2014, at Newport Beach, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Patrick McGill (pmcgill@irell.com)
(Type or print name)

/s/ Patrick McGill
(Signature)