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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

LONE STAR TARGETED ADVERTISING, LLC,

Plaintiff,

v.

PAPERG, INC. DBA THUNDER INDUSTRIES,

Defendants.

Civil Action No.

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMAND

Plaintiff Lone Star Targeted Advertising, LLC (“LSTA”), for its Complaint against PaperG, Inc. dba Thunder Industries (“Defendant” or “Thunder Industries”), alleges as follows:

PARTIES

1. Plaintiff Lone Star Targeted Advertising, LLC (“LSTA”) is a limited liability company organized under the laws of the State of Texas with its principal place of business in Dallas, Texas.

2. On information and belief, Thunder Industries is a company organized under the laws of Washington. Thunder Industries is a registered corporation in the state of Delaware with an office in Bellevue, Washington.

JURISDICTION AND VENUE

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2 3. This is an action for patent infringement in violation of the Patent Act of the United
3 States, 35 U.S.C. §§ 1 *et seq.*

4 4. This Court has original and exclusive subject matter jurisdiction over the patent
5 infringement claims for relief under 28 U.S.C. §§ 1331 and 1338(a).

6 5. This Court has personal jurisdiction over Defendant because Defendant, on
7 information and belief, has transacted and is transacting business in the District of Washington that
8 includes, but is not limited to, the use of products and systems that practice the subject matter
9 claimed in the patents involved in this action.

10 6. Venue is proper in this district under 28 U.S.C. 1400(b) because on information and
11 belief, Defendant has committed acts of infringement within this District. In addition, the
12 Defendant has an office located at 600 108th Ave NE, Suite 680, Bellevue, Washington 98004.

13 **FACTS**

14 7. On October 9, 2001, U.S. Patent No. 6,301,619, entitled “System and Method for
15 Providing Service of Sending Real Time Electronic Information to Selected Individual Viewers of
16 Transmitted Video or Computerized Signals” was duly and legally issued. A true and correct copy
17 of the ’619 Patent is attached hereto as Exhibit A. The ’619 Patent issued from application Serial
18 Number 09/260,035 filed March 2, 1999. The inventors assigned all right, title and interest in the
19 ’619 Patent to Oplus Technologies Ltd. Oplus Technologies Ltd. assigned its entire right, title,
20 and interest in ’619 Patent to Lone Star Technological Innovations, LLC, who then assigned its
21 entire right, title, and interest in the ’619 Patent to LSTA. LSTA is the sole owner of all rights,
22 title, and interest in and to the ’619 Patent including the right to sue for and collect past, present,
23 and future damages and to seek and obtain injunctive or any other relief for infringement of the
24 ’619 Patent.

25 8. Claim 9 of the ’619 Patent states:

26 A method for a sender sending real time electronic information to a viewer of
27 transmitted video signals, the method comprising the steps of:

- 1 (a) providing viewer attribute information related to the viewer;
- 2 (b) receiving and storing said viewer attribute information by an electronic device, included
3 with an in communication with a television belonging to the view, said viewer attribute
4 information input into said electronic device by the viewer;
- 5 (c) providing sender requested electronic information of the sender to be transmitted by
6 request of the sender to the viewer, said sender requested electronic information of the
7 sender is included with a non-viewer provided subset of said viewer attribute information
8 related to the viewer;
- 9 (d) providing a service center for communicating to a television station provider of the
10 transmitted video signals encoding instructions to form encoded sender requested
11 electronic information of the sender;
- 12 (e) transmitting a compound video signal including said non-viewer provided subset of
13 viewer attribute information and said encoded sender requested electronic information of
14 the sender by said television station provider of the transmitted video signals to said
15 electronic device included with and in communication with said television belonging to the
16 viewer;
- 17 (f) making a decision selected from the group consisting of accepting said encoded sender
18 requested electronic information of the sender and not accepting said encoded sender
19 requested electronic information of the sender by said electronic device included with and
20 in communication with said television belonging to the viewer, whereby said decision by
21 said electronic device accepting said encoded sender requested electronic information the
22 sender is made by recognizing said non-viewer provided subset of said viewer attribute
23 information;
- 24 (g) decoding said encoded sender requested electronic information of the sender by said
25 electronic device included with and in communication with said television belonging to the
26 viewer to form decoded sender requested electronic information of the sender;
- 27 (h) formatting said decoded sender requested electronic information of the sender by said
28 electronic device included with and in communication with said television belonging to the
viewer to form formatted decoded sender requested electronic information of the sender;
- (i) opening up of a subwindow within said television belonging to the viewer; and
- (j) displaying said formatted decoder sender requested electronic information of the sender
within said subwindow within said television belonging to the viewer.

On information and belief, Thunder Industries infringes Claim 9 of the '619 Patent. As stated on
its website: "Thunder Experience Cloud enables brands to achieve the right consistency, relevancy
and frequency for their ad experiences across screens (TV, mobile, desktop). Featuring the first
open, people-based ad server, Thunder powers better personalization, targeting, and
measurement."

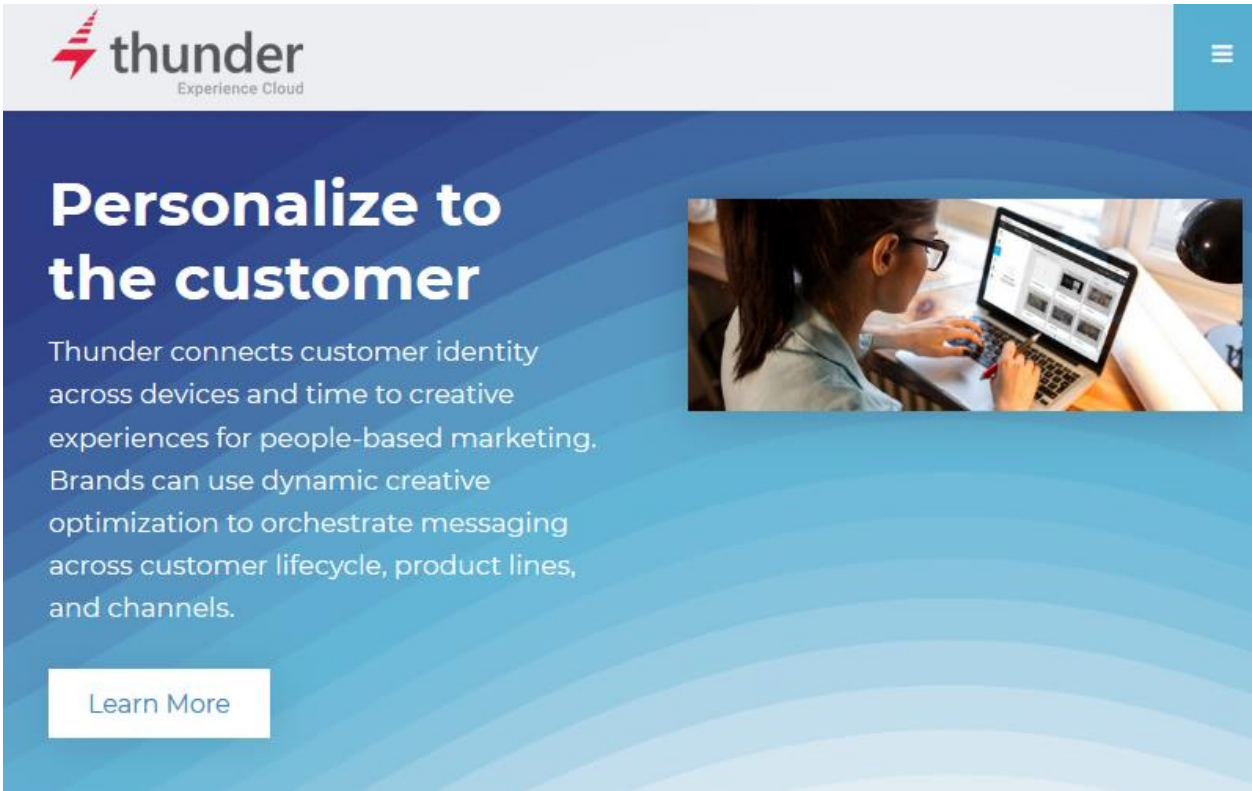
1 9. Thunder Industries’ system infringes each element of Claim 9 as follows:

2 a. “providing viewer attributable information related to the viewer” –
3 Thunder Industries’ platform provides viewer attributed information related to the viewer, it utilizes
4 viewer attribute information via advanced audience analytics, in particular: “Thunder’s dynamic
5 creative optimization (DCO) solution is a people-based, dynamic ad server that enables advertisers
6 to factor in data signals such as CRM, weather, device type, time, media exposure, and now,
7 audience data from large Data Management Platforms (DMP) like Neustar. Customers of Neustar
8 and Thunder will be able to target creative messaging for individual, real people and audience
9 segments across digital channels such as display, video and mobile. By synchronizing people IDs
10 on the open web, they can achieve a higher level of personalization, consistency and accuracy,
11 eliminating irrelevant or redundant advertising.” *See*

12 <https://www.makethunder.com/category/company-update/press-release/>

13 b. “receiving and storing said viewer attribute information by an
14 electronic device included with an in communication with a television belonging to the viewer, said
15 viewer attribute information input into said electronic device by the viewer” – In order for Thunder
16 Industries to utilize its platform and analytical system, an electronic device of the viewer’s is in
17 communication with a TV in order to obtain “real-time” audience data and insights. For most
18 viewers, on information and belief, this will be a set top box that provides the real-time analytics
19 information to the “sender.”

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A promotional banner for Thunder Experience Cloud. The banner has a blue background with a white header containing the Thunder logo and the text "Experience Cloud". The main text reads "Personalize to the customer" in large white font. Below this, it says "Thunder connects customer identity across devices and time to create experiences for people-based marketing. Brands can use dynamic creative optimization to orchestrate messaging across customer lifecycle, product lines, and channels." There is a "Learn More" button in a white box. An inset image shows a woman working on a laptop.

c. “providing sender requested electronic information of the sender to be transmitted by request of the sender to the viewer, said sender requested electronic information of the sender is included with a non-viewer provided subset of said viewer attribute information related to the viewer” -- On information and belief, targeted advertisement based on the campaign being run using Thunder Industries’ platform meets this requirement, as the sender is requesting the sending of information from sender to viewer based on viewer attributable information.

1  ☰

2 **What could better**

3 **personalization do for you?**

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8 **Higher** **Stronger** **Less Media**

9 **Conversions** **Brand Loyalty** **Waste**

10 Ads more relevant to a consumer perform better. Tailoring your offering to consumer interests is the best way to drive sales.

11 74% of CMOs cite brand loyalty as the biggest outcome impacted by bad ads. Improve the ad experience.

12 Change what products you offer or what customer stage message you deliver to avoid wasting an ad impression.

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16 d. “providing a service center for communicating to a television station

17 provider of the transmitted video signals encoding instructions to form encoded sender requested

18 electronic information of the sender” -- Thunder Industries’ platform is the service center that

19 interfaces in providing information of advertiser, content provider, and the viewer. “We help

20 global brands keep ad production up to speed with the ever increasing number of channels, ad

21 sizes, devices, and formats — across languages and regions. This is both in conjunction with their

22 agencies and with in-house teams. The agencies we work with directly are using Thunder as a

23 competitive advantage in order to win new business from companies that are interested in

24 programmatic creative. To optimize the results of each campaign, agencies use us to customize

25 messaging to each audience segment, run complex A/B tests, and push out promotions to in-

26 market creatives.” See <https://www.thalamus.co/blog/victor-wong-thunder-interview/>

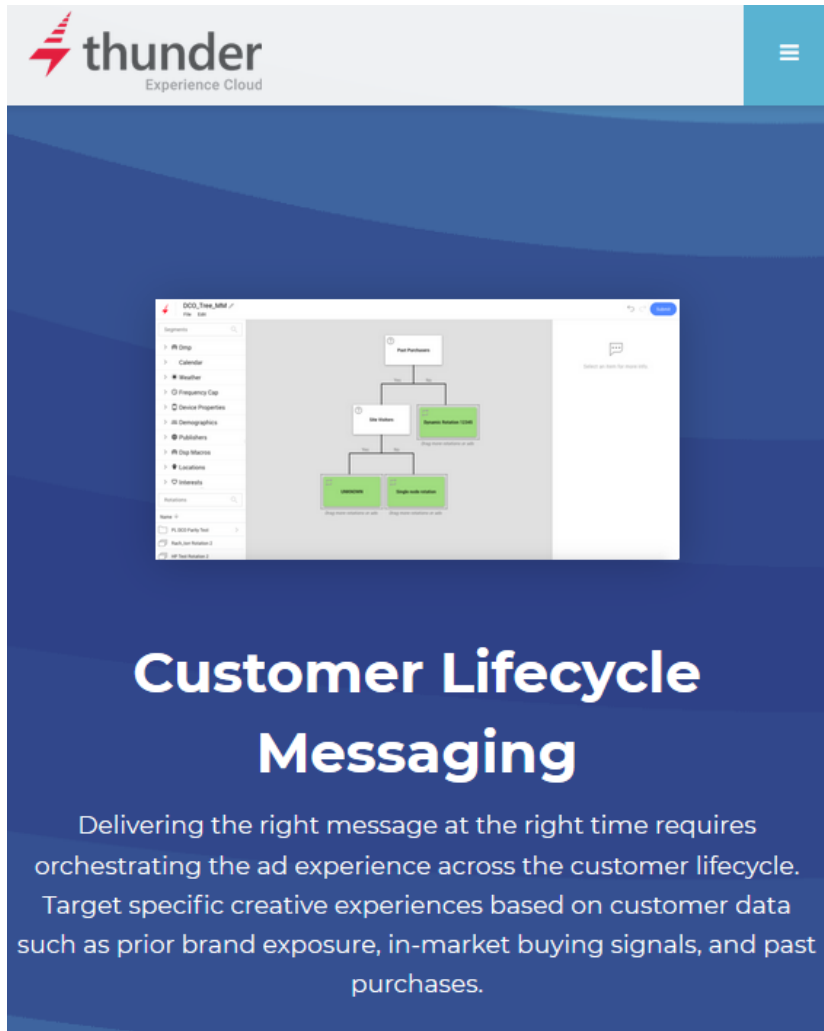
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1 “Thunder Experience Cloud and [LiveRamp®](#), an Acxiom® company (NASDAQ: ACXM) and
2 leading provider of omnichannel identity resolution, today announced a partnership to enable
3 people-based marketing in three key areas: targeting, measurement, and personalization.
4 The partnership provides marketers with a more holistic view of their customers by giving them
5 the ability to track ad exposure and conversion across devices directly to their own person IDs,
6 rather than relying on less accurate identifiers such as Cookie IDs or third party measurement
7 providers. LiveRamp customers use its identity graph for CRM targeting across the open web and
8 walled gardens. Now, with the addition of Thunder’s people-based dynamic ad server, marketers
9 can run campaigns from start to finish on LiveRamp IDs without pause. Ads can be dynamically
10 personalized and measured in real-time using LiveRamp’s identity graph.” “This partnership is
11 truly changing the standards of measurement and relevance in advertising,” said Paul Turner, GM
12 of Technology at LiveRamp. “With Thunder Experience Cloud, marketers have a one stop shop
13 for creating and measuring high-performing omnichannel campaigns based on the person, rather
14 than the device or cookie, ensuring the right ad gets in front of the right person on any device, and
15 bringing us closer than ever before to achieving true people-based marketing, while maintaining
16 LiveRamp’s high standards of transparency and customer privacy.” “Thunder is the only open,
17 deterministic people-based ad serving and tracking solution today,” added Victor Wong, CEO of
18 Thunder Experience Cloud. “By partnering with LiveRamp, one of the most trusted data platforms,
19 we are giving marketers person-level measurement accuracy on their advertising while protecting
20 the privacy of the consumer through state of the art encryption and anonymization.” *See*
21 [https://www.makethunder.com/liveramp-thunder-experience-cloud-announce-partnership-enable-](https://www.makethunder.com/liveramp-thunder-experience-cloud-announce-partnership-enable-omnichannel-people-based-measurement-personalization/)
22 [omnichannel-people-based-measurement-personalization/](https://www.makethunder.com/liveramp-thunder-experience-cloud-announce-partnership-enable-omnichannel-people-based-measurement-personalization/)

23
24 e. “transmitting a compound video signal including said non-viewer
25 provided subset of viewer attribute information and said encoded sender requested electronic
26 information of the sender by said television station provider of the transmitted video signals to said
27 electronic device included with and in communication with said television belonging to the

viewer.” -- This element is met as Thunder Industries transmits and sends encoded information, e.g. video to viewers including non-viewer provided information in order to deliver ads targeted to the viewer, especially in regard to the Thunder Industries’ platform’s ability to:



f. “making a decision selected from the group consisting of accepting said encoded sender requested electronic information of the sender and not accepting said encoded sender requested electronic information of the sender by said electronic device included with and in communication with said television belonging to the viewer, whereby said decision by said electronic device accepting said encoded sender requested electronic information the sender is made by recognizing said non-viewer provided subset of said viewer attribute information” – On information and belief, inherently, the only logical next step for said device is to determine whether

1 to accept (for purposes of viewing/displaying) said sender requested electronic information based
2 on whether the transmitted subset of viewer attribute information matches viewer attribute
3 information on the device. The device determines whether a given transmission is intended for it
4 by checking if the transmission is tagged with attributes matching its own local attributes.

5 Per the standard process of OTT ad insertion: “Playback devices will read the top level
6 manifest and learn the available profiles. **They will then decide on a profile, read its individual**
7 **manifest and start reading decoding the segments.** If the network conditions change, the
8 playback device may switch to a higher or lower profile as needed. On a live stream, manifests are
9 frequently updated.” See [https://www.tvtechnology.com/opinions/scte10435-and-beyond-a-look-](https://www.tvtechnology.com/opinions/scte10435-and-beyond-a-look-at-ad-insertion-in-an-ott-world)
10 [at-ad-insertion-in-an-ott-world](https://www.tvtechnology.com/opinions/scte10435-and-beyond-a-look-at-ad-insertion-in-an-ott-world).

11 g. “decoding said encoded sender requested electronic information of
12 the sender by said electronic device included with and in communication with said television
13 belonging to the viewer to form decoded sender requested electronic information of the sender” –
14 On information and belief, encoded information is decoded in order for the information to be
15 displayed to the viewer.

16 h. “formatting said decoded sender requested electronic information of
17 the sender by said electronic device included with and in communication with said television
18 belonging to the viewer to form formatted decoded sender requested electronic information of the
19 sender” – On information and belief, decoded information is necessarily formatted in an appropriate
20 manner consistent with the display requirements of the television with which it is in
21 communication.

22 i. “opening up of a subwindow within said television belonging to the
23 viewer” – A television screen displays content. Within the television, on information and belief,
24 there are other windows, such as when choosing the menu which pops up. At least for example,
25 when dynamic brand insertion is utilized.

26 j. “and, displaying said formatted decoder sender requested electronic
27 information of the sender within said subwindow within said television belonging to the viewer” --

1 On information and belief, after accepting, decoding, and formatting sender requested electronic
2 information, the electronic device necessarily displays said sender requested electronic information.

3
4 **FIRST CLAIM FOR RELIEF**

5 **Patent Infringement of the '619 Patent (35 U.S.C. §§ 101, et seq.)**

6 11. LSTA refers to and incorporates herein by reference paragraphs 1-10.

7 12. Defendant infringed, either directly or indirectly, at least Claim 9 of the '619 Patent
8 in this judicial district and the United States, through the services they provided as outlined at
9 www.makethunder.com and as described above.

10 13. Defendant, therefore, by the acts complained of herein, made, used, sold, or offered
11 for sale in the United States, including in the District of Washington, products and/or services
12 embodying the patented method, and have in the past infringed the '619 Patent, either literally or
13 under the doctrine of equivalents, pursuant to 35 U.S.C. §271(a).

14 14. To the extent that some elements of claim 9 were performed by a different party
15 than Thunder Industries, Thunder Industries participated in the infringement (as described above)
16 and received a benefit upon performance of the steps of the patented method. For example,
17 Thunder Industries provided the software and technology that established viewer attribute
18 information related to the viewer that can be collected, and how that information was transmitted,
19 received, stored and acted upon in accordance with the patented method. Thunder Industries
20 received a benefit from such actions by the customer and television station provider as it allowed
21 targeted advertising to be displayed through the top set box.

22 15. Upon information and belief, the acts described above concerning the use, offer for
23 sale, sale, operation, distribution, and/or installation of Thunder Industries' products and/or
24 software and those described below also constitute acts of induced and contributory infringement.
25 Customers and users used the infringing products and software to provide targeted ads.

26 16. To the extent that some elements of a claim were performed by a different party
27 than Thunder Industries, Thunder Industries, through its software and infringing products,

1 participated in the infringement (as described herein) and receives a benefit upon performance of
2 steps of a patented method. For example, Thunder Industries provided the software and
3 technology that established viewer attribute information related to the viewer that can be collected,
4 and how that information was transmitted, received, stored and acted upon in accordance with the
5 patented method. Thunder Industries received a benefit from such actions by the customer and
6 television station provider as it allowed targeted advertising to be displayed.

7 17. Upon information and belief, Thunder Industries provided its customers and/or
8 users of its products and software instructions to use, load and operate in an infringing manner or
9 to create and use infringing products. Upon information and belief, Thunder Industries further
10 induced its customers and/or users of Thunder Industries' platform to use its products (and
11 accompanying software) by providing subscriptions to Thunder Industries' platform. Further,
12 Thunder Industries had actively induced infringement by its customers and/or users of Thunder
13 Industries' products and software in this judicial district. Upon information and belief, Thunder
14 Industries knowingly and specifically designed Thunder Industries' platform in a manner that
15 infringed the '619 Patent. Upon information that belief, Thunder Industries also provides support
16 services for claim 9 of the '619 Patent. Thunder Industries' targeted advertising method has no
17 substantial non-infringing use. Thunder Industries has acted with specific intent to induce or cause
18 infringement and to conduct acts of infringement as described herein within the jurisdiction and
19 elsewhere. Upon information and belief, Thunder Industries continued to provide instructions
20 since having notice and actual knowledge of the '619 Patent.

21 18. Upon information and belief, Thunder Industries' method has no substantial non-
22 infringing uses and is especially made and/or adapted so as to infringe the '619 Patent. Thunder
23 Industries has acted with specific intent to induce or cause infringement and to conduct acts of
24 infringement as described herein within this District and elsewhere.

25 19. Plaintiff has complied with the notice requirement of 35 U.S.C. § 287 and does not
26 currently make, use, sell offer for sale products or services embodying the '619 Patent.

1 20. Plaintiff reserves the right to modify its infringement theories as discovery
2 progresses in this case; it shall not be estopped for infringement contentions or claim construction
3 purposes by the infringement allegations that it provides with this Complaint. The element-by-
4 element analysis herein is intended to satisfy the notice requirements of Rule 8(a)(2) of the Federal
5 Rule of Civil Procedure and does not represent Plaintiff's preliminary or final infringement
6 contentions or preliminary or final claim construction positions.

7 21. By reason of the acts of Thunder Industries alleged herein, LSTA has suffered
8 damage in an amount to be proved at trial.

9 **JURY DEMAND**

10 LSTA demands a jury trial on all issues so triable.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, LSTA prays for relief as follows:

13 A. Judgment that Defendant has directly infringed, and induced others to infringe, the
14 '619 Patent either literally and/or under the doctrine of equivalents;

15 B. Judgment awarding LSTA general and/or specific damages, including a reasonable
16 royalty and/or lost profits, in amounts to be fixed by the Court in accordance with proof, including
17 enhanced and/or exemplary damages, as appropriate, as well as all of Defendant's profits or gains
18 of any kind from their acts of patent infringement from six years prior to the filing of the complaint
19 until March 2, 2019;

20 C. Judgment awarding LSTA all of its costs, including its attorneys' fees, incurred in
21 prosecuting this action, including, without limitation, pursuant to 35 U.S.C. § 285 and other
22 applicable law;

23 D. Judgment awarding LSTA pre-judgment and post-judgment interest; and

24 E. Judgment awarding LSTA such other and further relief as the Court may deem just
25 and proper.

1 Dated: February 28, 2020

2 Respectfully submitted,

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