

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MCOM IP, LLC,)	
Plaintiff,)	
)	Civil Action No. 6:21-cv-00325-ADA
v.)	
)	
NCR CORPORATION,)	JURY TRIAL DEMANDED
Defendant.)	

PLAINTIFF’S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

mCom IP, LLC (“mCom”) files this First Amended Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,862,508 (“the ‘508 patent”) (referred to as the “Patent-in-Suit”) by NCR Corporation, (“NCR”).

I. THE PARTIES

1. Plaintiff mCom is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On information and belief, NCR is a corporation existing under the laws of the State of Maryland. On information and belief, NCR sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant may be served at its place of business, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 260, Austin, TX 78701-3136.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff's claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

III. INFRINGEMENT

A. Infringement of the '508 Patent




6. On October 14, 2014, U.S. Patent No. 8,862,508 ("the '508 patent", attached as Exhibit A) entitled "System and method for unifying e-banking touch points and providing personalized financial services" was duly and legally issued by the U.S. Patent and Trademark Office. MCom owns the '508 patent by assignment.

7. The '508 patent relates to novel and improved systems and methods for providing a unified banking system.

8. NCR maintains, operates, and administers methods and systems of unified banking systems that infringe one or more claims of the ‘508 patent, including one or more of claims 1-20, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the ‘508 Patent into service (i.e., used them); but for Defendant’s actions, the claimed-inventions embodiments involving Defendant’s products and services would never have been put into service. Defendant’s acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant’s procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in the following preliminary table:

Claim 1	NCR
1. A method for constructing a unified electronic banking environment, said method comprising the steps of:	<p>July 2, 2019 – NCR Corporation (NYSE: NCR), a technology leader for the financial industry, today announced that the company has acquired D3 Technology, Inc., a leading provider of online and mobile banking for the Large Financial Institution (LFI) market. Adding D3 immediately expands NCR Digital Banking into new market segments, including U.S. large banks and over time, international banks.</p> <p>Source: https://www.ncr.com/news/newsroom/news-releases/financial/ncr-acquires-d3-technology</p> <p>Refer to US8862508B2 vs. D3 Banking</p>

Claim 1	NCR
	<div data-bbox="402 258 1268 630">  D3 Banking Technology <div data-bbox="1011 300 1268 338">   </div> <div data-bbox="402 380 1089 447"> <div data-bbox="402 380 678 409">Technology (/technology-companies)</div> <div data-bbox="703 380 1089 409">enterprise software (/enterprise-software-companies)</div> <div data-bbox="402 415 618 445">fintech (/fintech-companies)</div> <div data-bbox="643 415 878 445">platform (/platform-companies)</div> </div> <p data-bbox="402 478 1268 625"> <u>D3 Banking Technology is a company that provides a data-driven digital banking platform for banks and credit unions.</u> It supplies responsive web design in a transactional environment to deliver a user experience on different devices. The company offers the customers of financial institutions a set of banking services covering account management, budgeting, money movement, account opening, cash management, reporting, and more. Company Growth (employees) </p> <p data-bbox="402 722 1081 758">Attachment 1 (D3 Banking Technology Company Profile)</p> <p data-bbox="402 791 834 827">Source: https://craft.co/d3-banking</p> </div>
<p>providing at least one common multi-channel server coupled to more than one e-banking touch points and also coupled to at least one computer system configured with at least one control console, said more than one e-banking touch points and said at least one computer system being provided in locations remote from the other, and further wherein said more than one plurality of e-banking touch points are comprised of at least two different types of e-banking touch point devices, each of which comprise one or more of an</p>	<div data-bbox="699 936 1049 993"> <h2>Digital Solutions</h2> </div> <p data-bbox="402 1010 1049 1293"> The D3 Platform includes pre-built, highly configurable solutions that enable banks and credit unions to rapidly deploy features <u>for consumer and business banking across channels ranging from web to mobile to smartwatch and voice.</u> The solutions also include, Business Intelligence & Analytics, Marketing Campaigns, Account Opening, Admin & Operations, and Customer Support eliminating the need to acquire, integrate, and maintain separate silo applications. </p> <p data-bbox="402 1341 1117 1377">Attachment 2: (Platform D3 Banking Technology)</p> <p data-bbox="402 1415 1151 1451">Source: https://www.d3banking.com/platform/</p> <p data-bbox="402 1570 1422 1881"> at least one common multi-channel server coupled to more than one e-banking touch points and also coupled to at least one computer system configured with at least one control console, said more than one e-banking touch points and said at least one computer system being provided in locations remote from the other, and further wherein said more than one plurality of e-banking touch points are comprised of at least two different types of e-banking touch point devices, each of which comprise one or more of an automatic teller/transaction machine (ATM), a self service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination </p>

Claim 1	NCR
<p>automatic teller/transaction machine (ATM), a self service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination of two or more thereof, and wherein at least one of said e-banking touch points is in communication with one or more financial institutions through said multi-channel server;</p>	<p>of two or more thereof, and wherein at least one of said e-banking touch points is in communication with one or more financial institutions through said multi-channel server are common sense in the field.</p> <div data-bbox="394 520 1409 1283"> <p>The diagram, titled "Internet Banking – Distributed Environment (With Own Website at Data Center)", illustrates a network architecture. It features an "Internet" cloud connected to a central router. This router is linked to a "DMZ WS" (Web Server) and an "ATM switch / Router". The "ATM switch / Router" is connected to an "L 3 Switch", which in turn connects to three branches: "Branch 1", "Branch 2", and "Branch N". Each branch contains "MW & DB" (Middleware and Database) components. Additionally, there is an "App Srv" (Application Server) and a "VLAN" connected to the "L 3 Switch". The entire system is labeled "Bank WAN" (Bank Wide Area Network). The diagram is attributed to "Banking Technology – M.Tech (IT)".</p> </div> <p>Attachment 3: Internet banking ARCHITECTURE AND IMPLEMENTATION</p> <p>Source: https://www.slideshare.net/KumarAnilChaurasiya/internet-banking-architecture-and-implementation</p>
<p>receiving an actionable input from</p>	

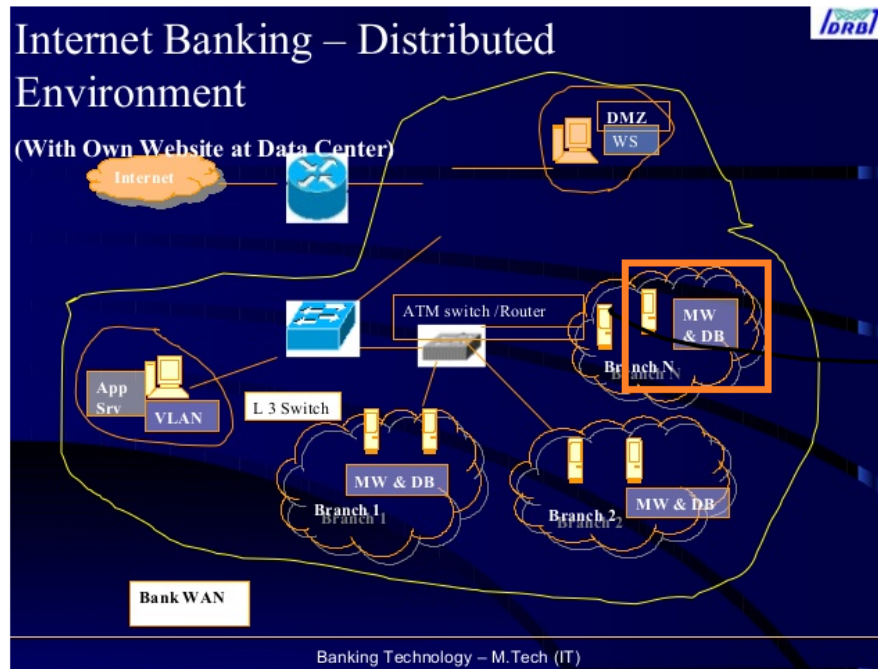
Claim 1	NCR
<p>at least one e-banking touch point;</p>	<p>Intuitive Money Movement</p> <p><u>Make an internal transfer</u> in seconds, set up a new recipient for payment in a wizard flow, or head to Pay Multiple for a top down view of all your recipients and payment options for maximum control.</p> <p>Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p>Source: https://www.d3banking.com/services-features/</p>
<p>retrieving previously stored data associated with said actionable input, wherein said previously stored data is accessible to any one of said e-banking touch points, and said previously stored data comprises data from one or more financial institutions and one or more</p>	<p>Anticipate Needs, Personalize Offers</p> <p><u>Create, execute and measure personalized marketing campaigns targeting the needs of different segments.</u> Deliver the personalized experiences that users have grown to expect.</p> <p>Data Driven Decisions</p> <p>The vital information you want to know about your digital users accessible in one place. <u>View login attempts, distribution of user by product, transactions by type, results of marketing campaigns and so much more to get a clear view of your users.</u></p>

Claim 1	NCR
<p>user-defined preferences;</p>	<p>Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p>Source: https://www.d3banking.com/services-features/</p>
<p>delivering said retrieved data to said at least one e-banking touch point transmitting said actionable input;</p>	<div data-bbox="418 548 1101 1081" data-label="Figure"> <p>The image shows a tablet displaying a web analytics dashboard. The dashboard has a dark sidebar menu on the left with options like 'Accounts', 'Products', 'Mobile', 'Accounts', 'Current', 'Default', and 'Archived'. The main content area is titled 'D3 VISITOR' and contains several widgets: <ul style="list-style-type: none"> LIVE COUNTS: Shows 'Revisit: 0' and 'Current: 0'. VISITORS BY DAY: A bar chart showing visitor counts over a 7-day period. HISTORIC UNIQUE VISITORS: A line chart showing trends over time. CAMPAIGN GOAL CONVERSION: A line chart showing conversion rates. DAILY UNIQUE VISITORS BY HOUR: A line chart showing hourly visitor counts. DAILY VISITS: A line chart showing daily visit counts. VISITOR SUMMARY: A bar chart summarizing visitor data. UNIQUE USER COUNTS BY COUNTRY: A bar chart showing user counts by country. </p> </div> <p>Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p>Source: https://www.d3banking.com/services-features/</p>

Claim 1

NCR




storing transactional usage data associated with said at least one e-banking touch point transmitting said actionable input, wherein said stored transactional usage data is accessible by any one of said more than one e-banking touch points and said at least one computer system;



Attachment 3: Internet banking ARCHITECTURE AND IMPLEMENTATION

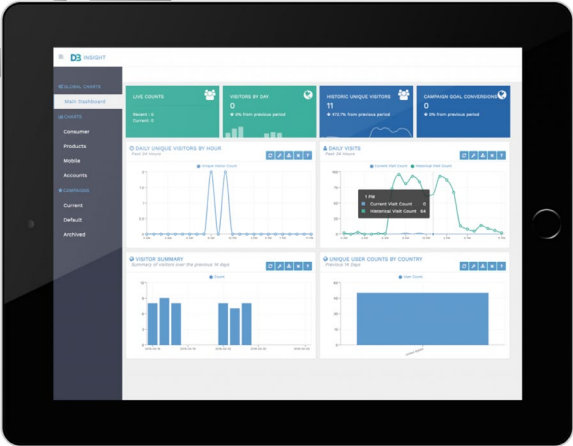
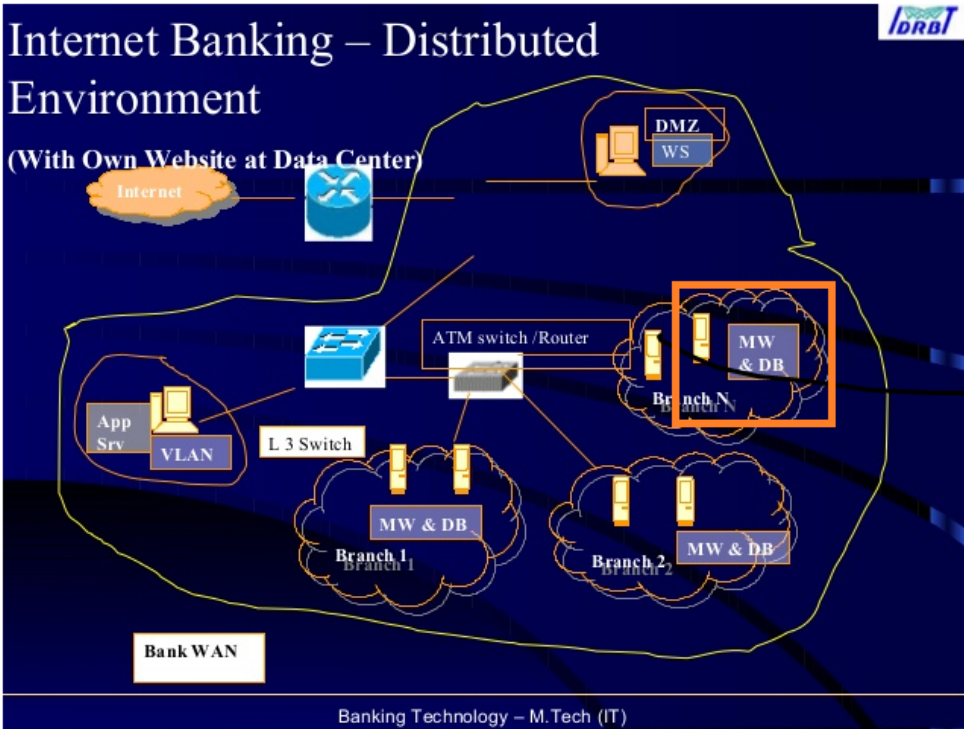
Source: <https://www.slideshare.net/KumarAnilChaurasiya/internet-banking-architecture-and-implementation>

Claim 1	NCR
<p>monitoring via said server an active session in real-time for selection of targeted marketing content correlated to said user-defined preferences;</p> <p>subsequent to said monitoring, selecting in real-time said targeted marketing content correlated to said user-defined preferences; and</p> <p>transmitting in real-time said targeted marketing content during said active session to at least one of said e-banking touch points for acceptance, rejection, or no response by a user, wherein said response by said user is used during said active session to determine whether transmission of additional information related to said marketing content occurs during said active session.</p>	<h2 data-bbox="672 275 1105 317">Data Driven Decisions</h2> <p data-bbox="407 338 1370 443">The vital information you want to know about your digital users accessible in one place. <u>View login attempts, distribution of user by product, transactions by type, results of marketing campaigns and so much more to get a clear view of your users.</u></p> <p data-bbox="396 747 1227 779">Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p data-bbox="396 884 1062 915">Source: https://www.d3banking.com/services-features/</p>

Claim 1	NCR
<p>Claim 7, A method for constructing a unified electronic banking environment, said method comprising the steps of:</p>	<div data-bbox="402 258 1149 573">  D3 Banking Technology <div data-bbox="927 296 1149 327">   </div> <div data-bbox="402 363 995 422"> <div>Technology (/technology-companies)</div> <div>enterprise software (/enterprise-software-companies)</div> <div>fintech (/fintech-companies)</div> <div>platform (/platform-companies)</div> </div> <p><u>D3 Banking Technology is a company that provides a data-driven digital banking platform for banks and credit unions.</u> It supplies responsive web design in a transactional environment to deliver a user experience on different devices. The company offers the customers of financial institutions a set of banking services covering account management, budgeting, money movement, account opening, cash management, reporting, and more.</p> <p>Company Growth (employees)</p> </div> <p>Attachment 1 (D3 Banking Technology Company Profile)</p> <p>Source: https://craft.co/d3-banking</p>
<p>providing a common multi-channel server coupled to one or more e-banking touch points and also coupled to one or more computer systems, wherein each computer system is associated with a financial institution, said e-banking touch points being provided in locations remote from the other, and each of which comprise one or more of an automatic teller/transaction machine (ATM), a self-service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital</p>	<div data-bbox="678 884 1003 936"> <h2>Digital Solutions</h2> </div> <p>The D3 Platform includes pre-built, highly configurable solutions that enable banks and credit unions to rapidly deploy features <u>for consumer and business banking across channels ranging from web to mobile to smartwatch and voice.</u> The solutions also include, Business Intelligence & Analytics, Marketing Campaigns, Account Opening, Admin & Operations, and Customer Support eliminating the need to acquire, integrate, and maintain separate silo applications.</p> <p>Attachment 2: (Platform D3 Banking Technology)</p> <p>Source: https://www.d3banking.com/platform/</p> <p>at least one common multi-channel server coupled to more than one e-banking touch points and also coupled to at least one computer system configured with at least one control console, said more than one e-banking touch points and said at least one computer system being provided in locations remote from the other, and further wherein said more than one plurality of e-banking touch points are comprised of at least two different types of e-banking touch point devices, each of which comprise one or more of an automatic teller/transaction machine (ATM), a self service coin counter (SSCC), a kiosk, a digital signage display, an online accessible banking website, a personal digital assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination of two or more thereof, and wherein at least one of said e-banking touch points is in</p>

Claim 1	NCR
<p>assistant (PDA), a personal computer (PC), a laptop, a wireless device, or a combination of two or more thereof, and wherein at least one of said e-banking touch points is in communication with one or more financial institutions through said multi-channel server;</p>	<p>communication with one or more financial institutions through said multi-channel server are common sense in the field.</p> <div data-bbox="393 422 1317 1115"> </div> <p>Attachment 3: Internet banking ARCHITECTURE AND IMPLEMENTATION</p> <p>Source: https://www.slideshare.net/KumarAnilChaurasiya/internet-banking-architecture-and-implementation</p>
<p>receiving an actionable input from at least one e-banking touch point;</p>	<p>Intuitive Money Movement</p> <p><u>Make an internal transfer</u> in seconds, set up a new recipient for payment in a wizard flow, or head to Pay Multiple for a top down view of all your recipients and payment options for maximum control.</p>

Claim 1	NCR
	<p>Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p>Source: https://www.d3banking.com/services-features/</p>
<p>retrieving previously stored data associated with said actionable input, wherein said previously stored data is accessible to any one of said e-banking touch points, and said previously stored data comprises data from one or more financial institutions and one or more user-defined preferences;</p>	<p style="text-align: center;">Anticipate Needs, Personalize Offers</p> <p><u>Create, execute and measure personalized marketing campaigns targeting the needs of different segments.</u> Deliver the personalized experiences that users have grown to expect.</p> <p style="text-align: center;">Data Driven Decisions</p> <p>The vital information you want to know about your digital users accessible in one place. <u>View login attempts, distribution of user by product, transactions by type, results of marketing campaigns and so much more to get a clear view of your users.</u></p> <p>Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p>Source: https://www.d3banking.com/services-features/</p>

Claim 1	NCR
<p>delivering said retrieved data to said at least one e-banking touch point transmitting said actionable input;</p>	<div data-bbox="415 275 984 718" data-label="Figure"></div> <p data-bbox="397 758 1230 789">Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p data-bbox="397 892 1063 924">Source: https://www.d3banking.com/services-features/</p>
<p>storing transactional usage data associated with said at least one e-banking touch point transmitting said actionable input, wherein said stored transactional usage data is accessible by any one of said e-banking touch points and said one or more computer systems;</p>	<div data-bbox="428 1052 1386 1776" data-label="Diagram"></div> <p data-bbox="764 1751 1052 1776">Banking Technology – M.Tech (IT)</p>

Claim 1	NCR
	<p data-bbox="396 270 1292 369">Attachment 3: Internet banking ARCHITECTURE AND IMPLEMENTATION</p> <p data-bbox="396 455 1422 527">Source: https://www.slideshare.net/KumarAnilChaurasiya/internet-banking-architecture-and-implementation</p>
<p data-bbox="99 632 367 905">monitoring via said server said active session in real-time for selection of targeted marketing content correlated to said user-defined preferences;</p> <p data-bbox="99 938 367 1178">subsequent to said monitoring, selecting in real-time said targeted marketing content correlated to said user-defined preferences; and</p> <p data-bbox="99 1211 367 1864">transmitting in real-time said targeted marketing content during said active session to at least one of said e-banking touch points for acceptance, rejection, or no response by a user, wherein said response by said user is used during said active session to determine whether transmission of additional information related</p>	<p data-bbox="396 638 1422 747">The vital information you want to know about your digital users accessible in one place. View login attempts, distribution of user by product, <u>transactions by type, results of marketing campaigns</u> and so much more to get a clear view of your users.</p> <p data-bbox="396 1066 1227 1096">Attachment 4: (Banking Services & Features D3 Banking Technology)</p> <p data-bbox="396 1201 1062 1230">Source: https://www.d3banking.com/services-features/</p>

Claim 1	NCR
to said marketing content occurs during said active session.	

These allegations of infringement are preliminary and are therefore subject to change.

10. NCR has and continues to induce infringement. NCR has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to construct a unified banking system such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, NCR has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

11. NCR has and continues to contributorily infringe. NCR has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., construction of unified banking system) and related services that provide unified banking systems such as to cause infringement of one or more of claims 1–20 of the '508 patent, literally or under the doctrine of equivalents. Moreover, NCR has known of the '508 patent and the technology underlying it from at least the date of issuance of the patent.

12. NCR has caused and will continue to cause MCom damage by direct and indirect infringement of (including inducing infringement of) the claims of the '508 patent.

IV. JURY DEMAND

MCom hereby requests a trial by jury on issues so triable by right.


V. PRAYER FOR RELIEF

WHEREFORE, MCom prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the ‘508 patent;
- b. award MCom damages in an amount sufficient to compensate it for Defendant’s infringement of the ‘508 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award MCom an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be “exceptional” under 35 U.S.C. § 285 and award MCom its attorneys’ fees, expenses, and costs incurred in this action;
- e. declare Defendant’s infringement to be willful and treble the damages, including attorneys’ fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award MCom such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey & Schwaller, LLP

A handwritten signature in blue ink, appearing to read 'WPR', followed by a large, stylized loop.

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