

The Honorable Ricardo S. Martinez

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON,

Plaintiff,

v.

LANDMARK TECHNOLOGY A, LLC,
and RAYMOND MERCADO,
individually,

Defendants.

NO. 2:21-cv-00728-RSM

FIRST AMENDED COMPLAINT
FOR INJUNCTIVE AND OTHER
RELIEF

The Attorney General of the State of Washington brings this action in the name of the State, or as *parens patriae* on behalf of persons residing in the State, to enforce the provisions of the Washington Consumer Protection Act, Wash. Rev. Code § 19.86 (CPA) and the Patent Troll Prevention Act, Wash. Rev. Code § 19.350 (PTPA).

I. INTRODUCTION

1.1 Defendant Landmark Technology A, LLC (“LTA”) is a patent-assertion entity (PAE). PAEs enforce patent rights, rather than investing in development or commercialization. Abusive PAEs—popularly called “patent trolls”—assert patents in bad faith, targeting smaller companies that cannot afford protracted litigation, and demanding payment of licensing fees. Patent trolls typically assert patents *ex post facto*, after the companies they target have independently invented or begun using a technology allegedly covered by a patent, and

1 frequently only after it has become ubiquitous in the industry. Although patent trolls rarely
2 succeed on patent infringement claims in court, the vast majority of disputes end in settlements
3 because patent litigation is costly and disruptive for defendants, and patent trolls often offer to
4 settle for amounts well below litigation costs to make the business decision to settle an obvious
5 one. Commentators have argued, and studies have found, that patent trolls are a burden on
6 productive companies and do not promote innovation.

7 1.2 LTA's business model is bad faith patent assertion. Over an 18-month period,
8 LTA issued 1,892 separate patent assertion demand letters to 1,176 different target companies
9 in 48 states. In its demand letters, LTA relies upon U.S. Patent No. 7,010,508 ("the '508 patent"),
10 issued in 2006 on the basis of a 1995 application to the Patent and Trademark Office (PTO). In
11 2014, the PTO found, in a contested matter, that the '508 patent "does not recite a technological
12 feature that is novel and unobvious over the prior art, and is therefore not a technological
13 invention." *Ebay Enter., Inc. Petitioner v. Lawrence B. Lockwood Patent Owner*, 2014 WL
14 2150045 (Patent Tr. & App. Bd. May 20, 2014). In other words, it is invalid. LTA nevertheless
15 asserts the patent at a shocking rate, issuing an average of 24 demands per week. LTA primarily
16 targets customer log-in pages on company websites, but has also demanded license fees for
17 webpages containing privacy practices, shopping carts, products for sale, and company home
18 pages. In short, any business with a web presence is a potential target for LTA. While absurd on
19 its face that LTA has patented all company websites, individual businesses lack the resources
20 needed to combat LTA's extortive demands.

21 1.3 In 2015, the Washington Legislature enacted the PTPA specifically to combat
22 predatory patent troll activity. Legislative findings concerning the purpose of the PTPA are set
23 forth in the Act:

24 The legislature finds that abusive patent litigation, and especially the assertion of
25 bad faith infringement claims, can harm Washington's economy. A person or
26 business that receives a demand asserting such claims faces the threat of
expensive and protracted litigation and may determine that it has no choice but to

1 settle and to pay a licensing fee, even if the claim is meritless. This is especially
2 so for small and medium-sized entities and nonprofits lacking adequate resources
3 to investigate and defend themselves against the infringement claims. Not only
4 do bad faith patent infringement claims impose a significant burden on individual
5 Washington businesses and other entities, they also undermine Washington's
6 efforts to attract and nurture information technology and knowledge-based
7 businesses. Resources expended to avoid the threat of bad faith litigation are no
8 longer available to invest, develop and produce new products, expand, or hire
9 new workers, thereby harming Washington's economy. Through this legislation,
10 the legislature seeks to protect Washington's economy from abusive and bad faith
11 assertions of patent infringement, while not interfering with federal law or
12 legitimate patent enforcement actions.

13 Wash. Rev. Code § 19.350.005.

14 1.4 LTA's bad faith assertions of patent infringement violate the PTPA, which is a
15 *per se* violation of the CPA. In addition, LTA's bad faith demands, and misleading and deceptive
16 statements included in its demand letters, violate the CPA directly.

17 II. PARTIES

18 2.1 The Consumer Protection Division of the Attorney General's Office brings this
19 action in the name of the State of Washington, or as *parens patriae* on behalf of persons residing
20 in the state. Wash. Rev. Code § 19.86.080, .085; Wash. Rev. Code § 19.350.030.

21 2.2 Defendant Landmark Technology A, LLC (LTA) is a North Carolina registered
22 company with its principal place of business in North Carolina. LTA does not have any parents
23 or subsidiaries.

24 2.3 Defendant Raymond Mercado is and has been at all times material to this lawsuit,
25 the sole owner and member of LTA. Upon information and belief, Raymond Mercado enjoys
26 complete control over decisions made on behalf of LTA. Furthermore, upon information and
belief, Raymond Mercado is the alter ego of LTA—there is a unity of interest and ownership
such that any separate personalities of LTA and Raymond Mercado do not exist. Raymond
Mercado is a North Carolina resident.

1 **III. JURISDICTION AND VENUE**

2 3.1 The Attorney General is authorized by statute to bring suit to enforce the CPA
3 and the PTPA. Wash. Rev. Code § 19.86.080(1); 19.350.030.

4 3.2 This Court has personal jurisdiction over Defendants LTA and Raymond
5 Mercado (together, “Defendants”) pursuant to Wash. Rev. Code § 19.86.160, Wash. Rev. Code
6 § 4.28.180, and Wash. Rev. Code § 4.28.185, because LTA has purposely availed itself of the
7 privilege of conducting business in the State of Washington, including sending letters to
8 Washington resident businesses asserting patent infringement, entering into licensing
9 agreements with Washington resident businesses, which Raymond Mercado signs on behalf of
10 LTA, and availing itself of courts within the State of Washington to assert complaints for patent
11 infringement. The violations of Wash. Rev. Code §§ 19.86 and 19.350 alleged herein arise from
12 or are connected with these transactions. Exercise of personal jurisdiction over Defendants
13 comports with traditional notions of fair play and substantial justice, and jurisdiction is not
14 inconsistent with the United States Constitution or the Washington State Constitution.

15 3.3 Defendants have engaged in the conduct set forth in this Complaint in the Western
16 District of Washington.

17 3.4 Venue is proper the United States District Court for the Western District of
18 Washington pursuant to U.S.C. § 1391(b) because LTA sent demand letters asserting patent
19 infringement to businesses in the Western District of Washington, and entered into licensing
20 agreements with businesses in the Western District of Washington, which Raymond Mercado
21 signed on LTA’s behalf.

22 **IV. FACTS**

23 **A. Patent Assertion Activity**

24 **1. Demand Letters**

25 4.1 Between January 11, 2019, and July 24, 2020, LTA sent numerous letters
26 asserting that business entities had engaged in patent infringement (“demand letters”). The

1 recipients of such demand letters (“target companies”) are located in 48 states of the United
2 States, including Washington State.

3 4.2 Upon information and belief, LTA has continued to send demand letters after
4 July 24, 2020.

5 4.3 LTA’s demand letters do not contain factual allegations relating to the specific
6 target company webpage(s) that it alleges infringe. Rather, LTA utilizes form letters, containing
7 identical infringement allegations, which it has issued to more than 1,000 different companies.
8 Only the name of the target company and the URL of the allegedly infringing webpage changes
9 from letter to letter.

10 4.4 LTA utilizes three different form demand letters. The first LTA form demand
11 letter (“form demand letter A”) is addressed to a target company, contains the subject line
12 “Infringement of Landmark Technology A, LLC’s Patent Rights” and provides as follows
13 (substituting **NAME** for the name of each target company and **WEBPAGE** for the allegedly
14 infringing webpage):

15 We are intellectual property counsel for Landmark Technology A, LLC
16 (“Landmark”). Landmark has exclusive rights to patents covering certain special-
17 purpose computer, communication and network technologies relating to Internet
18 searching, e-commerce, electronic bill pay, business-to-business transactions,
19 multimedia data processing networks and mobile technologies. Landmark’s
20 widely regarded patented technology covers, among other things, special-purpose
hardware and software systems supporting key transaction processes and features
used in many electronic commerce systems, including structures which exchange
business data amongst trading partners.

21 Landmark’s patents have been licensed to over 200 companies across
22 various industries. Landmark’s patents rank extremely high in patent citing
23 activity and have been cited nearly 200 times by the USPTO whereas the average
24 patent has only five citations during its lifetime. Highly cited patents are generally
known to be of greater technical importance, and even fewer rise to the level of
“pioneer patents” achieved by the Landmark patents.

25 Landmark believes that **NAME** automated multimedia data processing
26 network systems, particularly **WEBPAGE** through practices U.S. Patent No.
7,010,508 C1 (“’508 Patent”). You will find that the ‘508 Patent teaches and

1 claims automated multimedia data processing network for processing business
2 and financial transactions between entities from remote sites. This includes data
3 processing systems wherein a computerized installation acts on inquiries and
4 orders from stations [as do **NAME**'s servers], communicates with stations which
5 use program instructions and act as the user interface [as do those devices
6 interfaced to **NAME**'s web servers in communication with **NAME**'s servers],
7 sequences are retrieved in a forwardly/backwardly chained response (as defined
8 by the inventor) to data entered into a text input field [as seen in devices interfaced
9 to **NAME**'s web servers], and data is updated in a computerized installation
10 storage [as per the functionality of **NAME**'s web servers]. For example, the
11 specific functionalities implemented by **NAME** using their servers and devices
12 interfaced to **NAME**'s web servers constitutes use of the technology taught
13 within the meaning of Claim 1 of the '508 patent.

14 Landmark is currently offering **NAME** a non-exclusive license to its '508
15 patent, for \$65,000. This offer represents a substantial discount to the historic
16 licensing price of Landmark's portfolio, and will not be available in the event of
17 litigation.

18 We appreciate your attention to this matter and request a response within
19 15 days of this letter. Please contact me at the phone or email above, or contact
20 my colleague, Jennifer Ishimoto, at ishimoto@banishlaw.com or (650) 241-2773.

21 4.5 Form demand letter A is printed on the letterhead of Banie & Ishimoto LLP,
22 3705 Haven Ave. #137, Menlo Park, CA 94025, and signed by John A. Lee, Partner, Banie &
23 Ishimoto LLP.

24 4.6 The second LTA form demand letter ("form demand letter B"), like form demand
25 letter A, is addressed to a target company, contains the subject line "Infringement of Landmark
26 Technology A, LLC's Patent Rights" and provides as follows (substituting **NAME** for the name
of each target company and **WEBPAGE** for the allegedly infringing webpage):

More than a year ago, Landmark Technology, LLC first brought to your
attention its understanding that **NAME** data processing systems practice U.S.
Patent No. 6,289,319 C2 ("319 Patent").

In that first notice, we introduced ourselves as intellectual property
counsel for Landmark Technology, LLC ("Landmark"). Landmark has exclusive
rights to patents covering certain special-purpose computer, communication and
network technologies relating to Internet searching, e-commerce, electronic bill
pay, business-to-business transactions, multimedia data processing networks and

1 mobile technologies. Landmark’s widely regarded patented technology covers,
2 among other things, special-purpose hardware and software systems supporting
3 key transaction processes and features used in many electronic commerce
4 systems, including structures which exchange business data amongst trading
5 partners.

6 In that first notice we also pointed out that Landmark has licensed its
7 patents to over 200 companies across various industries. Landmark’s ‘319 patent
8 ranks extremely high in patent citing activity and has been cited nearly 200 times
9 by the USPTO whereas the average patent has only five citations during its
10 lifetime. Highly cited patents are generally known to be of greater technical
11 importance, and even fewer rise to the level of “pioneer patents” achieved by the
12 Landmark patents. The ‘319 patent has also been reexamined twice resulting in
13 all original claims being confirmed.

14 Having not received a response from **NAME**, Landmark sent a subsequent
15 [*sic*] letter reaffirming its offer of a non-exclusive license to its ‘319 patent for
16 \$65,000.

17 Since our last communication, Landmark Technology A, LLC, has
18 assumed all substantial rights under the '508 patent and has furthered its analysis
19 and discovered that while indeed **NAME** data processing systems practices
20 Landmark’s U.S. Patent No. 6,289,319 C2 that **NAME** multimedia data
21 processing systems, particularly **WEBPAGE** practices Landmark’s U.S. Patent
22 No. 7,010,508 C1 (“’508 Patent”)

23 You will find that the ‘508 Patent teaches and claims multimedia data
24 processing systems for processing business and financial transactions between
25 entities from remote sites. This includes multimedia data processing systems
26 wherein a computerized installation [as **NAME**’s servers], communicate with
terminals which use program instructions and act as the user interface [as do those
devices interfaced to **NAME**’s web servers in communication with **NAME**’s
servers], sequences are retrieved in response to data entered [as seen in devices
interfaced to **NAME**’s web servers], and data is updated in central processor
storage [as per the functionality of **NAME**’s web servers]. For example, the
specific functionalities implemented by **NAME** using their servers and devices
interfaced **NAME**’s web servers constitutes use of the technology taught within
the meaning of Claim 1 of the ‘508 patent.

We appreciate your attention to this matter and request a response within
15 days of this letter. Please contact me at the phone or email above, or contact
my colleague, Jennifer Ishimoto, at ishimoto@banishlaw.com or (650) 241-2773.

1 4.7 Form demand letter B, like form demand letter A, is printed on the letterhead of
2 Banie & Ishimoto LLP, 3705 Haven Ave. #137, Menlo Park, CA 94025, and signed by John A.
3 Lee, Partner, Banie & Ishimoto LLP.

4 4.8 The third LTA form demand letter (“form demand letter C”), like form demand
5 letters A and B, is addressed to a target company, contains the subject line “Infringement of
6 Landmark Technology A, LLC’s Patent Rights” and provides as follows (substituting **NAME**
7 for the name of each target company **PRIOR DATE** for the date of a prior demand letter sent to
8 the same target company, and **FUTURE DATE** for the date by which LTA demands a response):

9 In **PRIOR DATE**, Landmark offered a non-exclusive license to its ‘508
10 patent for \$65,000. Since that time, Landmark Technology A, LLC, has assumed
11 all substantial rights under the ‘508 patent. A month has elapsed and **NAME** has
not responded.

12 The current amount for a non-exclusive license to the ‘508 patent
13 expires **FUTURE DATE**. Please contact me as soon as possible.

14 4.9 Form demand letter C, like form demand letters A and B, is printed on the
15 letterhead of Banie & Ishimoto LLP, 3705 Haven Ave. #137, Menlo Park, CA 94025, and signed
16 by John A. Lee, Partner, Banie & Ishimoto LLP.

17 January 2019

18 4.10 On or about January 11, 2019, LTA sent form demand letter A to 15 target
19 companies located in Arizona, California, Florida, Iowa, Massachusetts, Nebraska, New Jersey,
20 New York, Ohio, Oklahoma, Pennsylvania, and Tennessee, and form letter C to 18 target
21 companies located in California, Connecticut, Florida, Illinois, Indiana, New Jersey,
22 New Mexico, New York, Ohio, Pennsylvania, and Washington.

23 4.11 On or about January 18, 2019, LTA sent form demand letter A to 15 target
24 companies located in California, Connecticut, Iowa, Massachusetts, Michigan, Minnesota, New
25 Jersey, New York, Ohio, Pennsylvania, Utah and form letter C to 10 target companies located in
26 Arizona, Connecticut, Illinois, Kentucky, New York, Ohio, Pennsylvania, and Tennessee.

1 4.12 On or about January 25, 2019, LTA sent form demand letter A to 15 target
2 companies located in Arizona, California, Connecticut, Iowa, Illinois, Louisiana, Massachusetts,
3 New Jersey, New York, Ohio, Pennsylvania, Utah, and Wisconsin, and form letter C to 14 target
4 companies located in Arizona, California, Florida, Illinois, Mississippi, North Carolina, New
5 Jersey, New York, Utah and Wisconsin.

6 4.13 In total, LTA sent 87 demand letters in January 2019.

7 February 2019

8 4.14 On or about February 1, 2019, LTA sent form demand letter A to 15 target
9 companies located in California, Florida, Iowa, Louisiana, Massachusetts, New Jersey,
10 New York, Ohio, Pennsylvania, Tennessee, Virginia and Wisconsin.

11 4.15 On or about February 8, 2019, LTA sent form demand letter A to 15 target
12 companies located in California, Florida, Iowa, Illinois, Louisiana, Massachusetts, Nebraska,
13 New Jersey, New York, South Dakota and Tennessee, form demand letter B to four target
14 companies located in California, Georgia, Missouri, and Virginia, and form demand letter C to
15 10 target companies located in Arizona, California Iowa, Massachusetts, Nebraska, New Jersey,
16 New York and Ohio.

17 4.16 On or about February 15, 2019, LTA sent form demand letter A to 18 target
18 companies located in Arizona, California, Colorado, Connecticut, Florida, Illinois, Indiana,
19 Massachusetts Michigan, Missouri, Nevada, New York, Pennsylvania, and Virginia, form
20 demand letter B to five target companies located in California, Colorado, Montana, New York
21 and Tennessee, and form demand letter C to 14 target companies located in California, Iowa,
22 Illinois, Massachusetts, Michigan, Minnesota, New Jersey, New York, Pennsylvania, Tennessee,
23 and Utah.

24 4.17 On or about February 22, 2019, LTA sent form demand letter A to 16 target
25 companies located in Arizona, California, Georgia, Idaho, Illinois, Michigan, Missouri,
26 North Carolina, New Jersey, New York, Pennsylvania, Rhode Island and South Carolina form

1 demand letter B to five target companies located in California, Florida, Michigan, and North
2 Carolina, and form demand letter C to 13 target companies located in Arizona, California,
3 Connecticut, Iowa, Illinois, Louisiana, Massachusetts, New Jersey, New York, Pennsylvania and
4 Wisconsin.

5 4.18 In total, LTA sent 115 demand letters in February 2019.

6 March 2019

7 4.19 On or about March 1, 2019, LTA sent form demand letter A to 18 target
8 companies located in Arkansas, Arizona, California, Florida, Georgia, Illinois, Indiana,
9 Kentucky, Massachusetts, Michigan, North Carolina, New Hampshire, New York,
10 Pennsylvania, Virginia, and Vermont, form demand letter B to five target companies located in
11 California, Florida, Illinois, and North Carolina, and form demand letter C to 14 target
12 companies located in California, Florida, Iowa, Louisiana, Massachusetts, New Jersey,
13 New York, Pennsylvania, Tennessee, Virginia, and Wisconsin.

14 4.20 On or about March 7, 2019, LTA sent form demand letter A to 18 target
15 companies located in California, Colorado, Florida, Georgia, Illinois, Indiana, Louisiana,
16 Minnesota, Missouri, North Carolina, New York, Oklahoma, and Virginia, form demand
17 letter B to five target companies located in Indiana, Kentucky, Maine, Pennsylvania and
18 Washington, and form demand letter C to 12 target companies located in Arizona, California,
19 Florida, Iowa, Illinois, Louisiana, Massachusetts, New York, South Dakota, and Tennessee.

20 4.21 On or about March 15, 2019, LTA sent form demand letter A to 18 target
21 companies located in California, Florida, Georgia, Illinois, Indiana, Kansas, Massachusetts,
22 Maryland, Michigan, Minnesota, Missouri, North Dakota, New York, and Wisconsin form
23 demand letter B to five target companies located in California, Connecticut, Michigan,
24 New York and Pennsylvania, and form demand letter C to 18 target companies located in
25 Arizona, California, Colorado, Connecticut, Florida, Illinois, Indiana, Massachusetts, Michigan,
26 Missouri, Nevada, New York, Pennsylvania, and Virginia.

1 4.22 On or about March 22, 2019, LTA sent form demand letter A to 18 target
2 companies located in California, Florida, Illinois, Kansas, Massachusetts, Maryland, Michigan,
3 Minnesota, Missouri, New Jersey, New York, Pennsylvania, and Rhode Island form demand
4 letter B to five target companies located in California, New York, and Pennsylvania, and form
5 demand letter C to 15 target companies located in Arizona, California, Georgia, Idaho, Illinois,
6 Michigan, North Carolina, New Jersey, New York, Pennsylvania, Rhode Island, and
7 South Carolina.

8 4.23 On or about March 29, 2019, LTA sent form demand letter A to 18 target
9 companies located in Alabama, California, Florida, Illinois, Louisiana, Massachusetts,
10 Minnesota, Missouri, New Jersey, New York, Pennsylvania, South Carolina, and Wisconsin,
11 form demand letter B to five target companies located in Arizona, California, Illinois, New York,
12 and Utah, and form demand letter C to 18 target companies located in Arkansas, Arizona,
13 California, Florida, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Michigan,
14 North Carolina, New Hampshire, New York, Pennsylvania, Virginia, and Vermont.

15 4.24 In total, LTA sent 192 demand letters in March 2019.

16 April 2019

17 4.25 On or about April 12, 2019, LTA sent form demand letter A to 18 target
18 companies located in California, Florida, Hawaii, Illinois, Indiana, Kentucky, Michigan,
19 Minnesota, Missouri, New Jersey, New York, Pennsylvania, Utah, Vermont, and Wisconsin,
20 form demand letter B to 5 target companies located in California, Massachusetts, New Jersey,
21 New York, and Tennessee, and form demand letter C to 18 target companies located in
22 California, Florida, Georgia, Illinois, Indiana, Kansas, Massachusetts, Maryland, Michigan,
23 Minnesota, Missouri, North Dakota, New York, and Wisconsin.

24 4.26 On or about April 19, 2019, LTA sent form demand letter A to 18 target
25 companies located in California, Colorado, Florida, Georgia, Illinois, Massachusetts, Michigan,
26 Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Utah, and

1 Wisconsin, form demand letter B to five target companies located in California, Maryland, and
2 New York, and form demand letter C to 17 target companies located in California, Florida,
3 Illinois, Kansas, Massachusetts, Maryland, Michigan, Minnesota, Missouri, New Jersey, New
4 York, Pennsylvania, and Rhode Island.

5 4.27 On or about April 24, 2019, LTA sent form demand letter C to 18 target
6 companies located in Alabama, California, Florida, Illinois, Louisiana, Massachusetts,
7 Minnesota, Missouri, New Jersey, New York, Pennsylvania, South Carolina, and Wisconsin.

8 4.28 On or about April 26, 2019, LTA sent form demand letter A to 15 target
9 companies located in Alabama, California, Florida, Illinois, Kentucky, Maryland, New Jersey,
10 New York, Pennsylvania, Utah, Virginia, and Wisconsin, and form demand letter B to 6 target
11 companies located in Georgia, Minnesota, New Jersey, and New York.

12 4.29 In total, LTA sent 120 demand letters in April 2019.

13 May 2019

14 4.30 On or about May 3, 2019, LTA sent form demand letter B to five target companies
15 located in Connecticut, Massachusetts, New York, Pennsylvania, and Wisconsin, and form
16 demand letter C to 18 target companies located in California, Florida, Hawaii, Illinois, Kentucky,
17 Louisiana, Minnesota, Missouri, North Carolina, New Jersey, New York, Pennsylvania,
18 Virginia, and Wisconsin.

19 4.31 On or about May 10, 2019, LTA sent form demand letter B to five target
20 companies located in Colorado, Massachusetts, Missouri, and New York, and form demand
21 letter C to 18 target companies located in California, Florida, Hawaii, Illinois, Indiana, Kentucky,
22 Michigan, Minnesota, Missouri, New Jersey, New York, Pennsylvania, Utah, Vermont, and
23 Wisconsin.

24 4.32 On or about May 17, 2019, LTA sent form demand letter B to five target
25 companies located in New Hampshire, New York, Tennessee, and Wisconsin, and form demand
26 letter C to 15 target companies located in California, Colorado, Florida, Massachusetts,

1 Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania,
2 Virginia, and Wisconsin.

3 4.33 On or about May 24, 2019, LTA sent form demand letter B to five target
4 companies located in Kansas, New Jersey, Pennsylvania, Vermont, and Wisconsin.

5 4.34 On or about May 31, 2019, LTA sent form demand letter B to five target
6 companies located in Colorado, Michigan, North Carolina, and New York.

7 4.35 In total, LTA sent 76 demand letters in May 2019.

8 June 2019

9 4.36 On or about June 7, 2019, LTA sent form demand letter B to five target companies
10 located in Minnesota, North Carolina, New York, and Wisconsin, and form demand letter C to
11 14 target companies located in Alabama, California, Florida, Illinois, Kentucky, Maryland,
12 New Jersey, New York, Pennsylvania, Virginia, and Wisconsin.

13 4.37 On or about June 14, 2019, LTA sent form demand letter A to 10 target companies
14 located in Alabama, California, Hawaii, Maryland, Minnesota, Missouri, New York, and
15 Wisconsin, and form demand letter B to five target companies located in California, Colorado,
16 North Carolina, Pennsylvania, and Virginia.

17 4.38 On or about 21, 2019, LTA sent form demand letter A to 15 target companies
18 located in California, Connecticut, Florida, Maryland, Maine, Michigan, Minnesota, Missouri,
19 North Carolina, New York, Ohio, Pennsylvania, Wisconsin, and form demand letter B to four
20 target companies located in Connecticut, Louisiana, New Hampshire, and New York.

21 4.39 On or about June 28, 2019, LTA sent form demand letter A to 18 target companies
22 located in Alabama, California, Colorado, Florida, Iowa, Maryland, Maine, Michigan,
23 Minnesota, Nebraska, Nevada, New York, Ohio, Pennsylvania, Tennessee, and Wisconsin, and
24 form demand letter B to five target companies located in California, Florida, Minnesota,
25 New York, and Virginia.

26 4.40 In total, LTA sent 76 demand letters in June 2019.

1 July 2019

2 4.41 On or about July 5, 2019, LTA sent form demand letter A to 18 target companies
3 located in California, Connecticut, Florida, Illinois, Maryland, Minnesota, Missouri,
4 North Carolina, New York, Ohio, Oklahoma, Pennsylvania, Virginia, Vermont, and Wisconsin,
5 and form demand letter B to five target companies located in Florida, New York, Pennsylvania,
6 Virginia, and Wisconsin.

7 4.42 On or about July 12, 2019, LTA sent form demand letter A to 18 target companies
8 located in Alabama, California, Colorado, Connecticut, Florida, Minnesota, Missouri,
9 New York, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, and Wisconsin, form
10 demand letter B to one target company located in California, and form demand letter C to 23
11 target companies located in Alabama, California, Connecticut, Florida, Hawaii, Maryland,
12 Maine, Michigan, Minnesota, Missouri, North Carolina, New York, Ohio, and Wisconsin.

13 4.43 On or about July 19, 2019, LTA sent form demand letter A to 18 target companies
14 located in California, Georgia, Illinois, Indiana, Maryland, Michigan, Minnesota, New Jersey,
15 New Mexico, New York, Ohio, Oklahoma, Utah, Vermont, and Wisconsin, and form demand
16 letter B to five target companies located in California, Florida, Illinois, and Massachusetts.

17 4.44 On or about July 26, 2019, LTA sent form demand letter A to 18 target companies
18 located in Alabama, California, Georgia, Illinois, Indiana, Maryland, Michigan, Minnesota,
19 North Carolina, New Jersey, New York, Ohio, Pennsylvania, Vermont, and Wisconsin, form
20 demand letter B to five target companies located in California, Indiana, North Carolina, and
21 Nevada, and form demand letter C to 17 target companies located in Alabama, California,
22 Colorado, Florida, Iowa, Maryland, Maine, Minnesota, Nebraska, Nevada, New York, Ohio,
23 Pennsylvania, Tennessee, and Wisconsin.

24 4.45 In total, LTA sent 128 demand letters in July 2019.
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1 August 2019

2 4.46 On or about August 2, 2019, LTA sent form demand letter A to 18 target
3 companies located in California, Illinois, Kentucky, Maryland, Minnesota, Missouri,
4 North Carolina, New Hampshire, New York, Ohio, Pennsylvania, Utah, Virginia, and
5 Wisconsin, form demand letter B to five target companies located in Colorado, Georgia, Illinois,
6 and North Carolina, and form demand letter C to 17 target companies located in California,
7 Connecticut, Florida, Illinois, Maryland, Minnesota, Missouri, North Carolina, New York, Ohio,
8 Oklahoma, Pennsylvania, Virginia, Vermont, and Wisconsin.

9 4.47 On or about August 9, 2019, LTA sent form demand letter A to 18 target
10 companies located in Arizona, California, Illinois, Michigan, Minnesota, Missouri, New Jersey,
11 New York, Ohio, Pennsylvania, Tennessee, Virginia, Vermont, and Wisconsin, form demand
12 letter B to five target companies located in Colorado, Georgia, Indiana, Massachusetts and
13 North Carolina, and form demand letter C to 18 target companies located in Alabama, California,
14 Colorado, Connecticut, Florida, Minnesota, Missouri, New York, Ohio, Oklahoma,
15 Rhode Island, South Carolina, Tennessee, and Wisconsin.

16 4.48 On or about August 16, 2019, LTA sent form demand letter A to 18 target
17 companies located in California, Florida, Illinois, Indiana, Maryland, Maine, Michigan,
18 Minnesota, Missouri, North Carolina, New Jersey, New York, Ohio, South Carolina, Wisconsin,
19 form demand letter B to five target companies located in California, Indiana, Massachusetts,
20 Minnesota, and Tennessee, and form demand letter C to 18 target companies located in
21 California, Georgia, Illinois, Indiana, Maryland, Michigan, Minnesota, New Jersey,
22 New Mexico, New York, Ohio, Oklahoma, Utah, Vermont, and Wisconsin.

23 4.49 On or about August 23, 2019, LTA sent form demand letter A to 18 target
24 companies located in Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois,
25 Kansas, Louisiana, Maine, Missouri, New Jersey, New York, Ohio, Pennsylvania, and
26 Wisconsin, form demand letter B to five target companies located in California, Colorado,

1 Indiana, Massachusetts, and Wisconsin, and form demand letter C to 17 target companies located
2 in Alabama, California, Georgia, Illinois, Maryland, Michigan, Minnesota, North Carolina,
3 New Jersey, New York, Ohio, Pennsylvania, Vermont, and Wisconsin.

4 4.50 On or about August 30, 2019, LTA sent form demand letter A to one target
5 company located in Tennessee.

6 4.51 In total, LTA sent 163 demand letters in August 2019.

7 September 2019

8 4.52 On or about September 6, 2019, LTA sent form demand letter A to 10 target
9 companies located in Illinois, Massachusetts, Michigan, Minnesota, New Jersey, New York,
10 Ohio, Pennsylvania, and Wisconsin.

11 4.53 On or about September 13, 2019, LTA sent form demand letter A to 10 target
12 companies located in Connecticut, Georgia, Illinois, Minnesota, New Jersey, New York, Ohio,
13 Pennsylvania, and Wisconsin.

14 4.54 On or about September 20, 2019, LTA sent form demand letter A to 15 target
15 companies located in Arizona, Florida, Illinois, Kentucky, Massachusetts, Michigan, Missouri,
16 North Carolina, New Jersey, New York, Ohio, Pennsylvania, Virginia, Wisconsin, and form
17 demand letter C to 29 target companies located in Arizona, Illinois, Kentucky, Maryland,
18 Michigan, Minnesota, Missouri, North Carolina, New Hampshire, New Jersey, New York, Ohio,
19 Pennsylvania, Tennessee, Virginia, Vermont, and Wisconsin.

20 4.55 On or about September 27, 2019, LTA sent form demand letter A to 15 target
21 companies located in Connecticut, Florida, Illinois, Massachusetts, Michigan, Minnesota,
22 Missouri, North Carolina, New Jersey, New York, Ohio, Tennessee, and Wisconsin, and form
23 demand letter C to 31 target companies located in Arizona, Connecticut, Florida, Georgia,
24 Illinois, Indiana, Kansas, Louisiana, Maryland, Maine, Michigan, Minnesota, Missouri,
25 North Carolina, New Jersey, New York, Ohio, Pennsylvania, South Carolina, and Wisconsin.

26 4.56 In total, LTA sent 110 demand letters in September 2019.

1 October 2019

2 4.57 On or about October 4, 2019, LTA sent form demand letter A to 15 target
3 companies located in Florida, Georgia, Illinois, Massachusetts, Minnesota, Mississippi,
4 Nebraska, New Jersey, New York, Ohio, Pennsylvania, and Wisconsin, and form demand
5 letter C to 25 target companies located in Alabama, Arizona, Connecticut, Georgia, Idaho,
6 Illinois, Indiana, Massachusetts, Michigan, Minnesota, North Carolina, New Jersey, New York,
7 Ohio, Pennsylvania, Tennessee, and Wisconsin.

8 4.58 On or about October 11, 2019, LTA sent form demand letter A to 15 target
9 companies located in Arizona, Florida, Illinois, Michigan, Minnesota, North Carolina, Nebraska,
10 New Jersey, New York, and Ohio, and form demand letter C to 10 target companies located in
11 Connecticut, Georgia, Illinois, Minnesota, New Jersey, New York, Ohio, Pennsylvania, and
12 Wisconsin.

13 4.59 On or about October 18, 2019, LTA sent form demand letter A to 15 target
14 companies located in Florida, Illinois, Maryland, Minnesota, Mississippi, North Carolina,
15 New Jersey, New York, Ohio, Rhode Island, Utah, Vermont, and Wisconsin, and form demand
16 letter C to 14 target companies located in Arizona, Florida, Illinois, Kentucky, Massachusetts,
17 Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Virginia, and Wisconsin.

18 4.60 On or about October 25, 2019, LTA sent form demand letter A to 10 target
19 companies located in Florida, Illinois, Minnesota, North Carolina New Jersey, New York, Ohio,
20 and Utah, form demand letter B to eight target companies located in Arizona, Florida, Georgia,
21 Massachusetts, New Hampshire, New York, and South Carolina, and form demand letter C to
22 14 target companies located in Connecticut, Florida, Illinois, Massachusetts, Michigan,
23 Minnesota, Missouri, New Jersey, New York, Ohio, Tennessee, and Wisconsin.

24 4.61 In total, LTA sent 126 demand letters in October 2019.
25
26

1 November 2019

2 4.62 On or about November 1, 2019, LTA sent form demand letter A to 10 target
3 companies located in Florida, Illinois, Indiana, Massachusetts, North Carolina, New Jersey,
4 New York, Ohio, and South Carolina, form demand letter B to eight target companies located in
5 Indiana, Massachusetts, Mississippi, North Carolina, New York, and Ohio, and form demand
6 letter C to 15 target companies located in Florida, Georgia, Illinois, Massachusetts, Minnesota,
7 Mississippi, New Jersey, New York, Ohio, Pennsylvania Utah, and Wisconsin.

8 4.63 On or about November 8, 2019, LTA sent form demand letter A to 12 target
9 companies located in Florida, Kentucky, North Dakota, New Jersey, New York, Ohio, and
10 Tennessee, form demand letter B to eight target companies located in Illinois, Indiana,
11 North Carolina, New York, and Ohio, and form demand letter C to 15 target companies located
12 in Arizona, Florida, Illinois, Michigan, Minnesota, North Carolina, Nebraska, New Jersey,
13 New York, and Ohio.

14 4.64 On or about November 15, 2019, LTA sent form demand letter A to 10 target
15 companies located in Alaska, Alabama, Illinois, New York, Ohio, Pennsylvania, Tennessee,
16 Utah, and Wisconsin, and form demand letter C to 15 target companies located in Florida,
17 Illinois, Maryland, Minnesota, Mississippi, North Carolina, New Jersey, New York, Ohio,
18 Rhode Island, Utah, Vermont, and Wisconsin.

19 4.65 On or about November 29, 2019, LTA sent form demand letter A to 10 target
20 companies located in Alabama, Hawaii, Illinois, New Jersey, Nevada, New York, Ohio,
21 Pennsylvania, and Utah, form demand letter B to five target companies located in Georgia,
22 Illinois, Indiana, and New York, and form demand letter C to eight target companies located in
23 Florida, Illinois, Minnesota, New Jersey, New York, Ohio, and Utah.

24 4.66 In total, LTA sent 116 demand letters in November 2019.
25
26

1 December 2019

2 4.67 On or about December 6, 2019, LTA sent form demand letter A to 14 target
3 companies located in Alabama, Arkansas, Arizona, Delaware, Florida, Iowa, Illinois, Michigan,
4 Minnesota, Missouri, Nebraska, Nevada, Oklahoma, and Wisconsin, form demand letter B to
5 five target companies located in Indiana, Nevada, Pennsylvania, and Tennessee, and form
6 demand letter C to 14 target companies located in Florida, Illinois, Indiana, Kentucky,
7 Massachusetts, North Dakota, New Jersey New York, and Ohio.

8 4.68 In total, LTA sent 33 demand letters in December 2019.

9 January 2020

10 4.69 On or about January 3, 2020, LTA sent form demand letter A to 10 target
11 companies located in Arkansas, Arizona, Florida, Nevada, New York, Ohio, Pennsylvania,
12 Tennessee, Utah, and Wisconsin, form demand letter B to five target companies located in
13 Illinois, Massachusetts, North Carolina, Ohio, and Utah, and form demand letter C to 20 target
14 companies located in Alaska, Alabama, Hawaii, Illinois, New Jersey, Nevada, New York, Ohio,
15 Pennsylvania, Tennessee, Utah, and Wisconsin.

16 4.70 On or about January 10, 2020, LTA sent form demand letter A to 15 target
17 companies located in Florida, Georgia, Indiana, Kentucky, Maryland, Michigan, Minnesota,
18 Nevada, New York, Ohio, Utah, and Wisconsin, form demand letter B to five target companies
19 located in Idaho, Kentucky, Massachusetts, Pennsylvania, Tennessee, and form demand letter C
20 to 14 target companies located in Alabama, Arkansas, Arizona, Delaware, Florida, Iowa, Illinois,
21 Michigan, Minnesota, Missouri, Nebraska, Nevada, Oklahoma, and Wisconsin.

22 4.71 On or about January 17, 2020, LTA sent form demand letter A to 15 target
23 companies located in Florida, Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Maine,
24 New York, Ohio, South Carolina, Tennessee, Utah, and Wisconsin, and form demand letter B to
25 five target companies located in Georgia, Illinois, Indiana, Michigan, and Tennessee.

1 4.72 On or about January 24, 2020, LTA sent form demand letter A to 10 target
2 companies located in Arizona, Florida, Illinois, Michigan, Minnesota, New York, Ohio,
3 Pennsylvania, Utah, and Wisconsin, and form demand letter B to five target companies located
4 in Georgia, Illinois, Kentucky, Tennessee, and Wisconsin.

5 4.73 On or about January 31, 2020, LTA sent form demand letter A to 10 target
6 companies located in L, Georgia, Illinois, Michigan, Minnesota, New Jersey, New York, Ohio,
7 Tennessee, and Virginia, form demand letter B to five target companies located in Connecticut,
8 Florida, North Dakota, New York, and West Virginia, and form demand letter C to nine target
9 companies located in Arkansas, Arizona, Florida, Nevada, New York, Pennsylvania, Tennessee,
10 Utah, and Wisconsin.

11 4.74 In total, LTA sent 128 demand letters in January 2020.

12 February 2020

13 4.75 On or about February 7, 2020, LTA sent form demand letter A to 10 target
14 companies located in Florida, Georgia, Illinois, Indiana, Mississippi, New Jersey, Pennsylvania,
15 Utah, Virginia, and Wisconsin, form demand letter B to five target companies located in
16 Kentucky, Michigan, Nebraska, and Pennsylvania, and form demand letter C to 15 target
17 companies located in Florida, Georgia, Indiana, Kentucky, Maryland, Michigan, Minnesota,
18 Nevada, New York, Ohio Utah, and Wisconsin.

19 4.76 On or about February 14, 2020, LTA sent form demand letter A to 10 target
20 companies located in Arizona, Florida, Georgia, Illinois, Michigan, New Jersey, New York,
21 Ohio, Utah, and Wisconsin, form demand letter B to five target companies located in Kentucky,
22 Oklahoma, Pennsylvania, and Virginia, and form demand letter C to 15 target companies located
23 in Florida, Iowa, Illinois, Indiana, Kansas, Kentucky, Maryland, Maine, New York, Ohio,
24 South Carolina, Tennessee, Utah, and Wisconsin.

25 4.77 On or about February 21, 2020, LTA sent form demand letter A to 10 target
26 companies located in Florida, Georgia, Massachusetts, Michigan, Minnesota, New Jersey, Ohio,

1 Pennsylvania, Virginia, and Wisconsin, form demand letter B to five target companies located
2 in Georgia, Idaho, Kentucky, North Carolina, and Pennsylvania, and form demand letter C to 10
3 target companies located in Arizona, Florida, Illinois, Michigan, Minnesota, New York, Ohio,
4 Pennsylvania, Utah, and Wisconsin.

5 4.78 On or about February 28, 2020, LTA sent form demand letter A to 10 target
6 companies located in Florida, Massachusetts, Michigan, Minnesota, New York, Ohio,
7 Pennsylvania, Tennessee Virginia, and Wisconsin, form demand letter B to five target companies
8 located in Arizona, Illinois, Mississippi, Tennessee, and Utah, and form demand letter C to 10
9 target companies located in Florida, Georgia, Illinois, Michigan, Minnesota, New Jersey, Ohio,
10 Tennessee, and Virginia.

11 4.79 In total, LTA sent 110 demand letters in February 2020.

12 March 2020

13 4.80 On or about March 6, 2020, LTA sent form demand letter A to 10 target
14 companies located in Florida, Massachusetts, Michigan, Missouri, North Carolina, New Jersey,
15 New York, Pennsylvania, Tennessee, and Utah, form demand letter B to five target companies
16 located in Florida, Kentucky, Maryland, Michigan, and North Carolina, and form demand
17 letter C to 10 target companies located in Florida, Georgia, Illinois, Indiana, Mississippi,
18 New Jersey, Pennsylvania, Utah, Virginia, and Wisconsin.

19 4.81 On or about March 13, 2020, LTA sent form demand letter A to 10 target
20 companies located in Florida, Illinois, Michigan, Missouri, North Carolina, New Jersey,
21 New York, Oklahoma, Tennessee, and Utah, form demand letter B to five target companies
22 located in Arizona, Iowa, Kentucky, Louisiana, and New Jersey, and form demand letter C to
23 eight target companies located in Florida, Georgia, Illinois, Michigan, New York, Ohio, Utah,
24 and Wisconsin.

25 4.82 In total, LTA sent 48 demand letters in March 2020.

1 May 2020

2 4.83 On or about May 15, 2020, LTA sent form demand letter A to 10 target companies
3 located in Florida, Illinois, Massachusetts, Maryland, Michigan, Missouri, North Carolina,
4 New Jersey, New York, and South Dakota, form demand letter B to five target companies located
5 in Illinois, Indiana, Michigan, South Dakota, and Wyoming, and form demand letter C to nine
6 target companies located in Florida, Georgia, Massachusetts, Michigan, Minnesota, New Jersey,
7 Pennsylvania, Virginia, and Wisconsin.

8 4.84 On or about May 22, 2020, LTA sent form demand letter A to 10 target companies
9 located in Illinois, Kansas, Maryland, Michigan, Minnesota, Nebraska, New Jersey, Ohio,
10 Pennsylvania, and Tennessee, form demand letter B to five target companies located in Kansas,
11 Michigan, Minnesota, and South Carolina, and form demand letter C to nine target companies
12 located in Florida, Massachusetts, Michigan, Minnesota, New York, Ohio, Pennsylvania,
13 Tennessee, and Virginia.

14 4.85 On or about May 29, 2020, LTA sent form demand letter A to 10 target companies
15 located in Florida, Georgia, Illinois, Kansas, Kentucky, Massachusetts, Missouri, New Jersey,
16 New York, and Ohio, form demand letter B to five target companies located in Arizona, Iowa,
17 New Jersey, Ohio, and South Carolina, and form demand letter C to nine target companies
18 located in Florida, Massachusetts, Michigan, Missouri, North Carolina, New Jersey,
19 Pennsylvania, Tennessee, and Utah.

20 4.86 In total, LTA sent 72 demand letters in May 2020.

21 June 2020

22 4.87 On or about June 5, 2020, LTA sent form demand letter A to 10 target companies
23 located in Florida, Iowa, Kansas, Massachusetts, Missouri, North Carolina, New Hampshire,
24 New Jersey, New York, and Pennsylvania, form demand letter B to five target companies located
25 in Arizona, Maryland, Minnesota, Ohio, and Tennessee, and form demand letter C to nine target
26

1 companies located in Florida, Illinois, Michigan, North Carolina, New Jersey, New York,
2 Oklahoma, Tennessee, and Utah.

3 4.88 On or about June 12, 2020, LTA sent form demand letter A to 10 target companies
4 located in Florida, Iowa, Massachusetts, Missouri, New Jersey, New York, Ohio, Pennsylvania,
5 and Virginia, form demand letter B to five target companies located in Connecticut, Illinois,
6 New Jersey, Pennsylvania, and South Carolina, and form demand letter C to 10 target companies
7 located in Florida, Illinois, Massachusetts, Maryland, Michigan, Missouri, North Carolina,
8 New Jersey, New York, and South Dakota.

9 4.89 On or about June 19, 2020, LTA sent form demand letter A to 10 target companies
10 located in Arizona, Florida, Georgia, Illinois, Massachusetts, North Carolina, New Jersey,
11 New York, and South Carolina, form demand letter B to five target companies located in
12 Georgia, Missouri, North Carolina, New Hampshire, and Pennsylvania, and form demand
13 letter C to 10 target companies located in Illinois, Kansas, Maryland, Michigan, Minnesota,
14 Nebraska, New Jersey, Ohio, Pennsylvania, and Tennessee.

15 4.90 On or about June 26, 2020, LTA sent form demand letter A to nine target
16 companies located in Florida, Massachusetts, Missouri, North Carolina, New Jersey, New York,
17 and Pennsylvania, form demand letter B to five target companies located in Georgia, Illinois,
18 Louisiana, New Jersey, and Rhode Island, and form demand letter C to 10 target companies
19 located in Florida, Georgia, Illinois, Kansas, Kentucky, Massachusetts, Missouri, New Jersey,
20 New York, and Ohio.

21 4.91 In total, LTA sent 98 demand letters in June 2020.

22 July 2020

23 4.92 On or about July 3, 2020, LTA sent form demand letter A to 10 target companies
24 located in Arizona, Florida, Kansas, Massachusetts, Michigan, North Carolina, New Jersey,
25 New York, and Ohio, form demand letter B to five target companies located in Illinois, Indiana,
26 Pennsylvania, and Tennessee, and form demand letter C to 10 target companies located in

1 Florida, Iowa, Kansas, Massachusetts, Missouri, North Carolina, New Hampshire, New Jersey,
2 New York, and Pennsylvania.

3 4.93 On or about July 10, 2020, LTA sent form demand letter A to 10 target companies
4 located in Florida, Illinois, Indiana, Minnesota, New Jersey, New York, Oklahoma,
5 Pennsylvania, and Wisconsin, form demand letter B to five target companies located in Alabama,
6 Maine, Minnesota, Montana, and North Dakota, and form demand letter C to nine target
7 companies located in Florida, Iowa, Massachusetts, New Jersey, New York, Ohio, Pennsylvania,
8 and Virginia.

9 4.94 On or about July 17, 2020, LTA sent form demand letter A to 10 target companies
10 located in Arizona, Florida, Idaho, Illinois, Michigan, Minnesota, Missouri, New York, and
11 Ohio, form demand letter B to two target companies located in Michigan and Mississippi, and
12 form demand letter C to nine target companies located in Arizona, Florida, Georgia, Illinois,
13 Massachusetts, North Carolina, New Jersey, New York, and South Carolina.

14 4.95 On or about July 24, 2020, LTA sent form demand letter A to 10 target companies
15 located in Florida, Illinois, Massachusetts, New Mexico, New York, Ohio, Oklahoma,
16 Rhode Island, and British Columbia, form demand letter B to five target companies located in
17 Arkansas, Illinois, Louisiana, Pennsylvania, and Wisconsin, and form demand letter C to nine
18 target companies located in Florida, Massachusetts, Missouri, North Carolina, New Jersey,
19 New York, and Pennsylvania.

20 4.96 In total, LTA sent 93 demand letters in June 2020.

21 **2. Litigation**

22 4.97 LTA periodically sues target companies that refuse to pay. Since January 2019,
23 LTA has filed 16 patent infringement lawsuits, including five against Washington companies.

24 4.98 Companies that receive demand letters from LTA also periodically file suit,
25 seeking a declaration of non-infringement. Since January 2019, 11 such suits have been filed
26 against LTA.

1 4.99 LTA invariably seeks to settle all litigation quickly, whether initiated by itself or
2 by a target company. Of the 27 lawsuits filed by or against LTA since January 2019, only four
3 remain pending, with the vast majority settling within a few months of filing.

4 4.100 Four Washington companies have settled with LTA for payment of licensing fees
5 between \$15,000 and \$20,000 each. In each instance, Defendant Raymond Mercado signed the
6 settlement and licensing agreement on behalf of LTA as the company's "Managing Member."

7 **B. The '508 Patent**

8 4.101 LTA asserts, in its demand letters, that target companies are infringing upon U.S.
9 Patent No. 7,010,508 ("the '508 Patent").

10 4.102 The '508 patent was issued on March 7, 2006, to Lawrence B. Lockwood, as
11 inventor. Lockwood filed the patent application in 1995 as a continuation of other patent
12 applications—most of which he abandoned—dating back to 1984.

13 4.103 Lockwood owns Landmark Technology, a predecessor-in-interest to LTA. LTA
14 claims it obtained enforcement rights in the '508 patent, however no assignment was filed with
15 the Patent and Trademark Office (PTO), and LTA refused to produce any licensing or other
16 agreement in pre-suit discovery.

17 4.104 The '508 patent is titled "Automated Multimedia Data Processing Network," and
18 claims to patent the abstract idea of automated data processing of business transactions between
19 remote computer terminals. Lockwood's application for the '508 patent was twice rejected by
20 PTO patent examiners.

21 4.105 The Abstract for the '508 patent provides as follows:

22 A system for filing applications with an institution from a plurality of remote
23 sites, and for automatically processing said applications in response to each
24 applicant's credit rating obtained from a credit reporting service comprising a
25 series of self-service terminals remotely linked via a telephone line to a first
26 computer at the institution and to a second computer at the credit reporting service
headquarters. Each remote terminal comprises a video screen and a video
memory which holds image-and-sound-generating information arranged to
simulate the aspect and speech of an application loan officer on the video screen.

1 The simulated loan officer is used to acquire loan request data from the applicant
2 by guiding him through an interactive sequence of inquiries and answers. The
3 system may be utilized as a trading network whereby stations are used by sellers
4 and buyers to place and accept offers for securities, the central installation acting
5 as a central computerized database where all transactions are processed and the
6 various data items stored and automatically updated.

7 4.106 The Background of the Invention for the '508 patent provides as follows:

8 The present invention relates to automatic self-operated terminals, vending
9 machines, and interactive data processing networks. More specifically, this
10 invention relates to terminals used by banking and other financial institutions to
11 make their services available at all hours of the day from various remote
12 locations.

13 Loan processing has traditionally been a labor-intensive business which
14 represents the major activity of banks and other financial institutions. In the
15 processing of a loan application, numerous forms have to be filled-out, loan
16 officers have to explain payment schedules and generally guide the applicant
17 through the loan application process. The financial institution then has to process
18 the application and either telephone, mail, or communicate acceptance or
19 rejection of the loan in person to the applicant. The complexity of the process has
20 so far prevented the application of automatic terminals to this important part of
21 financial institution activities. Automatic vending machines and self-service
22 terminals have evolved to a high degree of sophistication as disclosed in U.S. Pat.
23 No. 4,359,631 Lockwood, et al. Yet, this high degree of sophistication has not
24 been put to use in the more complex types of goods and services distribution
25 which requires a great deal of interaction between individuals or between
26 individuals and institutions.

4.107 The Summary of the Invention for the '508 patent provides as follows:

The principal object of this invention is to provide an economical means for
screening loan applications. When one considers that up to 75% of persons
applying for loans fail to meet the financial institution qualification criteria, one
realizes that a great deal of labor is required by loan officers before a qualified
applicant presents himself.

Another object of the invention is to standardize the reporting and interpretation
of credit ratings and their application to loan application processing.

A further object of the invention is to reduce the amount of paperwork and
processing time required by each loan application.

1 It is also an object of the invention to offer a more personal way to apply for
2 credit. Many applicants who would not hesitate to use a mechanical device to
3 place their inquiry are reluctant to inquire about loans requiring face-to-face
interaction with a loan officer.

4 These and other objects are achieved by means of a system that ties together
5 financial institution data processing, the computer services of a credit reporting
6 bureau, and a plurality of remote terminals. Each remote terminal displays the
7 live image of a fictitious loan officer who helps the applicant through an
8 interactive series of questions and answers designed to solicit from the applicant
9 all the information necessary to process his loan application. The terminal can
10 acquire credit rating information about the applicant from the credit reporting
bureau and make a decision based on all the information gathered about the credit
worthiness of the applicant and the amount of loan to which he is entitled. The
loan amount is then communicated to the applicant and to the financial institution
for further processing of the loan.

11 4.108 LTA does not target financial institutions that might be expected to make use of
12 loan processing technologies. Rather, the companies targeted by LTA run the gamut of
13 industries. For example, in just one month (July 2020), LTA sent demand letters to businesses
14 in the following industries: air and oil filters; apparel; appliances; automotive supplies; building
15 supplies; candy; college housing supplies; consumer electronics; custom vehicles; department
16 stores; event ticketing; fabrics; florist; fluid connectors; food service; furniture; grocery;
17 hardware; headsets; health and beauty; HVAC; industrial supplies; inventory management;
18 jewelry; kitchen products; manufactured housing; material handling; mattress; paper; pet
19 products; petroleum; pharmacy services; pipe distributor; printers; sales and marketing; salon
20 supplies; scientific laboratory supplies; seeds; shoes; sporting goods; steam cleaners; and, water
21 supplies.

22 4.109 The webpages LTA alleges are infringing in its demand letters are unrelated to
23 loans, loan processing, or credit reporting. The majority of demand letters sent by LTA identify
24 a simple, customer log-in page on a company website as infringing the '508 patent. LTA's
25 demand letters also identify the following types of webpages as infringing: company home
26

1 pages, shopping carts, products pages, privacy practices, new customer registration, and ordering
2 pages.

3 **V. FIRST CAUSE OF ACTION**

4 **(Violation of Wash. Rev. Code § 19.86 – *Per Se* Acts or Practices Based on**
5 **Violation of Wash. Rev. Code § 19.350)**

6 5.1 The State realleges and incorporates by reference the allegations set forth in each
7 of the preceding paragraphs of this Complaint.

8 5.2 The Attorney General may bring an action in the name of the State, or as *parens*
9 *patriae* on behalf of persons residing in the State, against any person to restrain and prevent the
10 doing of any act prohibited by the Consumer Protection Act, Wash. Rev. Code § 19.86 (“CPA”)
11 or declared to be unlawful.

12 5.3 To establish a violation of the CPA in an action brought by the Attorney General,
13 the State must prove that a defendant committed an unfair or deceptive act or practice, occurring
14 in trade or commerce, and public interest impact. Causation and harm are not elements of a CPA
15 action brought by the Attorney General.

16 5.4 The Attorney General may bring an action in the name of the state, or as *parens*
17 *patriae* on behalf of persons residing in the State, to enforce the Patent Troll Prevention Act,
18 Wash. Rev. Code § 19.350.

19 5.5 The practices covered by the PTPA are matters vitally affecting the public interest
20 for the purpose of applying the CPA in an action brought by the Attorney General, and a violation
21 of the PTPA is an unfair or deceptive act in trade or commerce for purposes of applying the
22 CPA.

23 5.6 The PTPA prohibits persons from making assertions of patent infringement in
24 bad faith.

25 5.7 Defendant LTA is a “person” under the applicable statutory definition of that
26 term.

1 5.8 Defendant Raymond Mercado is a “person” under the applicable statutory
2 definition of that term.

3 5.9 Under the PTPA, the Court may consider a number of “nonexclusive factors” as
4 evidence that a person has made an assertion of patent infringement in bad faith, as well as “[a]ny
5 other factor the court determines to be relevant.”

6 5.10 The conduct described in the foregoing allegations establishes that LTA made
7 assertions of patent infringement in bad faith under the PTPA, including (i) issuing form demand
8 letters to target companies that do not contain factual allegations specific to target company
9 products, services, or technology, (ii) failing to conduct analysis comparing patent claims to
10 target companies’ products, services, or technology before making demands, (iii) making false,
11 misleading, or deceptive statements in demand letters concerning the existence, prominence,
12 scope and licensing price of LTA’s asserted patent rights, and (iv) making identical infringement
13 allegations against hundreds of companies, on the basis of absurdly overbroad patent assertions.

14 5.11 Under the PTPA, the Court may also consider a number of “nonexclusive factors”
15 as evidence that a person has made an assertion of patent infringement in good faith, as well as
16 “[a]ny other factor the court determines to be relevant.”

17 5.12 The conduct described in the foregoing allegations establishes that LTA did not
18 make assertions of patent infringement in good faith under the PTPA, including (i) failing to
19 engage in reasonable analysis to establish a reasonable, good faith basis for believing target
20 companies were infringing, (ii) failing to negotiate an appropriate remedy for its infringement
21 assertions in a reasonable manner, (iii) failing to demonstrate reasonable business practices in
22 efforts to enforce the ‘508 patent, (iv) failing to demonstrate the merits of its infringement
23 assertions through litigation, and (v) failing to make any substantial investment in the use or
24 commercialization of the ‘508 patent.

1 5.13 As the sole owner, shareholder, member, and managing member of LTA,
2 Raymond Mercado, upon information and belief, directs, controls, participates in, and/or
3 knowingly approves of the activities and practices described in the foregoing paragraphs.

4 5.14 To the extent the Court finds that to avoid preemption the State must show, in
5 addition to the elements of a claim under the PTPA brought by the Attorney General, that “bad
6 faith” under applicable federal patent law must be pleaded (which is not alleged), the foregoing
7 allegations demonstrate a pattern or practice of successive patent infringement assertions by
8 LTA, which were made without regard to the merits of such assertions, and therefore constitute
9 “bad faith.” *See California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 92 S. Ct.
10 609, 612, 30 L. Ed. 2d 642 (1972); *USS-POSCO Indus. v. Contra Costa Cty. Bldg. & Const.*
11 *Trades Council, AFL-CIO*, 31 F.3d 800 (9th Cir. 1994).

12 5.15 To the extent the Court finds that to avoid preemption the State must show, in
13 addition to the elements of a claim under the PTPA brought by the Attorney General, that “bad
14 faith” under applicable federal patent law must be pleaded, and that the test applicable to a single
15 proceeding or assertion is applicable (which is not alleged), the foregoing allegations
16 demonstrate that LTA made assertions of patent infringement that were, in the first place,
17 objectively baseless, and in the second place, made in subjective bad faith. *See Professional Real*
18 *Estate Investors, Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49, 113 S. Ct. 1920,
19 123 L. Ed. 2d 611 (1993); *Globetrotter Software, Inc. v. Elan Computer Grp., Inc.*,
20 362 F.3d 1367 (Fed. Cir. 2004). Specifically with respect to objective baselessness, LTA’s
21 misrepresentations regarding the scope and value of the ‘508 patent are objectively baseless, and
22 the ‘508 patent’s invalidity likewise renders LTA’s infringement assertions objectively baseless.

23 5.16 To the extent the Court finds that to avoid preemption the State must show, in
24 addition to the elements of a claim under the PTPA brought by the Attorney General, that “bad
25 faith” under applicable federal patent law must be pleaded (which is not alleged), the allegations
26 set forth under this cause of action are supported by clear and convincing evidence.

