

1 Patrick F. Bright (State Bar SBN68709)
2 WAGNER, ANDERSON & BRIGHT, P. C.
3 3541 Ocean View Boulevard
4 Glendale, CA 91208
(818) 249-9300
(818) 249-9335 (fax)
E-Mail: pbright@patentattorney.us

5 Attorneys for Plaintiff
6 SMARTMETRIC, INC.

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **WESTERN DIVISION**

11 SMARTMETRIC INC., a Nevada
12 Corporation,

13 Plaintiff,

14 vs.

15 MASTERCARD INTERNATIONAL
16 INC. and VISA INC., Delaware
17 Corporations,

18 Defendants.

CASE NO. 2:10-cv-01864-JHN-
FMOx

NOTICE OF APPEAL

COURT: Hon. Jacqueline Nguyen,
Courtroom 790 Royball

19 AND RELATED COUNTERCLAIMS


20
21 **PLAINTIFF SMARTMETRIC INC.'S NOTICE OF APPEAL**

22 Notice is hereby given that Plaintiff SmartMetric Inc. appeals to the United
23 States Court of Appeals for the Federal Circuit from both this Court's Opinion and
24 Order dated May 18, 2011 and the Final Judgment entered in this action on June 30,
25 2011.

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27 Respectfully submitted,
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Dated: July 1, 2011

by:  _____

Patrick F. Bright
WAGNER, ANDERSON & BRIGHT, P.C.
3541 Ocean View Blvd.
Glendale, CA 91208
Telephone: (818) 249-9300
Facsimile: (818) 249-9335
pbright@patentattorney.us

*Attorneys for Plaintiff
SmartMetric Inc.*

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JS-6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

SMARTMETRIC INC., a Nevada
Corporation,

Plaintiff,

vs.

MASTERCARD INTERNATIONAL
INCORPORATED AND VISA INC.,
Delaware Corporations,

Defendants.

CASE NO. CV-10-01864-JHN
(FMOx)

FINAL JUDGMENT ORDER

AND RELATED COUNTERCLAIMS

WHEREAS on May 18, 2011, the Court entered an Order regarding claim construction concerning disputed terms in the asserted claims of United States Patent No. 6,792,464 (“the ‘464 patent”).

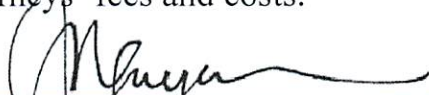
WHEREAS Plaintiff SmartMetric Inc. (“Plaintiff”) and Defendants MasterCard International Incorporated (“MC”) and VISA Inc. (“VISA”) have agreed and stipulated that, subject to their respective rights to appeal the Court’s claim construction, based on the Court’s constructions of two disputed terms of the

1 asserted claims of the '464 patent, namely "insertion of said data card into said data
2 card reader," or "plurality of network service providers," or both, MC's PayPass
3 and VISA's PayWave have not infringed and do not infringe the '464 patent.
4

5 IT IS HEREBY ORDERED this 30th day of June, 2011 that final judgment
6 of non-infringement of the '464 patent by MC's PayPass and VISA's PayWave is
7 hereby entered in favor of Defendants MasterCard International Incorporated and
8 VISA Inc. All claims are therefore dismissed, and Defendants' counterclaims are
9 dismissed without prejudice.
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11 Each party shall bear its own attorneys' fees and costs.
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14 Dated: June 30, 2011



Hon. Jacqueline Nguyen
United States District Judge

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed via the Court's CM/ECF on July 1, 2011, and therefore a copy was electronically served on the following:

Mr. Joseph Melnik
JONES DAY
1755 Embarcadero Road
Palo Alto, CA 94303

Attorneys for Defendant VISA Inc.

Mr. Gary A. Clark
SHEPPARD MULLIN RICHTER & HAMPTON LLP
333 South Hope Street
Los Angeles, CA 90071

Attorneys for Defendant MasterCard International Inc.



Patrick F. Bright