

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

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TO THE EASTERN

BY *J Moore*

RONALD A. KATZ TECHNOLOGY
LICENSING, L.P.,

Plaintiff,

v.

AMERICAN ELECTRIC POWER
COMPANY, INC.; SOUTHWESTERN
ELECTRIC POWER COMPANY;
CENTERPOINT ENERGY, INC.;
CENTERPOINT ENERGY HOUSTON
ELECTRIC LLC; CENTERPOINT ENERGY
RESOURCES CORP.; TARGET
CORPORATION; TARGET BANK;
TARGET NATIONAL BANK; and
WHIRLPOOL CORPORATION;

Defendants.

CASE NO. **506 CV 188**

Jury Trial Demanded

**PLAINTIFF RONALD A. KATZ TECHNOLOGY LICENSING, L.P.'S
COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Ronald A. Katz Technology Licensing, L.P. ("Katz Technology Licensing"), by counsel, alleges as follows:

THE PARTIES

1. Plaintiff Katz Technology Licensing is a limited partnership organized under the laws of the State of California, and having a principal place of business at 9220 Sunset Blvd. #315, Los Angeles, California 90069.

2. On information and belief, Defendant American Electric Power Company, Inc. is a corporation organized under the laws of the State of New York, and having a principal place of business at 1 Riverside Plaza, Columbus, Ohio 43215-2372.

3. On information and belief, Defendant Southwestern Electric Power Company is a corporation organized under the laws of the State of Delaware, and having a principal place of business at Shreveport, Louisiana.

4. On information and belief, Defendant CenterPoint Energy, Inc. is a corporation organized under the laws of the State of Texas, and having a principal place of business at 1111 Louisiana, Houston, TX 77002.

5. On information and belief, Defendant CenterPoint Energy Houston Electric LLC is a limited liability company organized under the laws of the State of Texas, and having a principal place of business at 1111 Louisiana, Houston, TX 77002.

6. On information and belief, Defendant CenterPoint Energy Resources Corp. is a corporation organized under the laws of the State of Texas, and having a principal place of business at 1111 Louisiana, Houston, TX 77002.

7. On information and belief, Defendant Target Corp. is a corporation organized under the laws of the State of Minnesota, and having a principal place of business at 1000 Nicollet Mall, Minneapolis, Minnesota 55403.

8. On information and belief, Defendant Target Bank is a Utah State-Chartered, non-member industrial bank having its principal place of business at 299 S. Main Street, Suite 2050, Salt Lake City, Utah 84111.

9. On information and belief, Defendant Target National Bank is a credit card bank organized under the laws of the State of South Dakota, and having its principal place of business at 3901 W. 53rd Street, Sioux Falls, South Dakota 57106.

10. On information and belief, Defendant Whirlpool Corporation is a corporation organized under the laws of the State of Delaware, and having a principal place of business at Whirlpool Center, 2000 M-63, Benton Harbor, Michigan 49002.

JURISDICTION AND VENUE

11. This is a civil action for patent infringement arising under the United States patent statutes, 35 U.S.C. § 1 *et seq.*

12. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

13. American Electric Power Company, Inc. and Southwestern Electric Power Company (collectively, the “AEP Defendants”) are subject to this Court’s personal jurisdiction because they do and have done substantial business in this judicial district, including: (i) selling energy products and services within this State and this District; (ii) operating infringing automated telephone systems, including without limitation the AEP customer service, outage, and billing telephone systems, that allow their customers, including customers within this State and in this District, to perform and obtain energy and utility customer services over the telephone; and (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and/or services used or consumed by, and services provided to, individuals in this State and in this District. In addition, Southwestern Electric Power Company has designated an agent for service of process in the State of Texas.

14. CenterPoint Energy, Inc., CenterPoint Energy Resources Corp. and CenterPoint Energy Houston Electric LLC (collectively the “CenterPoint Defendants”) are subject to this Court’s personal jurisdiction because they are headquartered in this State and do and have done substantial business in this State and judicial district, including: (i) selling energy products and

services within this State and in the District; (ii) operating infringing automated telephone systems, including without limitation the CenterPoint customer service, outage, and billing telephone systems, that allow their customers, including customers within this State and in this District, to perform and obtain energy and utility customer services over the telephone; and (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods and/or services used or consumed by, and services provided to, individuals in this State and in this District. In addition, CenterPoint Energy, Inc. and CenterPoint Energy Houston Electric LLC have each designated an agent for service of process in the State of Texas.

15. Target Corporation, Target Bank, and Target National Bank (collectively, the “Target Defendants”) are subject to this Court’s personal jurisdiction because they do and have done substantial business in this judicial district, including: (i) operating infringing automated telephone call processing systems, including without limitation the Target customer service and credit service systems, that allow their customers, including customers within this State and in this District, to perform purchasing, ordering, verification, confirmation and other functions over the telephone; and (ii) operating Target stores and credit services and otherwise 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 this State and in this District. In addition, Defendant Target Corporation has designated an agent for service of process in the State of Texas.

16. Whirlpool Corporation is subject to this Court’s personal jurisdiction because it does and has done substantial business in this judicial district, including: (i) operating infringing automated telephone call processing systems, including without limitation the Whirlpool

customer contact, service and experience, Roper customer experience, Kitchen Aid customer service and Cielo Baths by Whirlpool customer service systems, that allow its customers, including customers within this State and in this District, to perform purchasing, ordering, verification and other functions over the telephone; 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 this State and in this District. In addition, Defendant Whirlpool has designated an agent for service of process in the State of Texas.

17. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

BACKGROUND FACTS

18. Ronald A. Katz (“Mr. Katz”), founder of Katz Technology Licensing, is the sole inventor of each of the patents in suit. Mr. Katz has been widely recognized as one of the most prolific and successful inventors of our time, and his inventions over the last forty-plus years have been utilized by literally millions of people.

19. In 1961, Mr. Katz co-founded Telecredit Inc. (“Telecredit”), the first company to provide online, real-time credit authorization, allowing merchants to verify checks over the telephone. Further innovations from Telecredit include the first online, real-time, point-of-sale credit verification terminal, which enabled merchants to verify checks without requiring the assistance of a live operator, and the first device that used and updated magnetically-encoded cards in automated teller machines. Multiple patents issued from these innovations, including patents co-invented by Mr. Katz.

20. Telecredit was eventually acquired by Equifax, and has now been spun off as Certegy, a public company traded on the New York Stock Exchange. Certegy continues to provide services in the credit and check verification field established by Mr. Katz and Telecredit.

21. Mr. Katz's inventions have not been limited to telephonic check verification. Indeed, Mr. Katz is responsible for advancements in many fields of technology. Among his most prominent and well-known innovations are those in the field of interactive call processing. Mr. Katz's inventions in that field are directed to the integration of telephonic systems with computer databases and live operator call centers to provide interactive call processing services.

22. The first of Mr. Katz's interactive call processing patents issued on December 20, 1988. More than fifty U.S. patents have issued to Mr. Katz for his inventions in the interactive call processing field, including each of the patents-in-suit.

23. In 1988, Mr. Katz partnered with American Express to establish FDR Interactive Technologies, later renamed Call Interactive, to provide interactive call processing services based on Mr. Katz's inventions. The American Express business unit involved in this joint venture later became known as First Data.

24. Early clients of Call Interactive included *The New York Times*, ABC's *Monday Night Football*, KABC Radio, CBS News, and Beatrice Foods (Hunt-Wesson division).

25. Many of these clients utilized Call Interactive technology for high-profile events. For example, CBS News hired Call Interactive to operate an interactive, real-time telephone poll to gauge viewer reaction to President George H.W. Bush's 1992 State of the Union address.

26. Mr. Katz sold his interest in Call Interactive to American Express in 1989 but continued to provide advisory services to Call Interactive until 1992. American Express later spun off the First Data business unit into a separate corporation, and with that new entity went

Mr. Katz's interactive call processing patents and the Call Interactive call processing business. The former Call Interactive, now known as First Data Voice Services, continues to provide call processing solutions today.

27. In 1994, Mr. Katz formed Katz Technology Licensing, which acquired the rights to the entire interactive call processing patent portfolio, including the rights to each of the patents-in-suit, from First Data, the owner of all of the Katz interactive call processing patents at that time.

28. The marketplace has clearly recognized the value of Mr. Katz's inventions. Indeed, over 100 companies, including in some instances direct competitors of the defendants, have licensed the patents-in-suit. Licensees include IBM, Hewlett-Packard, Bank of America, JPMorgan Chase, Wells Fargo, HSBC, AT&T, Verizon, Sprint, Microsoft, Delta Airlines, Merck, Sears, and Home Shopping Network. These licensees and others acknowledge the applicability of the patents-in-suit to multiple fields of use, including but not limited to financial services call processing, automated securities transactions, automated credit card authorization services, automated wireless telecommunication services and support, automated health care services, and product and service support.

29. Each of the defendants employs the inventions of certain of the patents-in-suit. Katz Technology Licensing, through its licensing arm A2D, L.P., has repeatedly attempted to engage the defendants in licensing negotiations, but to date, none of the defendants have agreed to take a license to any of the patents-in-suit.

THE PATENTS-IN-SUIT

30. On December 20, 1988, the United States Patent and Trademark Office duly and legally issued United States Patent No. 4,792,968 ("the '968 Patent"), entitled "Statistical

Analysis System For Use With Public Communication Facility,” to Ronald A. Katz, sole inventor. The ‘968 Patent expired on December 20, 2005.

31. On May 29, 1990, the United States Patent and Trademark Office duly and legally issued United States Patent No. 4,930,150 (“the ‘150 Patent”), entitled “Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘150 Patent expired on December 20, 2005.

32. On July 7, 1992, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,128,984 (“the ‘984 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.

33. On October 5, 1993, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,251,252 (“the ‘252 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.

34. On September 27, 1994, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,351,285 (“the ‘285 Patent”), entitled “Multiple Format Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘285 Patent expired on December 20, 2005.

35. On November 4, 1997, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,684,863 (“the ‘863 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘863 Patent expired on December 20, 2005.

36. On July 28, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,787,156 (“the ‘156 Patent”), entitled “Telephonic-Interface

Lottery System,” to Ronald A. Katz, sole inventor. The ‘156 Patent expired on December 20, 2005.

37. On September 29, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,815,551 (“the ‘551 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘551 Patent expired on December 20, 2005.

38. On October 27, 1998, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,828,734 (“the ‘734 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.

39. On April 27, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,898,762 (“the ‘762 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘762 Patent expired on December 20, 2005.

40. On June 29, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,917,893 (“the ‘893 Patent”), entitled “Multiple Format Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘893 Patent expired on December 20, 2005.

41. On October 26, 1999, the United States Patent and Trademark Office duly and legally issued United States Patent No. 5,974,120 (“the ‘120 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor.

42. On March 28, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,044,135 (“the ‘135 Patent”), entitled “Telephone-

Interface Lottery System,” to Ronald A. Katz, sole inventor. The ‘135 Patent expired on July 10, 2005.

43. On November 14, 2000, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,148,065 (“the ‘065 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘065 Patent expired on July 10, 2005.

44. On January 1, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,335,965 (“the ‘965 Patent”), entitled “Voice-Data Telephonic Interface Control System,” to Ronald A. Katz, sole inventor. The ‘965 Patent expired on December 20, 2005.

45. On February 19, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,349,134 (“the ‘134 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘134 Patent expired on December 20, 2005.

46. On July 23, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,424,703 (“the ‘703 Patent”), entitled “Telephonic-Interface Lottery System,” to Ronald A. Katz, sole inventor. The ‘703 Patent expired on July 10, 2005.

47. On August 13, 2002, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,434,223 (“the ‘223 Patent”), entitled “Telephone Interface Call Processing System With Call Selectivity,” to Ronald A. Katz, sole inventor. The ‘223 Patent expired on July 10, 2005.

48. On January 28, 2003, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,512,415 (“the ‘415 Patent”), entitled “Telephonic-

Interface Game Control System,” to Ronald A. Katz, sole inventor. The ‘415 Patent expired on July 10, 2005.

49. On January 13, 2004, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,678,360 (“the ‘360 Patent”), entitled “Telephonic-Interface Statistical Analysis System,” to Ronald A. Katz, sole inventor. The ‘360 Patent expired on July 10, 2005.

COUNT I
(PATENT INFRINGEMENT BY AMERICAN ELECTRIC POWER
COMPANY, INC. and SOUTHWESTERN ELECTRIC POWER COMPANY)

50. Katz Technology Licensing realleges and incorporates by reference paragraphs 1-49 of this Complaint as if fully set forth herein.

51. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the ‘968, ‘551, ‘065, ‘360, ‘762, ‘863, ‘134, ‘285, ‘893, ‘984, ‘734, ‘223, ‘150, ‘965 and ‘703 Patents.

52. The AEP Defendants operate automated telephone systems, including without limitation the AEP customer service, outage, and billing telephone systems, that allow their customers to perform and obtain energy and utility customer services over the telephone.

53. The AEP Defendants have directly and contributorily infringed, and induced others to infringe, one or more claims of each of the patents identified in paragraph 51 of this Complaint by making, using, offering to sell, and/or selling within the United States automated telephone systems, including without limitation their customer service, outage, and billing telephone service systems.

54. The AEP Defendants continue to infringe, contributorily infringe, and induce others to infringe the ‘984 and ‘734 Patents.

55. The AEP Defendants' infringement of the patents identified in paragraph 51 of this Complaint has been willful.

56. Katz Technology Licensing has been, and continues to be, damaged and irreparably harmed by the AEP Defendants' infringement, which will continue unless the AEP Defendants are enjoined by this Court.

COUNT II
(PATENT INFRINGEMENT BY CENTERPOINT ENERGY, INC.,
CENTERPOINT ENERGY RESOURCES CORP. and CENTERPOINT
ENERGY HOUSTON ELECTRIC LLC)

57. Katz Technology Licensing realleges and incorporates by reference paragraphs 1-56 as if fully set forth herein.

58. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '551, '065, '360, '863, '134, '285, '893, '984, '734, '120, '223 and '965 Patents.

59. The CenterPoint Defendants operate automated telephone systems, including without limitation the CenterPoint customer service, outage, and billing telephone systems, that allow its customers to perform and obtain energy and utility customer services over the telephone.

60. The CenterPoint Defendants have directly and contributorily infringed, and induced others to infringe, one or more claims of each of the patents identified in paragraph 58 of this Complaint by making, using, offering to sell, and/or selling within the United States automated telephone systems, including without limitation their customer service, outage, and billing telephone service systems.

61. The CenterPoint Defendants continue to infringe, contributorily infringe, and induce others to infringe the '984, '734 and '120 Patents.

62. The CenterPoint Defendants' infringement of the patents identified in paragraph 58 of this Complaint has been willful.

63. Katz Technology Licensing has been, and continues to be, damaged and irreparably harmed by the CenterPoint Defendants' infringement, which will continue unless the CenterPoint Defendants are enjoined by this Court.

**COUNT III
(PATENT INFRINGEMENT BY TARGET CORP., TARGET BANK AND TARGET
NATIONAL BANK)**

64. Katz Technology Licensing realleges and incorporates by reference paragraphs 1-63 as if fully set forth herein.

65. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the, '551, '065, '360, '863, '134, '150, '285, '893, '984, '252, '734, '120, '223, '703, '156, '135, '965 and '415 Patents.

66. On information and belief, the Target Defendants operate automated telephone systems, including without limitation the Target customer service, credit service, prescription refill service, guest card service, gift card service, business card service, account activation, and Target.com customer service systems that allow their customers to perform purchasing, ordering, verification, confirmation, account activation, payment, balance inquiry, prescription refill, account management and other functions over the telephone.

67. The Target Defendants have directly and contributorily infringed, and induced others to infringe, one or more claims of each of the patents identified in paragraph 65 of this Complaint by making, using, offering to sell, and/or selling within the United States automated telephone systems, including without limitation the Target customer service, credit service,

prescription refill service, guest card service, gift card service, business card service, account activation, and Target.com customer service systems.

68. The Target Defendants continue to infringe, contributorily infringe, and induce others to infringe the '984, '252, '734 and '120 Patents.

69. The Target Defendants' infringement of the patents identified in paragraph 65 of this Complaint has been willful.

70. Katz Technology Licensing has been, and continues to be, damaged and irreparably harmed by the Target Defendants' infringement, which will continue unless the Target Defendants are enjoined by this Court.

**COUNT IV
(PATENT INFRINGEMENT BY WHIRLPOOL CORPORATION)**

71. Katz Technology Licensing realleges and incorporates by reference paragraphs 1-70 as if fully set forth herein.

72. Katz Technology Licensing is the sole holder of the entire right, title, and interest in the '968, '551, '065, '360, '863, '134, '150, '285, '893, '734, '120, '223, '965, '703 and '415 Patents.

73. On information and belief, Whirlpool Corporation ("Whirlpool") operates automated telephone systems, including without limitation the Whirlpool customer contact, service and experience, Roper customer experience, Kitchen Aid customer service and Cielo Tubs by Whirlpool customer service systems that allow its customers to perform purchasing, ordering, verification and other functions over the telephone.

74. Whirlpool has directly and contributorily infringed, and induced others to infringe, one or more claims of each of the patents identified in paragraph 72 of this Complaint by making, using, offering to sell, and/or selling within the United States automated telephone

systems, including without limitation the Whirlpool customer contact, service and experience, Roper customer experience, Kitchen Aid customer service and Cielo Baths by Whirlpool customer service systems.

75. Whirlpool continues to infringe, contributorily infringe, and induce others to infringe the '734 and '120 Patents.

76. Whirlpool's infringement of the patents identified in paragraph 72 of this Complaint has been willful.

77. Katz Technology Licensing has been, and continues to be, damaged and irreparably harmed by Whirlpool's infringement, which will continue unless Whirlpool is enjoined by this Court.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Katz Technology Licensing respectfully requests the following relief:

A. A judgment holding the AEP Defendants liable for infringement of the patents identified in paragraph 51 of this Complaint;

B. A permanent injunction against the AEP Defendants, their officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '984 and '734 Patents;

C. An accounting for damages resulting from the AEP Defendants' infringement of the patents identified in paragraph 51 of this Complaint, together with pre-judgment and post-judgment interest;

D. A judgment holding that the AEP Defendants' infringement of the patents identified in paragraph 51 of this Complaint is willful, and a trebling of damages pursuant to 35 U.S.C. § 284;

E. A judgment holding the CenterPoint Defendants liable for infringement of the patents identified in paragraph 58 of this Complaint;

F. A permanent injunction against the CenterPoint Defendants, their officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '984, '734 and '120 Patents;

G. An accounting for damages resulting from the CenterPoint Defendants' infringement of the patents identified in paragraph 58 of this Complaint, together with pre-judgment and post-judgment interest;

H. A judgment holding that the CenterPoint Defendants' infringement of the patents identified in paragraph 58 of this Complaint is willful, and a trebling of damages pursuant to 35 U.S.C. § 284;

I. A judgment holding the Target Defendants liable for infringement of the patents identified in paragraph 65 of this Complaint;

J. A permanent injunction against the Target Defendants, officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '984, '252, '734 and '120 Patents;

K. An accounting for damages resulting from the Target Defendants' infringement of the patents identified in paragraph 65 of this Complaint, together with pre-judgment and post-

judgment interest;

L. A judgment holding that the Target Defendants' infringement of the patents identified in paragraph 65 of this Complaint is willful, and a trebling of damages pursuant to 35 U.S.C. § 284;

M. A judgment holding Whirlpool liable for infringement of the patents identified in paragraph 72 of this Complaint;

N. A permanent injunction against Whirlpool, its officers, agents, servants, employees, attorneys, parent and subsidiary corporations, assigns and successors in interest, and those persons in active concert or participation with them, enjoining them from continued acts of infringement of the '734 and '120 Patents;

O. An accounting for damages resulting from Whirlpool's infringement of the patents identified in paragraph 72 of this Complaint, together with pre-judgment and post-judgment interest;


P. A judgment holding that Whirlpool's infringement of the patents identified in paragraph 72 of this Complaint is willful, and a trebling of damages pursuant to 35 U.S.C. § 284;

Q. A judgment holding this Action an exceptional case, and an award to Plaintiff Katz Technology Licensing for its attorneys' fees and costs pursuant to 35 U.S.C. § 285; and

R. Such other relief as the Court deems just and equitable.

Dated: August 21, 2006

Respectfully submitted,

By: 
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Ronald A. Katz Technology Licensing, L.P.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff Ronald A. Katz Technology Licensing, L.P. hereby demands trial by jury.

Dated: August 21, 2006

Respectfully submitted,

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