

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)	
)	
MPHJ TECHNOLOGY INVESTMENTS, LLC,)	File No. 142 3003
a limited liability company;)	
)	
JAY MAC RUST,)	AGREEMENT CONTAINING

4. Proposed respondents neither admit nor deny any of the allegations in the draft complaint, except as specifically stated in this agreement. Only for purposes of this action, proposed respondents admit the facts necessary to establish jurisdiction.
5. Proposed respondents waive:
 - A. Any further procedural steps;
 - B. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
 - C. All rights to seek judicial review or otherwise challenge the investigation that preceded this agreement or to contest the validity of the order entered pursuant to this agreement.

Proposed respondents do not waive the protections available pursuant to 16 C.F.R. § 2.11 concerning the withholding of information or material for which a claim of protected status is asserted.

6. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents: (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to each proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement,

understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the draft complaint and consent order. They understand that they may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

1. “Affiliate” means a person or entity with which a Respondent is associated, directly or indirectly, by a principal-agent relationship, by common control, or by a contract or business arrangement concerning a Patent that is the subject of a Patent Assertion Communication.
2. “Commerce” means as defined in Section 4 of the F

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- B. “Respondent Rust” shall mean Jay Mac Rust, individually and as an officer of Respondent MPHJ.
- C. “Respondent Farney Daniels” shall mean Farney Daniels, P.C., a professional corporation, and its successors and assigns.

I.

Prohibited Misleading or Unsubstantiated Representations
in Patent Assertion Communications

IT IS ORDERED that the Respondents, and their officers, agents, representatives, and employees, directly or through any corporation, partnership, subsidiary, division, trade name, or other device, shall not

- A. Make any representation in a Patent Assertion Communication, expressly or by implication,
 - 1. that a particular Patent has been licensed to a substantial number of licensees,
 - 2. that a particular Patent has been licensed at particular prices or within particular price ranges, or
 - 3. otherwise concerning the results of licensing, sales, settlement, or litigation of a particular Patent,

unless the representation is non-misleading and, at the time such representation is made, Respondents possess and rely upon competent and reliable evidence sufficient to substantiate that the representation is true;

- B. Make any representation in a Patent Assertion Communication, expressly or by implication, about the licenses for a Patent or the responses of recipients of Patent Assertion Communications unless the representation is non-misleading, and, at the time the representation is made, Respondents possess and rely upon competent and reliable evidence that substantiates that the representation is true;
- C. Make any representation in a Patent Assertion Communication, expressly or by implication, that Respondents or an Affiliate have taken any action with respect to the filing of a Lawsuit, including initiating a Lawsuit, unless the representation is true and non-misleading; or

D.

II.
Recordkeeping Requirements

IT IS FURTHER ORDERED that each Respondent, shall, for five (5) years after the last date of dissemination of any written Patent Assertion Communication covered by Subsection II.A, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. A copy of each written Patent Assertion Communication that is authored, distributed, signed, or endorsed by Respondent or by a business that such Respondent, individually or collectively with any other Respondents, is the majority owner or controls directly or indirectly;
- B. The names, addresses, and phone numbers of all intended recipients of each written Patent Assertion Communication;
- C. Copies of all

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III.
Order Acknowledgments

IT IS FURTHER ORDERED that Respondents, for any business that sends Patent Assertion Communications and for which any Respondent, individually or collectively with any other Respondents, is the majority owner or controls directly or indirectly, shall deliver a copy of this Order to their counsel, and all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having managerial responsibilities with respect to Patent Assertion Communications, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Respondents shall deliver this Order to current managerial personnel within thirty (30) days after the date of service of this Order, and to future managerial personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.
Corporate Respondents Compliance Notification

IT IS FURTHER ORDERED that Respondent MPHJ and Respondent Farney Daniels shall notify the Commission at least thirty (30) days prior to any change in its structure that may affect compliance obligations arising under this Order, including but not limited to a dissolution,

duties and responsibilities. Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be e-mailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue

MPHJ Technology Investments, LLC

By: _____
Jay Mac Rust
Member and manager

Date: _____

Jay Mac Rust

By: _____
Jay Mac Rust

Date: _____

Farney Daniels, P.C.

By: _____
William Bryan Farney
Managing shareholder

Date: _____

By: _____
Joel Winston
Hudson Cook, LLP
Counsel for respondents

Date: _____

Federal Trade Commission

By: _____
Daniel O. Hanks
Counsel for the Federal Trade Commission

Date: _____

APPROVED:

By: _____
Monica Vaca
Acting Associate Director
Division of Marketing Practices

Date: _____

By: _____