

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

In the Matter of)	
)	
MPHJ TECHNOLOGY INVESTMENTS, LLC,)	
a limited liability company;)	DECISION AND ORDER
)	
JAY MAC RUST,)	
individually and as an officer of)	DOCKET NO. C-4513
MPHJ TECHNOLOGY INVESTMENTS, LLC;)	
and)	
)	
FARNEY DANIELS, P.C.,)	
a professional corporation)	

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the Respondents named in the caption hereof, and the Respondents having been furnished thereafter with a copy of a draft of a complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the Respondents with violation of the Federal Trade Commission Act, 15 U.S.C. § 45

The Commission having thereafter considered the matter and having determined that it has reason to believe that the Respondents have violated the Federal Trade Commission Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such agreement on the public record for a period of

3. “Lawsuit” means any form of judicial, administrative, or private proceeding to adjudicate a dispute.
4. “Patent” shall include a patent, a patent application (including a provisional patent application), a group or portfolio of patents or patent applications, and a group or portfolio that includes one or more patents and one or more patent applications.
5. “Patent Assertion Communication” shall mean any communication in or affecting commerce, other than filings in a Lawsuit or correspondence between counsel in a Lawsuit, or communications between attorneys and clients or prospective clients for the purpose of providing or obtaining legal advice, where such communication represents, expressly or implicitly, that the intended recipient or anyone affiliated with the intended recipient is or may be infringing rights arising from a Patent, is or may be obligated to obtain a license because of a Patent, or owes or may owe compensation to another because of a Patent.
6. “Respondents” shall mean Respondent MPHJ, Respondent Rust, and Respondent Farney Daniels, individually, collectively, or in any combination.
 - A. “Respondent MPHJ” shall mean MPHJ Technology Investments, LLC, a limited liability company, and its subsidiaries, successors, and assigns.
 - B. “Respondent Rust” shall mean Jay Mac Rust, individually and as an officer of Respondent MPHJ.
 - C. “Respondent Farney Daniels” shall mean

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. Make any representation in a Patent Assertion Communication, expressly or by implication, that Respondents or an Affiliate will take any action with respect to the filing of a Lawsuit, including
 1. that they will initiate a Lawsuit;
 2. that they will initiate a Lawsuit if the recipient of a Patent Assertion Communication does not agree to a license, pay compensation, or otherwise respond to the Patent Assertion Communication as requested;
 3. that they will initiate a Lawsuit imminently or within a specified time; or
 4. that they will initiate a Lawsuit imminently or within a specified period of time if the recipient of a Patent Assertion Communication does not agree to a license, pay compensation, or otherwise respond to the Patent Assertion Communication as requested;

unless at the time such representation is made, Respondents have decided to take such action and possess and rely upon competent and reliable evidence sufficient to substantiate that they are prepared to and able to take the action necessary to make the representation true. Evidence that an action was not taken because of a change in circumstances or information obtained subsequent to making a

representation

upheld on appeal, then the Order will terminate according to this Part as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: March 13, 2015