

United States of America  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20580

Office of the Secretary

March 13, 2015

Sharon A. Israel  
President  
American Intellectual Property Law Association  
241 18th Street, South  
Suite 700  
Arlington, VA 22202

Re: In the Matter of MPHJ Technology Investments, LLC, et al.  
FTC File No. 142 3003, Docket No. C4513

Dear Ms. Israel:

Thank you for your comment on the Federal Trade Commission's proposed consent agreement in this proceeding. The Commission has considered your comment and placed it on the public record pursuant to its Rules of Practice. 16 C.F.R. § 4.9(b)(6)(ii).

Your comment expresses support for the initiation of FTC action in this matter and proposes two revisions to Section I.D to potentially clarify two points.

Your first proposed revision is intended to clarify that a representation that a respondent will take a particular action (for example, initiate a lawsuit against recipient X) cannot be substantiated by evidence that the respondent is prepared to and able to take a different action (for example, initiate a lawsuit against recipients Y and Z). Upon review, the Commission believes that the language of this provision is sufficiently clear that a representation that a respondent will take an action must be substantiated by evidence that the respondent is "prepared to and able to take the action necessary

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and the Decision and Order in final form without modification. The Complaint and the final Decision and Order are available on the Commissions website, [ftc.gov](https://www.ftc.gov).

Thank you again for your comment. Hearing from a variety of sources is helpful to the Commission's analysis, and we appreciate your interest in this matter.

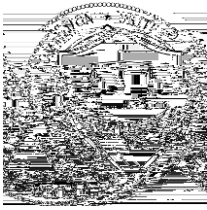
By direction of the Commission.

Donald S. Clark  
Secretary



Lastly, your comment suggests that the proposed consent order be revised to require the respondents to disgorge any funds that they received from recipients of their letter campaign. The Commission considers many factors in electing between potential remedies for alleged deceptive conduct, such as the nature and extent of the injury experienced by consumers and the ability of the remedy to promote general and specific deterrence. In this case, the main harm caused by the alleged misconduct was not from payments to the respondents, but rather from the cost and disruptions suffered by businesses that investigated the respondents' claims, including in some cases the cost incurred in the hiring of patent counsel. Moreover, an administrative order provides a strong monetary deterrent against this type of misconduct because the respondents would be liable for civil penalties of up to \$16,000 for each violation of the order. Under the present circumstances, the Commission believes that an administrative order will more effectively deter future deceptive conduct than would an equitable monetary remedy, such as disgorgement.

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and the Decision and Order in final form without modification. The Complaint and the final(en)-4(c)-10(e)]TJ 0 du



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March 13, 2015

Daniel Ballard  
State of California

Re: *In the Matter of MPHJ Technology Investments, LLC, et al.*  
FTC File No. 142 3003, Docket No. C4513

Dear Mr. Ballard:

Commission's analysis, and we appreciate your interest in this matter.

By direction of the Commission.

Donald S. Clark  
Secretary

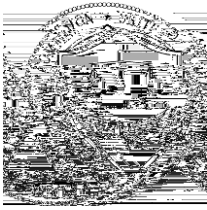
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Commission's analysis, and we appreciate your interest in this matter.

By direction of the Commission.

Donald S. Clark  
Secretary





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March 13, 2015

Daniel Nazer  
Vera Ranieri  
Michael Barclay  
Electronic Frontier Foundation  
815 Eddy Street  
San Francisco, CA 94109

Re: *In the Matter of MPHJ Technology Investments, LLC, et al.*  
FTC File No. 142 3003, Docket No. C4513  
public record

C.F.R. § 4.9(b)(6)(ii).

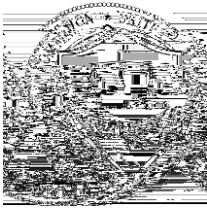
support for the initiation of FTC action in this matter and  
proposed consent order.

suggests that the proposed consent order be revised either to  
revenues obtained through the letter campaign alleged in the  
in an option to rescind their licensing agreements. Your  
proposed consent order enjoin the proposed respondents from the

many factors in electing between potential remedies for  
the nature and extent of the injury experienced by consumers  
to provide general and specific deterrence. In this case, the main  
injury was not from payments to the respondents, but rather  
caused by businesses that investigated the respondents' claims,  
incurred in the hiring of patent counsel. Moreover, an  
equitable monetary deterrent against this type of misconduct  
is available for civil penalties of up to \$16,000 for each violation of  
the Act. In these circumstances, the Commission believes that an administrative  
proposed consent order is more appropriate than would an equitable monetary

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and the Decision and Order in final form without modification. The Complaint and the final Decision and Order are available on the Commissions website, [ftc.gov](https://www.ftc.gov).

Thank you again for your comment.



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WASHINGTON, DC 20580

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March 13, 2014

James E. Brookshire  
Executive Director  
The Federal Circuit Bar Association  
1620 I Street NW, Suite 801  
Washington, DC 20006

Re: *In the Matter of MPHJ Technology Investments, LLC, et al.*  
FTC File No. 142 3003, Docket No. C4513

Dear Mr. Brookshire:

Thank you for your comment on the Federal Trade Commission's proposed consent agreement in this proceeding. The Commission has considered your comment and placed it on the public record pursuant to its Rules of Practice. 16 C.F.R. § 4.9(b)(6)(ii).

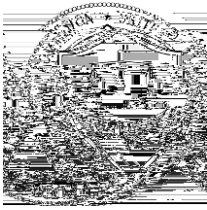
Your comment expresses strong support for both the initiation of FTC action in this matter and for the general form of the proposed relief. You do not propose any modification to the proposed consent agreement.

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and the Decision and Order in final form without modification. The Complaint and the final Decision and Order are available on the Commission's website, [ftc.gov](http://ftc.gov).

Thank you again for your comment. Hearing from a variety of sources is helpful to the Commission's analysis, and we appreciate your interest in this matter.

By direction of the Commission.

Donald S. Clark  
Secretary



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March 13, 2015

Phyllis T. Turner-Brim  
Russ Merbeth  
Intellectual Ventures  
3150 139th Avenue SE  
Bellevue, WA 98005

Re: *In the Matter of MPHJ Technology Investments, LLC, et al.*  
FTC File No. 142 3003, Docket No. C4513

Dear Ms. Turner-Brim and Mr. Merbeth:

Thank you for your comment on the Federal Trade Commission's proposed consent agreement in this proceeding. The Commission has considered your comment and placed it on the public record pursuant to its Rules of Practice. 16 C.F.R. § 4.9(b)(6)(ii).

Your comment expresses support for both the initiation of FTC action in this matter and for the general form of the proposed relief. You do not propose any modification to the proposed consent agreement.

After carefully considering your comment,

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I ofy“Patent Assertion Communication” could be ~~used~~ successfully to ex  
order a letter that is sent to a potentially adverse recipient by an attor

patentholder. Upon review, the Commission believes that the specific language at issue, which excludes from the scope of the order “communications between attorneys and clients or prospective clients for the purpose of providing or obtaining legal advice,” is appropriately tailored to address only legitimate attorney-client communications, and that a letter to a potentially adverse recipient from an attorney could not be successfully characterized as a communication with a potential client.

Lastly, your comment suggests that the proposed consent order be revised to require that the respondents submit their future patent assertion communications to the Commission for review. Section II of the proposed consent order, however, would require that the respondents retain future patent assertion communications and produce them to the Commission upon request. In the Commission’s view, Section II would provide an appropriate mechanism for monitoring the respondents’ compliance with the requirements of the order and is consistent with recordkeeping requirements that the Commission has included in many other orders.

After carefully considering your comment, along with others received in this matter, the Commission has determined that the public interest is best served by issuing the Complaint and the Decision and Order in final form without modification. The Complaint and the final

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