



WHITE PAPER

A Case Study of Patent Abuse: Printing Industry Faces New Nemesis Impacting Growth and Employment —*Patent Trolls*

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This research was not sanctioned or funded by any university, private or public company. It is meant to educate and inform on a matter that is negatively impacting the growth, development, and survival of companies in the printing and related industries, Original Equipment Manufacturers (OEMs), and equipment distributors.



ABSTRACT

Patent trolls, the epitome of greed, thoughtlessness, and unethical behavior, are impacting the survival, growth, and development of printing and related companies.

The printing industry in the United States has been in a state of decline over the past 20 years (from approximately 55,000 companies to under 30,000 today). Traditionally a low-profit industry, printing companies and their suppliers are trying to find ways of increasing products and services focusing on digital technologies and related applications in order to increase profits and to save jobs. Patent trolls are inhibiting such growth and are causing companies to consider closing, downsizing, and laying off employees because they cannot afford to absorb the huge fees being demanded by the trolls, while also maintaining or growing business. The trolls are equivalent to extortionists with no sense of business morals and ethics, or of the nation's push to grow companies, produce jobs, and keep or bring back as much business as possible to the United States.

The hypothesis of this study is that companies faced with the threat of patent troll litigation should not settle by paying license fees, but should partner in pooling resources to pursue invalidation of the patents in question. Such challenges are often won, and between 35 percent and 85 percent of patents being invalid has been reported.

The research methods used in this study include a review of the related literature, a case study of three patents of questionable validity claimed by two patent troll plaintiffs to be infringed upon by printing industry companies, and a survey of present defendants and those who were already sued and opted to settle out of fear and intimidation.

This study concludes that printing and related companies sued by patent trolls should not settle by paying the fees requested and should not enter into a single-company litigation that can cost more than a settlement. Giving in to patent troll license fees or other demands will exacerbate the problem and encourage additional intimidating and threatening lawsuits in an attempt to extort funds from companies doing honest and legal business, working hard to survive and grow, and provide employment opportunities for skilled staff members. A solution is bringing together all of the companies named in a suit that has been filed by patent trolls, and to work as a unit in bringing the matter of alleged patent infringements before the US Patent & Trademark Office (USPTO) for invalidity hearings.

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INTRODUCTION

At a time when the printing industry is searching for new growth and development opportunities, it now faces new obstacles: patent trolls, the epitome of greed, thoughtlessness, and unethical behavior impacting the survival of companies and jobs.

What is a Patent Troll?

A patent troll is a company or person that purchases a patent and then sues another company claiming that the use of one of its products infringes on the purchased patent.

Trolls attempt to enforce patent rights against alleged infringers far beyond the patent's actual value or contribution to the technology or the industry that the patent represents. Patent trolls typically do not manufacture products or provide services based upon the patents in question. They use patents as “legal weapons,” instead of actually creating any new products or coming up with new ideas to improve business, commerce, or society. Trolls are in the business of threatening and creating litigation.

Further, trolls often buy-up patents cheaply from companies that are looking to monetize patents that have little or no value, or should have not been granted to begin with, because of Prior Art demonstrating that what the patents teach was obvious prior to the time of application for the patent. These patents are subject to an invalidity contention and termination by the United States Patent & Trademark Office (USPTO) when alleged infringers contest the trolls. They are typically very broad, covering generic or well-known types of applications that should never have been patented to begin with.

In possession of these broad and vague patents, the troll then sends out intimidating letters to those they argue infringe on their patents. It is a scare tactic that preys on innocent companies that are merely providing a service needed by society. These letters threaten legal action unless the alleged infringer agrees to pay a licensing fee, which can often range to the tens of thousands or even hundreds of thousands of dollars. Many who receive infringement letters will choose to pay the licensing fee out of fear, and because patent litigation is extremely expensive and can involve lengthy and time-consuming court deliberations.

The printing industry is on the decline, and patent trolls are making matters worse.

With the printing industry in the United States in a state of decline over the past 20 years (from approximately 55,000 companies to under 30,000 today), and traditionally being a low-profit industry, printing companies are clamoring to find ways of increasing products and services focusing on digital technologies and related applications in order to increase profits and to save jobs. Patent trolls are inhibiting such growth and are, in fact, causing companies to consider closing, downsizing, and laying off employees because they cannot afford to absorb the huge fees being demanded by the trolls while also maintaining or growing business. **The trolls are equivalent to extortionists having no sense of business morals and ethics, or of the nation’s push to grow companies, produce jobs, and keep or bring back as much business as possible to the United States.**

HYPOTHESIS

The hypothesis of this study is that companies faced with the threat of troll litigation should not settle by paying license fees, but should band together and pool resources to pursue invalidation of the patents in question. Challenges to invalidate patents are often won, and up to 85 percent of patents being invalid has been reported at a Congressional Senate Judiciary Committee addressing the matter. (1)

REVIEW OF LITERATURE

The National and International Picture

The issue of patent trolls is not only domestic in the United States. It is international as well with China, as one example, being a recent but prominent player. The following articles have appeared in the popular and professional press over the past few years, and they are just a few. See Endnotes for links to the full text of each article.

“Everyone Hates Patent Trolls, but here’s the Root Problem with our Broken System,” The Washington Post, 5/4/15. (2)

“Lessons from Europe on How to Tame U.S. Patent Trolls,” Cornell International Law Journal, Spring 2009. (3)

“Patent Trolls/Friend or Foe?” World Intellectual Property Organization (WIPO), April 2014. (4)

“ROFF/The Frightening Emergence of Government Patent Trolls,” The Washington Times, 8/31/14. (5)

“The Evidence Is In/Patent Trolls Do Hurt Innovation,” Harvard Business School Publishing, November 2014. (6)

“Why No One Likes Them—Abuse of the Patent System Benefits Neither Inventors Nor the Economy at Large,” The Economist, 5/3/15. (7)

“Why Supreme Court’s Alice Ruling Doesn’t Solve Patent Troll Problem,” Congress Blog—The Hill’s Forum for Lawmakers and Policy Professionals, 11/12/14. (8)

“China Declares War On U.S. Intellectual Property, Gets Into The Patent Trolling Business,” The Daily Caller, 10/8/14. (9)

“China Turns From ‘Pirate’ Nation to Giant Patent Troll,” Techdirt, 10/20/14. (10)

“Intelligent Mail Becomes Another Stomping Ground for Patent Trolls,” MULTIBRIEFS, 9/25/13. (11)

“Grayhair Settles Patent Troll Suit,” DIRECT MARKETING, 5/14/14. (12)

“The Patent Troll with a Law Firm Behind It Attacking Postal Mail,” TROLLING EFFECTS, 12/18/13. (13)

“From the Editor: Rise of the Trolls,” In-plant Graphics, 8/1/13. (14)

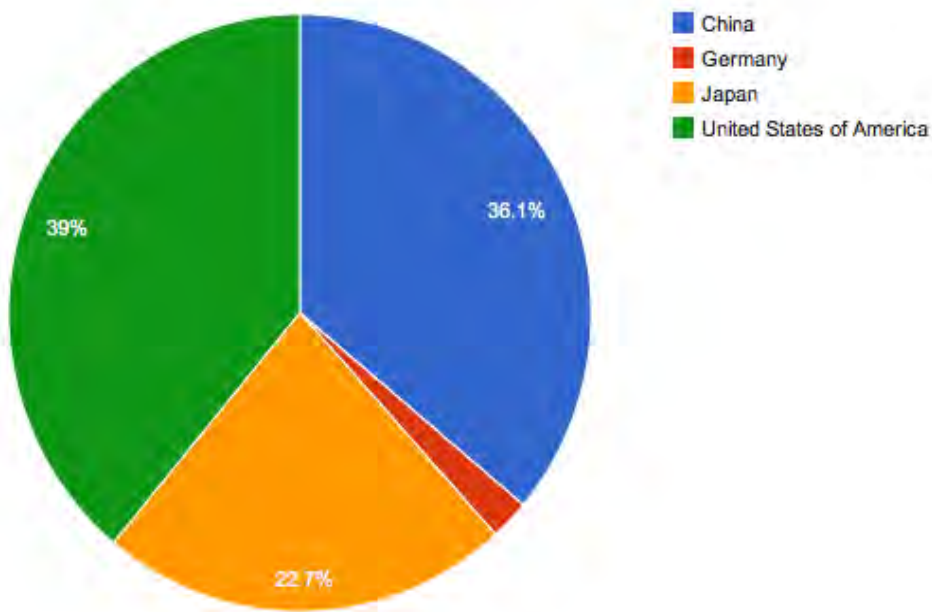
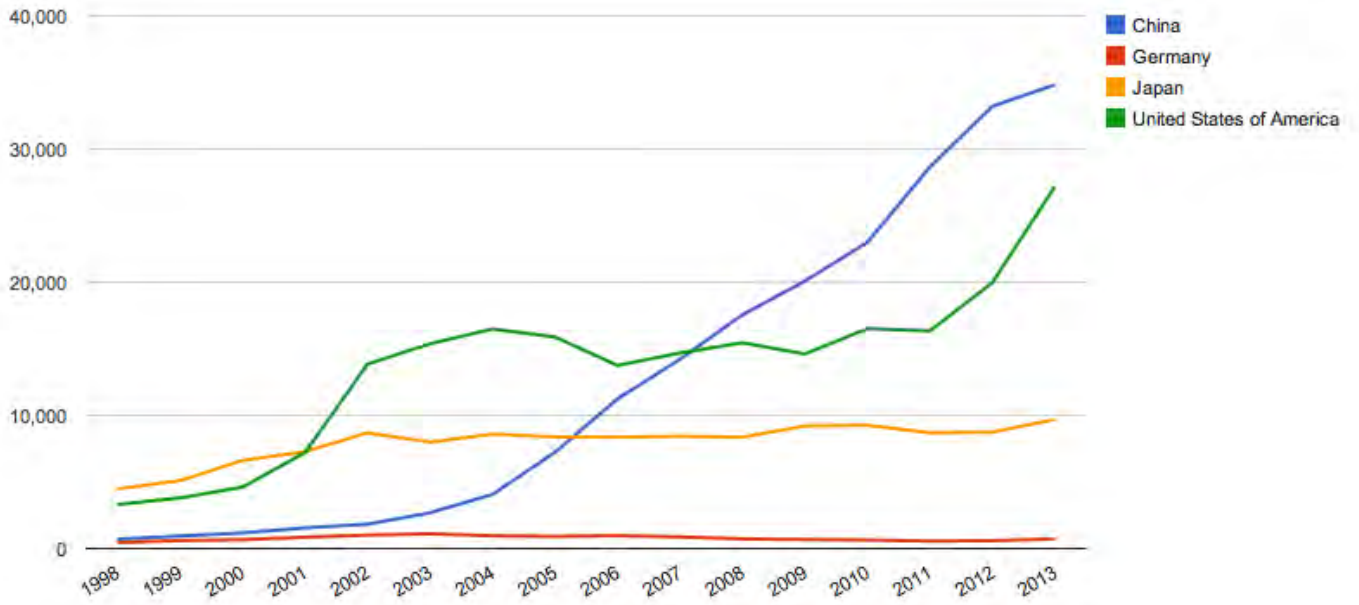
“Patent Trolls Targeting Printers,” In-plant Graphics, 6/28/13. (15)

“Patent Infringement Actions in the Printing Industry,” Printing Industries of America. (16)

In a three-year study, I researched all graphic arts patents documented by the Research & Engineering Council of the Graphic Arts (R&E Council) issued internationally over a 30-year period from 1968 through 1997. There were 22,552 patents issued by 42 nations. Of the 22,552 patents, 19,498 (or 86 percent) came from the United States, 3,580 were issued in Germany, and 3,118 were issued in Japan. The remainder came from all other nations that issued graphic arts patents. (17) However, today’s distribution has changed, with China becoming a major patent producer in 2004 and with the large majority of graphic art patents representing digital technology. According to the World Intellectual Property Organization (WIPO), between 1998 and 2013, the United States and Japan continued their dominance, with the United States producing 39 percent of such patents and Japan 22.7 percent. For the most part, Germany dropped out of graphic arts patent production with only 2.2 percent. However, China produced 36.1 percent. (18)

Today's Greatest Areas of Patent Activity in Digital Communication – 1998 - 2013

- United States and Japan continue
- China emerges



Source: World Intellectual Property Organization (WIPO)

The Patent Troll Issue in the Printing Industry

Software and pharmaceuticals are the two most active areas of patent production internationally. Nearly all of the graphic arts, i.e., printing industry, patents over the past 15 years involve software workflows and, hence, is the focus of troll-controlled patents today. Why software? **Software is the “invisible technology.”** It is intangible. It cannot be felt, viewed, or compared in a physical way. It involves digits, not atoms. It is difficult to dispute its claimed attributes and applications when challenging its similarities or differences to other software. It is, therefore, easy for trolls to raise challenges and claim infringement on even the most esoteric parts of software, and difficult for defendants to counter infringement claims unless they are highly versed in software coding, workflow, and other structural attributes. This is not the business of the printing industry.

So what is the troll issue in the printing industry in the United States? The following are some articles that have recently appeared in the graphic arts (printing industry) press.

FROM PRINTING INDUSTRIES OF AMERICA, December 17, 2013 **Printing Industries of America Takes on Patent Trolls in Washington, DC.**

“Printing Industries of America President and CEO, Michael Makin, testified before the Senate Judiciary Committee on the topic of “Protecting Small Businesses and Promoting Innovation by Limiting Patent Troll Abuse.” Makin spoke on behalf of printers who have been threatened with abusive patent litigation for using software products that allow for CTP, Web-to-print, and QR code technologies, among others.” (19)

FROM COMPUTERWORLD, May 20, 2015 **Patent trolls may be preparing to target 3D printing**

“While patent litigation has been on the rise for a number of years, it hasn't been between competing companies but from patent trolls who seek to buy-up patent portfolios in order to sue industry players for infringement. One of the fastest growing arenas for patents over the past decade has been 3D printing, making it a likely target for those trolls.” (20)

FROM IN-PLANT GRAPHICS, June 21, 2013 **Rise of the Trolls**

*“You may have heard something about “patent trolls”—shell companies that exist only to enforce their patents and seek money from alleged infringers. But you probably thought only high-tech companies were being targeted by these guys, right? Hardly. **They're coming after printers too...**Printing Industries of America recently warned its members of an “alarming” increase in the number of printers accused by trolls of infringing patents for technologies as commonplace as prepress workflow, computer-to-plate and Web-to-print.” (21)*

FROM PRINTING IMPRESSIONS, March 1, 2014 **Patent Trolls Still Targeting Printers**

“As if commercial printers aren't having enough trouble trying to survive, and hopefully thrive, in our razor-thin-margin industry, it appears that patent trolls are finding the graphic arts industry to be fertile ground for litigation.” (22)

FROM ARS TECHNICA, January 2, 2013 **Patent trolls want \$1,000—for using scanners**

“When Steven Vicinanza got a letter in the mail earlier this year informing him that he needed to pay \$1,000 per employee for a license to some “distributed computer architecture” patents, he didn't quite believe it at first. The letter seemed to be saying anyone using a modern office scanner to scan documents to e-mail would have to pay—which is to say, just about any business, period. If he'd paid up, the IT services provider that Vicinanza founded, BlueWave Computing, would have owed \$130,000.” (23)

FROM WHATTHEYTHINK, December 15, 2015
Patent Troll Targeting Printing Companies that use Common Web-to-Print Functionality

“A company called High Quality Printing Inventions, LLC, is using a patent initially granted to Moore (now R.R. Donnelley) to file patent infringement lawsuits in the U.S. District Courts in a litigation campaign against several printing companies using common web-to-print functionality.” (24)

Printing Industries of America has been attempting to bring the patent troll issue to the forefront so the printing industry understands what it is facing today and will likely face on an increasing basis in the future, unless Congress does something to change the situation.

On its website, Printing Industries of America has established a Patent Listserv for printers seeking advice. In an article entitled, “Patents Infringements Actions in the Printing Industry,” Printing Industries of America wrote:

Hundreds of print executives opened letters this year to discover their companies were being accused of infringing patents. Owners of patents covering QR codes, scanning, computer-to-plate workflow, and on-line ordering all approached printers demanding licensing fees.

Most but not all of these owners are “patent trolls,” entities that purchase unused patents for the purpose of intimidating companies into paying fees. Patent trolls now account for the majority of infringement lawsuits in the United States. Companies are often shown no evidence of infringement, i.e., “Given the scope of our patents and what we read on your website, we believe there is a high likelihood that you are infringing.” Companies are threatened with litigation if they don’t pay the fee (more than 40 printers have been sued this year). Trolls choose to approach printers using technologies allegedly infringing their patents, rather than do battle with equipment and software providers.

Here is the patent infringement activity that Printing Industries of America is aware of. In two of these cases—SkipPrint and CTP Innovations—printers have been sued. In all but one of the other cases, we know of only a few printers that have received accusatory letters. By far, the greatest number of printers were accused by MPHJ Technology Investments (and its related shell companies).

Patent Owner (Lawfirm): Standard Register, Markzware, Lykes Brothers (SkipPrint/Maschoff Brennan)
U.S. Patents: 5,666,493, 5,963,641, 6,076,080, 7,050,995, 7,058,596
(SkipPrint is the exclusive licensee of the patents.)
Technology: Web-to-print, fulfillment, preflighting
Description: The combined patents describe the use of an on-line system for creating an electronic catalog, pricing and accepting orders, accepting payment, checking inventory, examining and correcting files, sending files to a print station, and preparing shipments.

Patent Owner (Lawfirm): MPHJ Technology Investments (Farney Daniels)
U.S. Patent: 6,185,590, 6,771,381, 7,477,410, 7,986,426
Technology: Scanned Images to Email
Description: Use of scanning equipment that sends scanned images directly to email on an internal network or an FTP/SFTP site. Petition to invalidate patents filed with USPTO by Xerox and Ricoh. Letters sent to printers by MPHJ references agreement with Canon and withdraws claims.

Patent Owner (Lawfirm): CreateAds (Bayard, P.A.)
U.S. Patent: 5,535,320
Technology: Web-to-print
Description: Template-based visual design generation for creation of web to print materials.

Patent Owner (Lawfirm): NeoMedia Technologies (Global IP Law Group)

U.S. Patent: 6,199,048, 8,131,597

Technology: QR Code

Description: Use of an "indirect link"—using a short URL such as *goo.gl*, *TinyURL*, *bitly* or any other shortener in a QR Code.

Patent Owner (Lawfirm): RAH Color Technologies (Global IP Law Group)

U.S. Patent: 19 patents

Technology: Color management

Description: Techniques for the preservation, automated measurement, control, manipulation, and reproduction of color in digital systems. All invented by Dr. Richard Holub.

Patent Owner (Lawfirm): CTP Innovations (Baker Donelson)

U.S. Patent: 6,611,349, 6,738,155

Technology: Prepress, computer-to-plate

Description: Prepress workflows utilizing internal and external networks to generate "plate-ready files" and "plate-ready PDF files." Petitions to invalidate the patents filed with USPTO by Printing Industries of America.

Patent Owner (Lawfirm): SMS (O'Melveny & Myers)

U.S. Patent: 8,260,629, 8,429,093

Technology: QR Code

Description: Generating a personalized QR code, affixing the personalized QR code onto a mail object, storing related electronic data in a storage device, and providing the electronic data to a reception device (e.g., smart phone, etc.) in response to the reception device scanning the personalized QR code on a mail object.

Patent Owner (Lawfirm): ADgiants (Locke Lord)

U.S. Patent: 8,271,507

Technology: Marketing management

Description: Web-based marketing and management system that connects printer with customers and agencies via Internet.

Printing Industries of America will provide industry firms, especially our members, with current information on infringement accusations. If you have been similarly accused, or know of other actions not listed here, please alert Jim Workman at jworkman@printing.org. You can also participate in our Patent Listserv and seek advice and share information with other printers that have been targeted by trolls. (25)

RESEARCH METHODS

The research methods used in this study include a review of the related literature previously noted, a case study of three patents claimed by two troll plaintiffs to be infringed upon by printing industry companies, and a survey of several present defendants and those who were already sued and opted to settle out of fear and intimidation.

The survey included the following questions.

OVERVIEW

What did the letter announcing your alleged patent infringement say?

PAYMENTS REQUESTED

How much was asked of your company in the way of license fees or other payments? Were you asked for a one-time payment, monthly payments, quarterly payments, annual payments, or some other arrangement? If you settled, how much did you wind up settling for?

THE "SHELL" COMPANY

If the plaintiff (the company suing you) is a "shell" company, what other company or companies do you believe are behind this lawsuit and are benefiting or will benefit from your payments?

ORIGINAL EQUIPMENT MANUFACTURERS (OEMS)

Did you discuss this matter with any of the OEMs from whom you purchased the alleged fringed equipment or software? If you did discuss this with the OEMs, what was their position?

IMPACT ON YOUR COMPANY

What overall immediate impact did this matter, or will this matter, have on your company? What will the impact be in the future?

A QUOTE FROM YOU

Please consider sharing a quote for possible use in the article.

OTHER

Is there anything else that you would like to share about this matter?

Due to the sensitive nature of the information requested, and agreements that have been reached in some cases, anonymity was promised. Some companies declined to participate out of fear of reprisal unless anonymity was assured. Others were fearful of providing specific responses to some of the questions due to confidentiality promises made when "deals" were given by the trolls.

RESULTS

Case Studies – CTP Innovations and High Quality Printing Innovations (HQPI)

There were multiple lawsuits involving three patents, brought on by the CTP Innovations and HQPI patent trolls. The lawsuits raised grave concerns across the service provider (printers), original equipment manufacturer (OEM), and equipment distributor segments of the industry.

The three patents were previously acquired by the RR Donnelley; one of the largest printing corporations in the world, after RR Donnelley acquired two companies, the Banta Corporation and Moore, Inc. The patents are:

(1) Patent No. U.S. Patent No. 6,738,155

SYSTEM AND METHOD OF PROVIDING PUBLISHING AND PRINTING SERVICES VIA COMMUNICATIONS NETWORK

Patent Issued to: Banta Corporation

Patent Filing Date: July 30, 1999

(2) Patent No. U.S. Patent No. 6,611,349

SYSTEM AND METHOD OF GENERATING A PRINTING PLATE FILE IN REAL TIME USING A COMMUNICATION NETWORK

Patent Issued to: Banta Corporation

Patent Filing Date: July 30, 1999

(3) Patent No. US 6012070 A

DIGITAL DESIGN STATION PROCEDURE

Patent Issued to: Moore Business Forms

Patent Filing Date: November 15, 1996

Patent trolls are often disguised as “shell companies.” Shell companies have registered names but no employees and no physical address ascribed to them. They are intentionally “invisible” with only a law firm as a point of contact; typically the law firm that registered the “shell” name for the patent troll.

The “shell company” plaintiffs (the trolls) and parent companies (also trolls) recorded as the present owners of the CTP and HQPI patents are:

For patents 6,738,155 and 6,611,349

SHELL COMPANY IS: CTP Innovations (Plaintiff)

RECORDED PARENT COMPANY IS: Media Innovations, LLC.

For patent US 6012070 A

SHELL COMPANY: High Quality Printing Innovations (Plaintiff)

RECORDED PARENT COMPANY IS: Modern Universal Printing, LLC.

How CTP AND HQPI Patent Trolls Have Impacted Specific Companies in the Printing Industry— What the Impacted Companies Have To Say

Here are some examples of the havoc that these patent trolls have caused in the printing industry. Such disruption is not only to printing companies of all sizes, but to Original Equipment Manufacturers (OEMs) and equipment distributors as well.

Survey Results

In the survey of some of the impacted companies, one company officer said that when informing the OEM about being sued, he was told that the patents in question “...could not stand since it’s targeting [a] very broad application of what software and web technologies can do for [the] print and publication field.” He said, “...because they now have to defend themselves, they are dedicating resources that are better served for day-to-day operations and for the advancement of the business. As such, this is a waste of resources compromising

the ongoing success of the company...We are halting all investments that we believe may be included in future litigation until we come up with a plan to protect our interest or are satisfied with [the] resolution of this case and its future impact."

He went onto say, *"Unfortunately, patents are being misused and the task of correcting the system that enabled the deterioration of innovation and consumer choices is not an easy one but we must start somewhere."*

"Non-practicing entities, aka Patent Trolls, are costing jobs and hurting our economy. A 2011 research [study] shows that Patent Trolls cost defendant firms \$29 billion per year in direct out-of-pocket costs; in aggregate, patent litigation destroys over \$60 billion in firm wealth each year. This has likely grown to be much larger and much more damaging to the economy, business and disproportionately [to] small businesses, which are the backbone of America."

"We believe this patent lawsuit to be frivolous, and the abuse of our legal system by patent trolls hurts consumers. This along with other frivolous suits stifle competition, hurt consumers, and bully innovative companies."

When asked if he had any idea who was behind the shell company and benefiting financially, he identified RR Donnelley as the *"affiliate."* However, RR Donnelley claims that the patents in question were previously sold, and the company has no ownership interest in the patents and receives no licensing payments. RR Donnelley's more detailed response follows.

The officer of another company wrote that the alleged patent infringement lawsuit served on them said that they are in violation of numerous patents, and it went on to name them one by one. The company principal went on to say, *"Essentially, we were being sued for a practice most every printer in the industry utilizes."* His company was asked to pay a license fee in excess of a six-figure amount.

In response to a question on the impact on the company, the company principal said, *"First, it's been financially draining and secondly a distraction to running a business on a daily basis. It has affected the morale of the company in an adverse way... Patent trolls are greed mongers who use the tactics of fear and ambiguity of certain patents to intimidate small companies to settle upfront and [the trolls] use these proceeds to continue that pattern of behavior."*

Yet, a letter from another company noted, *"If you are a printer then you are highly likely to be sued for \$100k to \$300k soon,"* referring specifically to RR Donnelley as the accuser working through a patent troll, CTP Innovations. The letter continued, *"They are suing the printers first... RR Donnelley is now going after the printers' vendors... I have never felt such injustice in my life in going through the process that RR Donnelley has put me through."* Again, the perception was that RR Donnelley, as the previous owner of the patents, is responsible for the infringement lawsuits being imposed on printing companies. As will be noted later, RR Donnelley explains this misperception.

I received a phone call from a young lady running a small design studio with her husband. She was nearly in tears with fright after receiving an intimidating letter threatening a lawsuit if a licensing fee for a small piece of equipment and its application, commonly used by graphic artists, is not paid.

WhatTheyThink, the printing industry's daily newsletter circulated worldwide, addressed the patents in question: *"The history of the patent starts in 1996 when Moore Business Forms, Inc., (now R.R. Donnelley) filed the patent application. The patent was granted January 4, 2000. In March of this year, the patent was updated to formally assign the ownership to R.R. Donnelley. The change of assignment from the Moore business to R.R. Donnelley was most likely in preparation for a sale or licensing of the patent to High Quality Printing Inventions, LLC. At the time of publication, R.R. Donnelley has not responded to requests for comment on the current ownership of the patent, its relationship or business dealings with High Quality Printing Inventions, LLC."*

"According to legal database searches, High Quality Printing Inventions, LLC has filed at least 32 patent

infringement cases against 35 printing companies that have web-enabled print capabilities as a primary outlet for their businesses... the current list of defendants is likely an initial phase in a scheme to shake money from printing companies. The current defendant list appears to be a strategic mix of small, medium and large printing companies.” (26)

InfoTrends, a leading research organization for the printing industry wrote, *“When a patent troll sends a claim for patent infringement to a smaller organization, company survival can be at stake because of the financial impact. These trolls can ask upwards of one hundred thousand dollars for the company to just use the technology that the patent addresses. This is a huge issue for any company, but it is particularly onerous for small companies as they generally do not have the funds for a legal battle, and have few options but to pay the settlement... In the graphics and print industry, patent trolls are proving to be a daunting problem. A print service provider may not have even heard about patent trolls until they are hit with a patent infringement suit on a technology that they use every day, including printing technologies, software, and solutions that they themselves have purchased from reputable companies.” (27)*

The scenario of patent troll intimidation is being repeated across the industry. When exploring attorney assistance in these matters, the companies threatened or sued are learning that attorney fees, often starting at approximately \$250,000, can be even greater than the license fees being requested. Hence, they are “between a rock and a hard place” and some have paid the trolls out of intimidation and fear.

In exploring whom these troll “shell” companies are, most of the accused allegedly infringing companies did not know because there are no individuals named or contact information given such as street addresses, phone numbers, etc., only contact information for the attorneys representing the trolls. However, the officers of two of the companies sued suspected that they were set-up by RR Donnelley, as a means for collecting license fees from printers, equipment manufacturers and distributors, and from related companies.

My impression was that RR Donnelley had sold these patents, certainly a right that they had, and had relinquished any financial interests in them. However, in digging deeper into Corporate Disclosure Statements as part of public documents filed with various United States District Courts, the RR Donnelley name did appear as a company “...having financial interests in the outcome of [these cases.]”

The following is one example.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TAYLOR PUBLISHING COMPANY,	§	
	§	
Plaintiff/Counter-Defendant,	§	
	§	Civil Action No. 3:13-cv-2222-K
v.	§	
	§	JURY TRIAL DEMANDED
CTP INNOVATIONS, LLC,	§	
	§	
Defendant/Counter-Plaintiff.	§	

CORPORATE DISCLOSURE STATEMENT

Plaintiff CTP Innovations, LLC (“CTP”), by and through counsel, pursuant to Rule 7.1 of the Federal Rules of Civil Procedure and Local Rule 7.4, hereby states as follows:

CTP is wholly-owned by Media Innovations, LLC. No publicly held company owns 10% or more of CTP’s stock.

CTP, Media Innovations, LLC, R.R. Donnelley & Sons Company, and Baker Donelson Bearman Caldwell & Berkowitz, P.C. have financial interests in the outcome of this case.

Date: June 27, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

On June 27, 2013, I electronically submitted the foregoing document with the clerk of court for the United States District Court, Northern District of Texas, using the electronic case filing system of the court per Local Rule 5.1. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Donald Puckett
Donald Puckett

This was a surprising finding, considering that RR Donnelley, as one of the largest commercial printing companies in the world, appeared to be operating as a troll and exploiting resources from companies within its own industry through fear and intimidation tactics.

Recognizing that RR Donnelley is a long-standing, highly respected company within the printing industry, and as an advocate for the industry, I contacted the company for an explanation. This provided RR Donnelley the opportunity to explain any misunderstandings, if there were any, regarding the company's ownership of the patents and financial interests in them.

RR Donnelley's Response

In a response to a letter requesting clarification, RR Donnelley provided the following authorized statement.

"RR Donnelley would like to provide feedback...to clarify some apparent misunderstandings regarding the three HQPI and CTP patents that you reference in your letter (the 'Patents')."

1. RR Donnelley ("RRD") no longer has any ownership interest in the Patents.
2. RRD has no ownership interest in the plaintiffs that are asserting the Patents.
3. As RRD no longer owns the Patents, and has no ownership interest in the plaintiffs, RRD has no ability to control the assertion of the Patents.
4. RRD has no financial interest in the HQPI patent. We are owed compensation from the purchaser of the CTP patents. We believe this is why RRD has been identified in certain pleadings as having a financial interest.
5. RRD retained a license to use all of these Patents. All work that RRD performs for its customers is licensed under these Patents. Similarly, any work that a vendor performs for RRD is likewise licensed under these Patents.

The Patent Trolls Lose and the “Good Guys” Win One – *The HQPI Cases Dismissed!*

Print service providers and OEMs, please pay careful attention to the following. It demonstrates the wisdom of not giving in to greed and extortion meant to decimate your business and industry.

In an uncertain economy with unpredictable upward and downward fluctuations, businesses should protect themselves through an understanding of forces aimed at disruption, causing companies to decline and employees to lose jobs. The printing industry is particularly vulnerable because such forces come not only from within the industry, but from competing media industries as well as from companies demonstrating unethical business practices and having no interests other than greed.

Patent trolls attempting to extort funds from print service providers and OEMs by claiming patent infringement, mostly on bad patents that can easily be invalidated through Prior Art, is a growing issue. **However, there is now a strategy worth consideration to curtail patent trolls.**

An amazing thing happened, and I’d like to think that WhatTheyThink and a series of three articles I had published on the patent troll matter, also adopted by other leading graphic arts publications, played a role in instigating this. I sense that it was the “power of the press” and investigative reporting that brought to light one of the most devious, unethical, and immoral behaviors aimed at destroying the printing industry and its honorable companies and hardworking employees. This applies not only to small, medium, and large print service providers, but to OEMs as well that invest research and development dollars, and build applications to help improve and build the printing industry.

The HQPI Cases Was Dismissed!

In one of the latest and most visible cases, High Quality Printing Innovations (HQPI) a shell company, under the troll company name of Modern Universal Printing, LLC first threatened litigation and then sued numerous print service providers and OEMs for the alleged infringement of technology involving digital design stations.

All of the lawsuits were dismissed when the targeted companies refused to pay license fee demanded by the troll companies.

See the following Court Reporter’s Transcript of the Proceedings (March 31, 2016) before a United States Judicial Panel on Multidistrict Litigation. This was a six-judge panel.

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UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE: HIGH QUALITY PRINTING)
INVENTIONS, LLC, ('070'))
Patent Litigation.)
) Docket No.
) No. 2690
)

REPORTER'S TRANSCRIPT OF THE PROCEEDINGS
THURSDAY, MARCH 31, 2016

- EN BANC:
JUDGE SARAH S. VANCE, Chair
JUDGE MARJORIE O. RENDELL
JUDGE CHARLES R. BREYER
JUDGE LEWIS A. KAPLAN
JUDGE ELLEN SEGAL HUVELLE
JUDGE R. DAVID PROCTOR
JUDGE CATHERINE D. PERRY

TARA SANDFORD, RPR, CSR #3374
taracsr3374@hotmail.com
Official Court Reporter

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APPEARANCES:

For Defendants Great FX Business Cards, LLC; and Posty Card, Inc.:

LEECH TISHMAN FUSCALDO & LAMPL
BY: JEFFREY G. SHELDON, ESQ.

For Defendant Staples, Inc.:

DLA PIPER
BY: NICHOLAS G. PAPASTAVROS, ESQ.

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Santa Barbara, California

Thursday, March 31, 2016

JUDGE VANCE: Next up is Docket 2690, In Re: High Quality Printing Inventions, LLC, Patent Litigation. And Mr. Sheldon.

MR. SHELDON: Good morning. Jeffrey Sheldon of Leech Tishman representing Defendants Great FX and Great Western. I appreciate your indulgence. I have two minutes.

No rebuttal since there is nobody to rebut against. And your indulgence in that my clients have been dismissed, and you probably noticed that everybody who signed up to argue Plaintiff dismissed.

JUDGE RENDELL: What's going on here?

MR. SHELDON: It appears that anybody who signed up to argue --

JUDGE PROCTOR: Should we delay you a couple of months and allow everyone else to file and join your motion to centralize these cases?

MR. SHELDON: No. We're opposed to centralization.

JUDGE PROCTOR: I'm joking. They will be dismissed.

MR. SHELDON: It is sort of whack-em-all.

1 Anybody who sticks their head up gets dismissed
2 temporarily. And that's the concern. I think at that
3 point we know there is less than ten cases pending and
4 maybe less than five. We don't know how many cases are
5 pending. We don't know where they are pending.

6 JUDGE RENDELL: Tell us about the dismissals.
7 What is going on here? A lot of these are being
8 dismissed without prejudice?

9 MR. SHELDON: Yes, exactly. Our particular
10 situation, we filed a Rule 11 motion and we got
11 dismissed. I was all excited.

12 And then everyone else is getting dismissed
13 without filing the motions. In the Northern --

14 JUDGE VANCE: Dismissed without prejudice?

15 MR. SHELDON: Without prejudice. In Northern
16 District of California, they filed invalidity motions.
17 Dismissed.

18 JUDGE KAPLAN: Has anybody realized that by
19 filing an Answer a stop could be put to this?

20 MR. SHELDON: Hindsight, yes, we did, but our
21 cases were stayed before we even got to oppose the stay.
22 We didn't even have an opportunity to file an Answer.
23 So --

24 JUDGE VANCE: I think we get it.

25 MR. SHELDON: As a matter of policy, this

1 should not be rewarded. The motion should be denied or,
2 at a minimum, give the Plaintiffs 30 days to refile
3 whatever they want --

4 JUDGE PROCTOR: Have you talked with opposing
5 counsel about these dismissals and about this upcoming
6 hearing today?

7 MR. SHELDON: My co-counsel talked to the
8 opposing counsel about the Rule 11 motions. And we
9 thought they were dismissed because of that, but now we
10 are suspicious.

11 We did not talk about the hearing. I didn't
12 realize they weren't even going to show up until today.

13 JUDGE HUVELLE: Has anybody objected on the
14 basis of Rule 42 to any of these dismissals?

15 MR. SHELDON: No. Some of the dismissals were
16 yesterday.

17 Defense counsel have been cooperating. We sort
18 of got caught by surprise. Everybody who wanted to
19 appear gets dismissed, and even people who filed
20 applications to appear late got dismissed.

21 JUDGE RENDELL: If we were to centralize,
22 wouldn't Judge Garbis in Maryland be a logical judge
23 because he knows about this type of --

24 MR. SHELDON: I don't know why he would know
25 about this type of patent versus any other type of

1 patent.

2 JUDGE VANCE: He has a similar case.

3 MR. SHELDON: That I don't know. I don't
4 recall reading that in the papers. I am not saying
5 that's not true. I don't know.

6 My client didn't want centralization. But if
7 we were going to be in the Northern District of
8 California but everybody in the Northern District of
9 California has been dismissed.

10 JUDGE PROCTOR: I like that attitude.

11 JUDGE VANCE: Mr. Papastravros.

12 MR. PAPASTAVROS: Thank you, your Honor.

13 Many of the points I wanted to articulate were
14 made by my brother Mr. Sheldon.

15 But what I really want to do is try to shed a
16 little bit of light on what I think has been going on
17 here. We started with about 32 cases. I think we're
18 down, at last check, and you know it varies by the
19 minute apparently, but we're down to about six or eight
20 cases. None of those parties presented -- made notices
21 of presentment to the Court. So they are obviously not
22 here to argue.

23 I represent Staples. I did make a notice of
24 presentment. We were the only Northern District of
25 Georgia case. We were dismissed two days ago. I

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1 already had plans to be out here.

2 JUDGE RENDELL: You are taking no position?

3 MR. PAPASTAVROS: Not with respect to
4 centralization. With respect to venue I am.

5 We have been dismissed. We're the only case in
6 the Northern District of Georgia. We don't believe any
7 centralization would be appropriate there. If
8 centralization were appropriate, we believe either
9 Illinois or California would be the appropriate venues.

10 JUDGE VANCE: What is your take on what is
11 going on? Dismissing people who could argue against
12 centralization?

13 MR. PAPASTAVROS: The concern is tagalong
14 actions. The concern is there will be some decision by
15 the panel to centralize. And one of you mentioned about
16 dismissal without prejudice. That is our real concern
17 here. These will get refiled and Plaintiff will attempt
18 to get us back in the game.

19 JUDGE HUVELLE: Plaintiff is not here to argue
20 for centralization, and you are not arguing for
21 centralization. As far as we know, there is nobody
22 else. What position should we be taking here on
23 centralization with nobody -- or why shouldn't we not
24 centralize?

25 MR. PAPASTAVROS: I would think -- we have not

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1 taken that position at this point in time.

2 Circumstances have changed significantly since the
3 beginning of this.

4 I would agree with your Honor at this point.

5 JUDGE VANCE: Thank you. You have anything
6 else? You have a little time. Anything else you want
7 to say? I think you may be ahead.

8 MR. PAPASTAVROS: What I might say, your Honor,
9 I mean, I know a number of Defendants may be pursuing
10 motions for costs in the circumstance, a lot of expenses
11 paid. It would be appropriate to freeze the assets of
12 the Plaintiff to allow us to pursue those costs.

13 JUDGE RENDELL: We don't have that authority.

14 MR. PAPASTAVROS: I thought it might be a bit
15 of an overreach.

16 JUDGE HUVELLE: I thought we were supposed to
17 treat them like whackables.

18 MR. SHELDON: I take responsibility for putting
19 that bug in his ear.

20 JUDGE VANCE: Did you want to say something?

21 MR. SHELDON: Just a policy thing. I mean, at
22 this point it gives patent trolls a bad name. I mean a
23 good name. This is the worst of the worst. If this is
24 allowed, every patent troll is going to do this.

25 JUDGE HUVELLE: My question is, would

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1 centralization prevent it better than leaving it the way
2 it is which you described as whackable?

3 MR. SHELDON: Leave it the way it is. If they
4 refile, we are going to file summary judgment motions
5 for noninfringement and invalidity motions will get
6 filed again in the Northern District, which will kill
7 the patent. They have been prepared, been filed. Don't
8 centralize.

9 JUDGE RENDELL: Presumably, if they refile
10 these without prejudice, then there'll be more of a
11 critical mass and maybe see you again.

12 MR. SHELDON: That's possible. But right now,
13 this panel doesn't have the facts. Who is really going
14 to be subject to this case? It is probably going to be
15 more tagalongs than original people.

16 JUDGE BREYER: If it is refiled, you could
17 dispose of the case earlier than this panel can act on
18 it.

19 MR. SHELDON: We are really little defendants
20 and the cost of MDLs is horrendous. They are not going
21 to pay the troll. They are not going to pay them.

22 JUDGE PROCTOR: Should we understand your
23 position to be this: I would call them a patent troll
24 but that would offend all the patent trolls.

25 MR. SHELDON: Well said, your Honor.

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JUDGE VANCE: Thank you very much.
(Hearing concluded.)

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

**IN RE HIGH QUALITY
PRINTING INVENTIONS, LLC
PATENT LITIGATION**

§
§
§
§
§

MDL No. 2690

**HIGH QUALITY PRINTING INVENTIONS, LLC'S
SUPPLEMENTAL INFORMATION**

Plaintiff High Quality Printing Inventions, LLC ("HQPI"), by and through the undersigned counsel, respectfully submits this Supplemental Information regarding dismissal of additional cases. This Supplemental Information is provided to advise the Judicial Panel on Multidistrict Litigation (the "Panel") as to new developments occurring after HQPI's Motion to Transfer and Consolidate for Pretrial [Dkt. 1] (the "Motion") and other Supplemental Information notices [Dkts. 79, 80, 81, 112, 115, and 118] were filed.

Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) in the following cases:

1. *High Quality Printing Inventions, LLC v. Office Depot, Inc.*, Case No. 9:15-cv-81608-JJC (Southern District of Florida);
2. *High Quality Printing Inventions, LLC v. Barton Cotton Affinity Group, LLC d/b/a Holiday Card Center*, Case No. 1:15-cv-03604-MJG (District of Maryland);
3. *High Quality Printing Inventions, LLC v. Deluxe Small Business Sales, Inc.*, Case No. 15-cv-04253-DWF-TNL (District of Minnesota); and
4. *High Quality Printing Inventions, LLC v. Safeguard Business Systems, Inc.*, Case No. 3:15-cv-03796-N (Northern District of Texas).

Dated: April 6, 2016

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
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/s/ Samuel F. Miller

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*Counsel for Plaintiff High Quality Printing
Inventions, LLC*

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE HIGH QUALITY	§	
PRINTING INVENTIONS, LLC	§	MDL No. 2690
PATENT LITIGATION	§	
	§	
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HIGH QUALITY PRINTING INVENTIONS, LLC'S
SUPPLEMENTAL INFORMATION

Plaintiff High Quality Printing Inventions, LLC ("HQPI"), by and through the undersigned counsel, respectfully submits this Supplemental Information regarding dismissal of additional cases. This Supplemental Information is provided to advise the Judicial Panel on Multidistrict Litigation (the "Panel") as to new developments occurring after HQPI's Motion to Transfer and Consolidate for Pretrial [Dkt. 1] (the "Motion") and other Supplemental Information notices [Dkts. 79, 80, 81, and 112] were filed.

Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) in the following cases:

1. *High Quality Printing Inventions, LLC v. OvernightPrints, Inc.*, Case No. 2:15-cv-02234-GMN-VCF (District of Nevada); and
2. *High Quality Printing Inventions, LLC v. Moo, Inc.*, Case No. 1:15-cv-00500-S-LDA (District of Rhode Island).

HQPI further advises the Panel that notices of dismissal for all cases involving defendants who requested oral argument before the Panel have been filed.

Dated: March 30, 2016

Respectfully submitted,

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BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE HIGH QUALITY	§	
PRINTING INVENTIONS, LLC	§	MDL No. 2690
PATENT LITIGATION	§	
	§	
	§	

HIGH QUALITY PRINTING INVENTIONS, LLC'S
SUPPLEMENTAL INFORMATION

Plaintiff High Quality Printing Inventions, LLC ("HQPI"), by and through the undersigned counsel, respectfully submits this Supplemental Information regarding dismissal of additional cases. This Supplemental Information is provided to advise the Judicial Panel on Multidistrict Litigation (the "Panel") as to new developments occurring after HQPI's Motion to Transfer and Consolidate for Pretrial [Dkt. 1] (the "Motion") and other Supplemental Information notices [Dkts. 79, 80, 81, and 112] were filed.

Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) in the following cases:

1. *High Quality Printing Inventions, LLC v. OvernightPrints, Inc.*, Case No. 2:15-cv-02234-GMN-VCF (District of Nevada); and
2. *High Quality Printing Inventions, LLC v. Moo, Inc.*, Case No. 1:15-cv-00500-S-LDA (District of Rhode Island).

HQPI further advises the Panel that notices of dismissal for all cases involving defendants who requested oral argument before the Panel have been filed.

Dated: March 30, 2016

Respectfully submitted,

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BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE HIGH QUALITY §
PRINTING INVENTIONS, LLC § MDL No. 2690
PATENT LITIGATION §
 §
 §

HIGH QUALITY PRINTING INVENTIONS, LLC'S
SUPPLEMENTAL INFORMATION AND WAIVER OF ORAL ARGUMENT

Plaintiff High Quality Printing Inventions, LLC ("HQPI"), by and through the undersigned counsel, respectfully submits this Supplemental Information regarding dismissal of multiple cases. This Supplemental Information is provided to advise the Judicial Panel on Multidistrict Litigation (the "Panel") as to new developments occurring after HQPI's Motion to Transfer and Consolidate for Pretrial [Dkt. 1] (the "Motion") and other Supplemental Information notices [Dkts. 79, 80, and 81] were filed.

Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal or Stipulations of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) in the following cases:

1. *High Quality Printing Inventions, LLC v. Digital Room, Inc. d/b/a Prinrunner.com, Next Day Flyers, Uprinting.com, Youprint.com, and Printsmadeeasy.com*, Case No. 2:15-cv-09170-JAK-MRW (Central District of California);
2. *High Quality Printing Inventions, LLC v. Shutterfly, Inc.*, Case No. 5:15-cv-05437-EJD (Northern District of California);
3. *High Quality Printing Inventions, LLC v. Zazzle, Inc.*, Case No. 5:15-cv-05438-EJD (Northern District of California);

4. *High Quality Printing Inventions, LLC v. Minted, LLC*, Case No. 5:15-cv-05440-EJD (Northern District of California);
5. *High Quality Printing Inventions, LLC v. FineStationery.com*, Case No. 1:15-cv-01092-RGA (District of Delaware);
6. *High Quality Printing Inventions, LLC v. Worldwide Tickets and Labels, Inc.*, Case No. 9:15-cv-81609-WPD (Southern District of Florida);
7. *High Quality Printing Inventions, LLC v. Invitation Consultants, Inc.*, Case No. 8:15-cv-02750-VMC-MAP (Middle District of Florida);
8. *High Quality Printing Inventions, LLC v. Staples, Inc.*, Case No. 1:15-cv-04117-ELR (Northern District of Georgia);
9. *High Quality Printing Inventions, LLC v. Cimpress USA Incorporated d/b/a Vistaprint*, Case No. 1:15-cv-13962-RGS (District of Massachusetts);
10. *High Quality Printing Inventions, LLC v. Posty Cards, Inc.*, Case No. 4:15-cv-00943-BP (Western District of Missouri);
11. *High Quality Printing Inventions, LLC v. Great FX Business Cards, Inc.*, Case No. 6:15-cv-03510-S-MDH (Western District of Missouri);
12. *High Quality Printing Inventions, LLC v. PrintingForLess.com, Inc.*, Case No. 1:15-cv-00122-SPW (District of Montana);
13. *High Quality Printing Inventions, LLC v. Printograph, Inc. d/b/a GotPrint*, Case No. 3:15-cv-03795-M (Northern District of Texas); and
14. *High Quality Printing Inventions, LLC v. Luxe Cards, LLC d/b/a Purple Trail*, Case No. 2:15-cv-01858-JLR (Western District of Washington).

HQPI further advises the Panel that notices of dismissal for all cases involving defendants who requested oral argument before the Panel have been filed. Accordingly, because there are no other defendants that have requested oral argument, Plaintiff waives oral argument on the Motion for Consolidation.

Dated: March 29, 2016

Respectfully submitted,

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CALDWELL & BERKOWITZ, P.C.

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*Counsel for Plaintiff High Quality Printing
Inventions, LLC*

Understand that under a condition of “without prejudice,” the Complaint put forth by the plaintiff may be resubmitted within one year. However, this happening is highly unlikely because of the costs that would be imposed on the plaintiff, and the likelihood of failure due to Prior Art that would invalidate the patent in question. There is no doubt that there would be an aggressive push to invalidate the patent should this particular matter reemerge.

A Little More Background

The plaintiff, HQPI, through its counsel, Baker Donelson Bearman Caldwell & Berkowitz, P.C., pushed for settlement in all of the individual cases against the print service providers and OEMs. They initially were asking a six-figure amount for the right to use the technology allegedly being taught by Patent No. US 6012070 A – “DIGITAL DESIGN STATION PROCEDURE.” Recall that this was a patent originally assigned to Moore Business Forms, and then became an RR Donnelley patent when RR Donnelley purchased Moore.

When the six-figure license fee was rejected by nearly all of the defendants, the licensing asking-fee dropped to about nearly one-half. With virtually no takers at this amount, the plaintiff, out of desperation to “extort” at least some funds from the defendants, dropped their asking price to a few thousand dollars. The legal counsel representing the defendants rejected even this on behalf of its clients.

The plaintiff soon came to realize that they would be receiving nothing from nearly all of the defendants, yet speculation is that they were probably being billed huge legal fees by their counsel for services provided. Hence, all of the cases against existing defendants were dismissed, as continuing to fight this, with the likely of losing an invalidity contention counter suit, would create further huge expenses. I note “existing defendants” because, unfortunately, a few of the defendants did enter into settlement agreements, likely for lesser amounts than the original asking fee for the licenses. I understand that there were only a few.

My articles on the impact of patent trolls on the printing industry went “viral” after being published by WhatTheyThink.com. They reached the Courts and were taken into consideration, possibly motivating the judges to let the blanket dismissal sit without allowing the plaintiff to argue its case further. The judges probably now better understand the debilitating and counter-productive behaviors of patent trolls more than ever before. In fact, the Court transcript notes that the plaintiff’s counsel didn’t even show-up at the hearing. This in-and-of-itself is very telling.

Communications with RR Donnelley

I have been in communication with RR Donnelley. However, I must honor their request for confidentiality in not revealing the names of anyone that I have been in contact with.

RR Donnelley’s position, previously noted, is what I had consent to quote and publish. After my first article was published, first by WhatTheyThink and then by other popular industry publications, I sent it to my RR Donnelley contact, including all of the responses that were received. I pointed out to RR Donnelley that regardless of their published position, the industry was still skeptical of the company’s role in supporting and benefiting from the trolls. I asked if RR Donnelley would like to further respond in a follow-up article, further assuring the industry that the company had no financial interest in licensing fees paid to the trolls. I received the following response.

Thank you for your message. ...At this time, I am not authorized to make any further statements on behalf of RR Donnelley. However, I appreciate your inquiry.

This left the sense of skepticism within the industry open regarding RR Donnelley’s role. However, I take the optimistic position and hypothesize that bringing the matter to the forefront of the industry may have inspired RR Donnelley to consider the immense pressure that the lawsuits placed on honorable industry companies, and that RR Donnelley supported the dismissal of the HQPI litigations.

So What of the CTP Innovations Cases?

These cases also have long lists of defendants comprised of print service providers and OEMs allegedly infringing on patents focused on printing communication networks and generating printing plates.

I've been informed that hearings are pending on the CTP cases. I am of the impression that the CTP matter could conclude in a similar fashion to the HQPI cases if all defendants do not give in to the trolls and do not agree to settlements, regardless of what the troll is willing to settle for. I will report on this once further information becomes available.

As an example of how devious patent trolls are, CTP Innovations has absolutely nothing to do with the printing industry. They are not printers, OEMs, distributors, or dealers. They are a shell company with no address and no employees. Yet they have selected a name, CTP, to lead those accused of patent infringement to believe that they are a company that develops printing industry technology. Those of us in the printing and related industries know that CTP stands for "Computer-to-Plate." The only contact information provided is that of a law firm that likely registered the shell company name on behalf of itself and/or on behalf of others with financial interests in receiving license fees. It is noteworthy that the law firm Baker, Donelson, Bearman, Coldwell & Berkowitz is the plaintiff counsel for both the CTP and HQPI cases.

The Printing Industry Speaks Out—Impact on Companies and Major Concerns

Unfortunately, companies threatened by patent trolls are often inexperienced in dealing with lawsuits, are intimidated by being served legal warrants, cannot afford to retain attorneys, and some give in to the demands of trolls. **I am again urging those in the printing and related industries to not give in to the demands of patent trolls, but to contact attorneys and other experts working diligently to protect businesses and individuals from patent troll extortion.**

As previously noted, such extortion typically comes in the way of demands for expensive license fees for using some very basic office or production equipment needed to conduct day-to-day business. Some examples are scanners, copy machines, web-to-print technology, and the likes.

Also as previously noted, the licensing fees being asked could be in the six-figure range and, hence, very scary to the small-business person working hard to eke out a living to support a family and to support jobs for employees. The claim typically made by trolls is that the accused is using equipment that has one or more parts described in an obscure patent that was sold to a troll in an attempt to monetize it. The assignee to the patent at some point may have come to realize that the patent is of questionable value and sought a troll to intimidate people and businesses using technology or applications that are even remotely taught by the patent. The troll then claims infringement and threatens a lawsuit if a license fee is not paid by a certain time.

The dismissal of the HQPI cases show that trolls represent more of a threat than action on a threat, and that alleged infringers should not give in to troll demands.

Industry Responses

The following provides some of the responses received by those threatened and sued, with advice on how to proceed should a print service provider or OEM be faced with a patent infringement claim. It is obvious from the responses that the patent troll matter in the printing industry has elicited some highly emotional reactions and major concerns.

Excellent article in summarizing a complex, challenging, and to many a very frustrating topic. With our industry being a large and fragmented one, we have a target-rich environment for these firms.

As you have stated in numerous instances, a joint effort may be the best approach, but it's also not as simple and/or inexpensive as some might desire.

Regardless, you have raised the issue, and more importantly clarified the RR Donnelley questions that had many in the industry concerned.

As to the question posted [above] -- if one finds themselves in the targeting sights of a "Troll," contact an attorney who is KNOWLEDGEABLE regarding intellectual property. Each case is different and requires an attorney to assist. Harvey is a great resource, but no offense to him, an attorney is the place to start.

I just finished reading your article on the patent troll issue. It is very well written and comprehensive.

RR Donnelley's explanation does not quite wash. HQPI disclosed in filings that both their hired law firm and RR Donnelley retain a financial interest in the litigation. In the case of the law firm, that certainly means a contingency fee. I believe it means the same for RR Donnelley, which is why they had to be listed as retaining a financial interest in the litigation. If they were merely owed a fixed amount for licensing the patents, they would not have a financial interest in the litigation, because they would be owed that amount regardless of outcomes.

We were approached by a troll a few years ago about one of our patents, which broadly covers e-commerce sales of commercial printing. We got it for defensive purposes, and would never assert it against a fellow printer. Nonetheless, we asked them to provide their draft agreement. Under the agreement, we would have assigned ownership to them, retained a license to use ourselves, and it gave them the right to assert the patents. They would have paid us nothing up front, but we would have received a cut of any settlements they extracted or were awarded at trial. It is likely this is exactly what RR Donnelley signed, which is why they retain a financial interest that had to be disclosed in court filings. And really, do you think RR Donnelley would assign a patent to a brand new shell company without receiving a cash payment, if the sale price were fixed? Patents are like domain names, the money goes into escrow, the transfer occurs, and then the funds are released from escrow to the seller. Once the USPTO has recorded a new owner of a patent, ownership can only be transferred by the listed owner.

RR Donnelley's careful wording, 'We are owed compensation from the purchaser of the CTP patents,' leaves wiggle room. Try asking them what is the amount of compensation owed, is it fixed, and why would they transfer a valuable IP asset to a brand new shell company with no credit history, and not get cash payment up front?

I think they are being deceitful. Ask them to prove that they have no financial interest by showing you the contract between them and the troll.

Thank you for your work exposing this issue.

You say to contact a lawyer, but the article says that fees often start at \$250K, which is beyond the range many print shops can afford.

Below, as an example, is a redacted and edited for brevity troll extortion letter. Note the vagueness ('likely reason to believe,' etc.). - IMHO there's a lot of fishing going on that uses intimidating words to get the info they don't actually have. They're getting you to self incriminate by providing them the information they don't have. In fact, the way it's worded seems to allow you to ignore the letter if you don't think you're infringing! (You have to answer yes to ALL the questions in any one of the four choices presented. If you can't answer YES to ALL the questions in any one of the choices then you can probably safely ignore the letter.

April 19, 2013 FOR IMMEDIATE ATTENTION

Re: Notice of Likely Infringement of U.S. Patent Nos. 6,611,349 and 6,738,155 Our Reference No:

.....

To Whom It May Concern:

Our firm represents CTP Innovations LLC ("CTP"). You are receiving this letter because CTP has reason to believe that you are using its patented technology without a license to do so. The purpose of this letter is open a conversation with you regarding your obtaining a license and avoiding the necessity of CTP's filing a lawsuit in federal court for patent infringement against...

This letter describes (1) the subject matter of the two patents-at-issue; (2) how you likely have an infringing system; (3) why you need a license; and (4) the terms of a proposed license to resolve this matter in a non-adversarial manner as soon as possible. Please note that this is not an advertisement or other material that should be discarded. We ask that you read this letter in its entirety.

We have directed this letter to you specifically because publicly available information suggests that you are the correct person at your company with whom to open the conversation. If this is incorrect, we would greatly appreciate your directing this letter to the appropriate person within your organization and/or providing that person's name and contact information to us.

The two relevant patents are as follows, and you can review these patents at www.google.com/patents by entering the numbers: (a) U.S. Patent No. 6,611,349 ("System and Method of Generating a Printing Plate File in Real Time Using a Communication Network") and (b) U.S. Patent No. 6,738,155 ("System and Method of Providing Publishing and Printing Services Via a Communications Network").

One aspect that these patents relate to is networked computer-to-plate ("CTP") workflow technology. Our initial investigation indicates that your company generates and uses CTP files in a networked environment. To help you confirm that you come within the scope of the aforementioned patents, below are a brief set of fact checklists. If you answer "YES" to all of the boxes in any one of Choice A through D, it is highly likely that you infringe one or both of the patents and you should promptly contact us.

CHOICE A

- Have you stored via a network high resolution documents or files?
- Have you generated lower resolution files corresponding to the high-resolution files?
- Have you provided the lower resolution files over a network for designing a page layout?
- Have you generated a plate-ready file from the page layout?
- Have you provided the plate-ready file to a networked printer?

CHOICE B

- Have you provided access (e.g., send or make available over a network) to images over a network and those images are used to design a page layout?
- Have you linked the images in creating a thin Postscript file from the page layout?
- Have you replaced the low resolution images with high resolution images in the Postscript file?
- Have you created a PDP file from the Postscript file?
- Have you converted the PDP file to a plate-ready format?

CHOICE C

- Have you stored high-resolution files on a computer server?
- Have you generated low-resolution files that correspond to the high-resolution files?
- Have you provided (e.g., send or make available via access over a network) the low- resolution files for designing a page layout?
- Have you generated PDF files from the page layout?
- Have you provided (e.g., send or make available via access over a network) the PDF file?
- Have you provided a plate-ready file to a networked printer?

CHOICE D

- Have you stored files such as images, text, or data on a computer server?
- Have you provided (e.g., send or make available via access over a network) these files over a network for designing a page layout?
- Have you generated PDF files from the page layout?
- Have you generated a plate-ready file from the PDF file?
- Have you provided the plate-ready file to a networked printer?

Please note that Choices A through D above do not comprise an exhaustive list of infringing workflows, and it may be determined that you nevertheless require a license even if your workflow does not exactly fit within Choices A through D.

Most businesses, upon learning that they are infringing another's patent rights, desire to operate lawfully and enter into a license promptly. We anticipate that you will respond likewise. As such, we are willing to offer a fully paid-up, one-time license for a cost of a total of \$75,000 for both patents if we are able to reach an agreement in the next two weeks and a license of \$95,000 if we are able to reach an agreement in the next three weeks. This license would include past, present, and future uses of the technology.

Recipients of a letter of this nature commonly ask why we are not contacting the manufacturers involved in the CTP process. The answer is that CTP Innovations' patent rights most directly address a printer's workflows. In this particular context, we expect if you review your agreements with a manufacturer, you will find that the manufacturer does not owe you any indemnification duty. Even if it does exist, the indemnification obligation does not shift any case against you; instead, it creates a separate matter between you and the manufacturer to resolve. It will not stay any legal action against you.

We invite you to consult with a patent attorney regarding this matter. There can be serious consequences for patent infringement. Infringers who continue to infringe despite having an objectively high risk of infringement of a valid patent can be liable for triple the actual damages and the patent owner's litigation costs, including all attorney fees and expenses.

Please contact us within two weeks of this letter's date, so we can agree upon a license, if one is necessary. Please feel free to contact by email at... or by telephone at to discuss further.

We look forward to resolving this matter promptly with you.

Sincerely, ...

Following up on the extortion letter I posted. The letter refers to two patents:

*US patent 6611349 B1 Filing date 30 Jul 1999 published 26 Aug 2003
System and method of generating a printing plate file in real time using a communication network*

*US patent 6738155 B1 Filing date 30 Jul 1999 published 18 May 2004
System and method of providing publishing and printing services via a communications network*

Note the filing dates. IMHO CtP/workflow vendors were doing the things covered by those patents years before those patents were filed let alone published. I doubt those patents have any validity - but I'm not a patent lawyer.

I think an organization, like the PIA, could afford to hire the lawyers needed to invalidate those two patents.

There is plenty of prior art to quell this problem. Years ago I wrote a series of articles for High Volume Printing -- a very public domain publication at the time -- that describe a workflow that we were developing for a

customer. Directly going to plate via a network from a data store was clearly defined in that article series. Indeed, imposing a form on the fly with metadata from a data store via network was clearly defined.

I have copies of the articles somewhere and would be glad to supply them if anyone needs them.

Patent law is not for the weak of heart. It's technical as all get out, and is a massively effective sleeping aid. PrintCo folks should not go it alone here. I hire patent firms for my clients' patent need; it is simply not my bailiwick. Having said that, I have told Dr. Levenson privately that I am aware of a patent filed in 1997 that certainly constitutes prior art. I will reach out to Harvey and Nate St. Clair with the particulars.

If RR Donnelley merely sold the patent in question, why would they have a financial interest in the outcome of the lawsuit unless they are also collecting a cut of any money awarded through litigation. In this, they not only collect money from the so called patent trolls but also allows them to keep their name from getting dragged through the mud.

I sincerely appreciate the work you've put into bringing more of this story to a wider audience. But I think you let RR Donnelley off the hook too lightly. Here's why...

From the RRD letter:

We are owed compensation from the purchaser...

So RR Donnelley DOES have a financial interest here. If the trolls don't bleed enough cash out of enough printers, fast enough, they won't be able to pay RR Donnelley. Aside from extortion, there IS no other source of revenue with which they can pay RR Donnelley.

Also from the RRD letter:

RR Donnelley retained a license to use all of these Patents...

This ensures that RR Donnelley has an unfair competitive advantage against every other printer in the USA, but only as long as the trolls persist in their extortion scheme.

Finally, the fact that RR Donnelley sold the VDP patent with less than two years of protection remaining in the patent term, points to intent on behalf of RR Donnelley to profit quickly at the direct expense (emotional and financial) of ALL of it's domestic competitors.

The VDP patent expires on November 15, 2016.

The question is not really whether these "trolls" are the epitome of greed, thoughtlessness, and unethical behavior. That is irrelevant. Almost everyone has been viewed this way once in his life.

The problem is that our "intellectual property" concept in law is horribly malleable and was designed as an academic exercise. It is a legal theory let out of the laboratory.

Bear in mind that the phrase "intellectual property" was not in common use in the legal field before 1975.

Prior to that time, issuance of patents was viewed as a CONCESSION to private interests to encourage development, a public good.

From the 1700's to the 1900's there was an erosion in practice, but the fundamental principle was clear.

The legal principle was clearly that monkey-see, monkey-do was legal and permissible unless government had seen an exceptional situation.

As a printing company CEO that is in litigation right now with CTP Innovations, I want to applaud your continuing reporting on this unfortunate practice that is adversely impacting our industry.

Congrats, I think you're the only one that is openly taking RR Donnelley to task on their ongoing involvement at this point. RRD's claim that they "are not getting license fees" is an interesting choice of words. That is, the money they receive is not the total money paid by defendants, so, it is not technically a "license fee." They also note that they are "still owed" money from CTP. In other words, the sales of these patents (years ago) were structured so that the price paid by CTP would be a percentage of the litigation recovery. Why else would they be "owed" money on a sale from years ago? What a racket.

Anyway, I do look forward your future articles and am available if you should need the perspective of someone on the front lines.

I just read an update in Plworld that you wrote.

The article was about your research regarding patent trolls and thought I would share with you one that came to my attention last summer. One of our customers is a very large direct mail and Internet company that sells shipping supplies. Their attorney contacted me a few months ago because they received a letter from a law firm representing a company that claimed to have a patent on "creating background colors on thermal transfer printing materials." In other words, a patent on flexographic floodcoating of labels used in thermal transfer printers.

This was an obvious patent troll seeking to extract money from this large corporation in the form of a licensing agreement. The packaging company attorney and I discussed the "patent" and our process of flexographic printing. During our call, he determined that he was going to ignore the letter. I thought you might find this interesting as it relates to your thesis.

That's wonderful news Harvey! And THANK YOU!

Your investigation and reporting were certainly a huge factor in getting this Amazing result, faster and cleaner than most ever imagined possible. You're a Rock Star to me and many, many other Printers around the USA!

It is clear from the responses that the patent troll matter facing the printing industry has evoked major concerns. It further points to the need to mobilize and work together, print service providers and OEM's alike, to confront these trolls head-on and to also keep the Courts, the USPTO, and our legislators aware of this growing issue impacting businesses, jobs, and the economic well-being and growth of an entire industry.

What to Do and Not to Do If Faced with an Allegation of Patent Infringement? There is Power in Numbers

First, What Not to Do

I received a number of requests asking what to do if a company is sued or threatened by a patent troll. My first advice is, **do not settle or pay anything**. You are likely not alone. Also, **do not enter into a single party litigation**. This would be quite expensive. Recall the anecdote about the dismissal of the HQPI cases. If all or most companies that are threatened by patent trolls refuse to pay anything, it becomes an expensive burden for the troll to continue filing lawsuits. **There is power in numbers!**

What to Do

In a *Wall Street Journal* article by Colleen Chien, associate professor at Santa Clara University School of Law, and former White House senior advisor, intellectual property and innovation, at the Office of Science and Technology Policy, professor Chien suggests: **Do nothing**. She suggests taking any letters claiming infringement and simply filing them. (28)

I agree. However, I further recommend that anyone being impacted by this matter **contact an Intellectual Property attorney for advice only**. One law firm to consider is Jackson Walker LLP, in Dallas, Texas and specifically attorney Nate St. Clair, a Partner in Jackson Walker's patent litigation practice group. Mr. St. Clair and the Jackson Walker firm have represented, and are continuing to work with, a large number of impacted companies in our industry to pursue the patent troll matter as a team, thereby greatly reducing the cost for any one company. Mr. St. Clair is highly knowledgeable about the matter and can be reached at nstclair@jw.com or (214) 953-5948.

Explore Prior Art

The ideal situation would be to **pursue invalidation of the patents** that trolls attempt to monetize. Such invalidation can be achieved through the discovery of existing Prior Art not previously submitted to the USPTO, but should have been, at the time of patent application.

Start developing a collection of Prior Art demonstrating that the technology "taught" in the patent(s) in question is not new but obvious to a person of ordinary skill in the field. One source of Prior Art discovery is the recently installed **Raymond J. Prince Graphic Arts Collection (RJPGAC)** at California Polytechnic State University in San Luis Obispo, California. This is the largest graphic arts library of its kind in the world featuring over 30,000 publications focused on printing technology, including software, hardware, and related areas. The documents contained within the library range from over 200 years ago to the present. Contact the Graphic Communication Institute at Cal Poly—GrCI (www.grci.calpoly.edu) or phone 805-756-2645 for information on how to access the collection for Prior Art searches.

CONCLUSION

Case Study

The companies impacted by the lawsuits imposed by the patent trolls alleging infringement feel torment, fear, and intimidation. Many have never been faced with lawsuits and are inexperienced in knowing how to deal with the matter. Most cannot afford to hire legal counsel and some are small companies attempting to provide a reasonable living for their employees. The sense of many defendants is that if there is valid infringement, it is the original equipment manufacturers (OEMs) that should be held liable, not those to whom the equipment was sold. At best, the three patents owned by the shell companies CTP and HQPI are marginal because Prior Art likely exists that was not presented to the US Patent & Trademark Office (USPTO) examiners at the time of patent application.

With regard to the RR Donnelley allegations, RR Donnelley's response explains a lot, and particularly why the RR Donnelley name is included under "financial interests" in the Court certificates. It is because the purchasers of the patents still owe RR Donnelley money for the purchases, not for any license fee received. I was always under the impression that RR Donnelley sold all of the patents outright. RR Donnelley's response confirmed my impression. I was assured by RR Donnelley that the company is receiving no money from license fees.

The Solution

Printing and related companies sued by patent trolls should not settle by paying the fees requested and should not enter into a single-company litigation that can cost even more than a settlement. Giving in to patent troll license fees or other demands will exacerbate the problem and encourage additional intimidating and threatening lawsuits in an attempt to extort funds from companies doing honest and legal business, and working hard to survive and grow, and provide employment opportunities for skilled staff members.

I am proposing that a solution is bringing together all of the companies for which a lawsuit has been filed by patent trolls, and to work as a unit in bringing the matter of alleged patent infringements before the US Patent & Trademark Office (USPTO). It is likely, for example, that the patents in question referenced in this study can be invalidated via Prior Art, as would be the case of other patent troll allegations of infringement.

For Additional Information

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