

Power Key Company Post Hearing Brief

Introduction

The evidence has come to a close and the task of making a judgement is in your hands Mr. Carley. You have heard many facts and testimonies, conflicting or otherwise, and you are now very familiar with what happened from beginning to end between the Power Key Company and IP&R.

In the pre-trial statement we assumed burden of proof with the following questions. I will show that we have overcome the burden of proof with this document, as well as with the assistance of the San Francisco District Attorney's office. The following discusses the exhibits that need attention; those that need to be shown relevance to this case.

History

The history between IP&R begins with an October 17, 2005 dated letter, Exhibit 8a, from Steve Barbarich. From their, I called IP&R and spoke with Mary. She set up an appointment to talk with someone on October 25, 2005, from 2:45 to 3:15 p.m. I was not able to make the appointment on Tuesday, so I changed it to the 26th of October. Exhibit 8b, Page 3, shows my handwriting in the middle of the page noting the above. My first contact during that phone call was Dave Stickel.

Dave Stickel and John Ruege were questioned in general in regards to what they told us prior to signing the contract. Mr. Stickel first told us in October 2005, that the campaign would cost about \$40,000, and we would get 100% of the royalties. I said we were interested, but we could not pay that amount. He quickly came up with a fee schedule, shown on the first page of Exhibit 7, which appears to be the same for everyone except that the amounts may vary. Mr. Stickel answered yes to the following question at the Hearing: Do you see how it is easy to believe that if the full campaign is \$40,000 where we would receive 100% of the royalties, that the only way to get a \$40,000 campaign is if we paid the \$40,000, or we pay a percentage of the \$40,000, and then IP&R pays the rest in exchange for a percentage of the royalties?

Exhibit 28 shows my handwritten notes. The upper right-hand corner note and the lower left-hand note are all written prior to the contract being signed. The upper right-hand corresponds to the fee schedules that Mr. Stickel presented to me over the phone around October 26, 2005. It is clear that I wrote down \$40,000 as the total. The options below that number indicate that the customer assigns a percentage of the royalties to IP&R, 10% in our case, in exchange for the difference between the paid amount, \$19,500 for our campaign, and \$40,000. I can back up the point that I expected the campaign to be \$40,000, whether we paid \$19,500 or another amount. Exhibit 19, Page 2, I write in an e-mail dated February 6, 2006, "It is after all a \$40k campaign."

Exhibit 28, upper right-hand note also includes the words "Attn: Mr. Stickel," which was written down when we were discussing the sending of the samples to him. Exhibit 3, Page 3, is the receipt for the six samples that we shipped to Mr. Stickel on October 26, 2005. Exhibit 3a is the email to Mike xxxx showing the 24 samples shipped to Mr. Gideon. The samples were to contribute to IP&R making a decision on whether or not they will "accept" us as a client. Page 2 of Exhibit 3 is our QuickBooks entry for the same transaction. Mr. Stickel was not able to remember if we discussed the sixth samples, or if he received six samples from us. He did vaguely remember us sending him Exhibit 5, which shows him the tooling for our Power Key.

In a phone conversation on or around October 27, 2005, I asked Mr. Stickel if this was a sales pitch or if this was truly urgent? Mr. Stickel told me that this was a sales pitch, but also that the shows are

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coming up in January, and they need to get started now, or we would have to wait until next year. Asking this question to Mr. Stickel at the Hearing, he responded by saying he does not remember discussing that.

Exhibit 8b underlines the following words in the document, \$100 million, very interested, we will pay for your full airfare, big royalty checks, leaders of innovation, best, and critical. It states "timing is critical in bringing your invention to market. We are meeting with manufacturers, retailers, and TV marketers this and next month, and we need something in hand to show them..." "We are your ticket to quickly getting to the right people in these firms," and "P.S. companies make their decisions in Winter for products they want to launch in spring. We hope to hear from you soon."

In a phone conversation on or around October 27, 2005, in response to my question of why a campaign would cost \$40,000, Mr. Stickel justified it to me by stating, "...think about it..." IP&R attends 10 to 12 trade shows and each of those shows have hotel and travel costs of a few thousand dollars each. At the Hearing, Mr. Stickel testified that he did not say that, nor remembers saying anything like that. Exhibit 25, Page 2, an e-mail dated June 6, 2006, I mentioned in the first paragraph, "I can note as well that we were told 12 trade shows in November, then we saw the schedule for only 5, then we see you only went to 3." Exhibit 13, Page 3, Paragraph 1, states, "We've also included in this package a Tradeshow Schedule illustrating the shows we have selected as the most appropriate for your product, Racquet string alignment tool." This quote indicates that they had already decided that these five shows were appropriate for our product. For whatever reason, they changed that and only went to three. In a brochure sent to us in the October 17, 2005 unsolicited mailing, Exhibit 8, Page 4, we read that trade shows are very important to licensing a product: "Our president estimates over 50% of our licensing deals come from people we meet at trade shows & corporate visits to manufacturers. Our dedication to traveling and hitting the major trade shows & manufacturers is key to our success." If trade shows are so important, then I imagine it would be easy to tell us they are going to attend 10 to 12, and lure us further into signing a contract. Why they would attend three trade shows when they said they were going to attend five in writing is also a mystery to us. If trade shows are where their most success is supposed to be, why the deceptive practice?

In a phone conversation on or around October 27, 2005, I was told that IP&R has a roughly 25% success ratio. I do not remember the exact number, which is why I say roughly. I do remember when going to San Francisco on November 1, 2005 to see the IP&R headquarters, that I was corrected on the number that Mr. Stickel told me. The number he told me was too high. I think Mr. Stickel might have told me 27%, and I was corrected to 25%. Exhibit 59b is a complaint by Robert Enriquez to the USPTO that he was also told by IP&R a 25% success rate. Albeit five years ago, the same owner is still running IP&R and simply denies the complaint and continues to allow it. Talking to Joann Geer on the phone in the week of March 11, 2007, whose complaint of IP&R is Exhibit 61, she mentions that they told her the same thing. After telling me her frustration and hopes that we would get all of our money back, she told me she was under a gag order and could not really discuss her complaint publicly. Exhibit 46, an MSNBC.com article dated May 8, 2004, quotes "Steve Lee, a spokesman for Invention Publishing and Research.... He said 22 percent of inventions submitted are actually licensed, but he could not say how many consumers earned more than they spent signing up with his firm." Exhibit 38 is an article in BusinessWeek.com dated November 13, 2006, and titled, Prototyping Gives Inventions a Boost. The article states that IP&R has roughly 1200 clients a year. "Of the 1,200 or so inventors who sign on per year, only a small percentage have turned a profit so far, and IP&R declined to give numbers." In Exhibit 19, Page 5, Paragraph 4, I mentioned the success rate issue again. I was so frustrated with them at this point, I told them that I did not come into this expecting failure. I will note also that I received an e-mail from Tony Newbill dated Fri 03/30/07 11:11 AM, stating "did they tell you 25% ?? I was told by Jim Phillipsen 20% . but in the report of the business summary I saw , it was like 1.5% success rate..." Mr.

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Flores will try to discredit Mr. Newbill, however, Mr. Flores tries to discredit anybody who has a complaint against IP&R; that is his job. Exhibit 38, Page 1, Paragraph 9, states, "Barbarich explains that of the 2,000 would-be entrepreneurs who approach the firm each month, about 100 become clients. About 80 prototypes are produced a month, and about six of those make it to the trade shows. Of those six, IP&R generally manufactures one a month." If IP&R generally manufactures one product a month, then they can at most produce 12 products per year. Giving them the benefit of the doubt, let's say 20 products per year, with 1200 new accounts per month, gives a success ratio of 1.6%. This is much different than the 25 or 30% that we and others have been told.

Based on the above information, we conclude that we are not the only ones who have had IP&R state a success ratio of roughly 25%. I am sure that I was told that IP&R had a roughly 25% success ratio by Mr. Stickel and was corrected by John Ruege or Scott McFaddin, while in San Francisco. I'm almost certain it was John Ruege who corrected me. Testimony from Mr. Ruege mentioned that he does remember that there was a statistic that they used back in October/November 2005. However, he does not remember what that number is.

In a phone conversation on or around October 26, 2005, Mr. Stickel stated to me that IP&R would be attending a trade show on November 15, 2005. Exhibit 4, Page 1 addresses this also. If we sign the contract now, they would be able to take our product to that trade show, along with a brochure they make up. Mr. Stickel was questioned on this topic, and he indicated he had not or could not remember anything about a November 15 trade show. I later brought up in my testimony about the November 15, 2005 trade show, Exhibit 1, Page 7, Paragraph 4, a key phrase relative to this point: "Did you hear the line about the Trade Show that's coming up so you have to get your money in right away?" The same paragraph also includes a reference to the use of a "sales script," while not uncommon in sales, it does trace a path between the claims of others as well as our own, regarding promises and/or tactics that were later found to be untrue and/or unbecoming. Exhibit 1, Page 6 states that the aforementioned employee was working in sales, directly with the customer.

Exhibit 34 is a file we received from Mr. Flores as part of Discovery. Although we did not use it at the Hearing, it was sent in the original files when our exhibits were due on March 20, 2007. We felt it to be important having reviewed the testimony from the Hearing. To further support our claim of the November 15, 2005 trade show, we note an entry on Page 4, Paragraph 1. It shows John Ruege talking to me on the phone on November 14, 2005, and writes that he is wondering what November 15, 2005 trade show Mr. Stickel told us about.

We proved that we sent our initial payment check in for \$9,750 on November 9, 2005. Mr. Stickel stated at the Hearing that he was not aware that the check came in, but he would've been told if the check did not come in or had bounced. Exhibit 6 shows that the check was delivered on November 14, 2005 at 8:45 a.m. This establishes the "Effective Date" of the contract, Exhibit 7, Page 2, to be November 14, 2005. This negates any claim by Mr. Flores that IP&R is not obligated to attend the trade show because they did not receive the check by November 15.

Asking Mr. Stickel if he works on a commission basis, his answer was that he gets a salary and a commission on top of the salary. Further testimony by Scott McFaddin backed up Mr. Stickel's testimony by stating that he would characterize the commission as a sliding scale; the more they sell, the more commission, they make. Scott also mentioned that if they sign up a client and their product gets a license, they receive about 2.5% of that royalty.

Mr. Stickel was asked if he is aware of the American Inventors Protection Act of 1999 (Act), Exhibit 72. This Act is designed to protect the inventor from fraudulent invention promotion firms, Exhibit 39 & 39a. We were not aware of this Act until researching for this case. Mr. Stickel replied that he is aware of the Act, and under questioning from Mr. Flores, he agreed with Mr. Flores that the requirements of the Act are in the contract. However, when under cross examination by me, Mr. Stickel stated that he

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did not say the above. Further questioning of Mr. Stickel revealed that he was not instructed to provide the written information that the Act calls for him to provide a potential customer, whether the customer asks for it or not. We find that if Mr. Stickel was aware of this Act, then certainly his superiors are aware of it. Being that IP&R is obligated to adhere to this Act, it would appear that they are purposefully ignoring the Act in order to gain more customers, to bring in more money. IP&R gives the potential clients no information which may deter them from working with IP&R as far as statistics are concerned with respect to the Act. The Act is for the production protection of the inventor, and it is likely that the inventor does not know about the Act before signing up with an invention promotion firm. IP&R is obligated to give us that information; that's why the act was made.

When asking about training, Mr. Stickel claims that he received six weeks of training, and he gets more training every week. I believe that six weeks of training helps them sell better, but does nothing for the customer. The Product Licensing Managers are the ones whose training is more beneficial to us because they are the ones who are actually doing the work for us.

Exhibit 1, Page 4, the last paragraph states: "Then convince people that they are 2 out of 10+ people being considered for acceptance by the "Product Selection Committee" (which doesn't exist)." We experienced this also. In fact, while in San Francisco in the conference room, I asked how they select products in this committee? I remember visualizing what the answer was, which is that they take a bunch of products and throw them in the middle of the table, and then people pick and decide which items they think would sell.

Page 6, Paragraph 3, is directly related to my questioning of Mr. Stickel. I asked him about quotas and commission stats that I found in this exhibit. "Ajay's minimum sales quota was five new accounts a month. He started paying 20% commissions on every account above five and expected his top sales reps to sell 10-12 new accounts a month regardless what the products were or if they had a chance to make money through licensing. Marketing personnel would try to hide during marketing meetings hoping not to be picked to work on most products. These meetings had a comical but sad atmosphere for all involved. I always thought to myself how bad the inventor would feel if they knew what was really going on. Sales people could not talk to marketing people and vice versa. Ajay tries to keep everyone separated." This is a good time to bring up the estimates that Scott McFaddin gave while under testimony. Mr. McFaddin mentions that IP&R has anywhere from 18 to 25 sales reps throughout the year and he generally gets about three new accounts per month. (By the way, we never had any sales reps while we were working with IP&R, and we were told that we can market and promote our product as long as we go through IP&R if we have a licensing opportunity.) Taking a conservative number of 20 sales reps, times 12 months, times 3 per month, equals 720 new clients a year. Exhibit 38, Page 1, Paragraph 9, has CEO Stephen Barbarich mentioning that they get roughly 100 new clients per month. In paragraph 10, it is stated that IP&R has roughly 1200 new clients per year. With a roughly 500 client difference between my calculations and the 1200 number above, it would indicate that there is some credibility in the quote at the beginning of this paragraph regarding the 10 to 12 new accounts per month for the top salesmen.

John Ruege was questioned as a witness. His title is Vice President of Innovations or something very similar. From our understanding in 2005, Mr. Stickel could not answer all the questions that we had. Therefore, Mr. Ruege called us on or around October 26, 2005 to answer any other questions we might have. At no time do we remember Mr. Stickel or Mr. Ruege going through the contract line by line explaining what every paragraph of the contract, Exhibit 7, means. This contradicts what Mr. Ruege said in testimony. They both did explain what some parts of the contract mean, but we were told to go through the contract thoroughly by Mr. Stickel, and then ask him of any questions that we had, rather than him going through the contract line by line with us. In the same conversation with Mr. Ruege, he and I discussed about moving forward, but I told him that I needed to talk to my partner some more.

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After this call, my partner, Mike, received a call from Mr. Ruege. Now Mr. Ruege claims under testimony at the Hearing, that I asked him to call Mike, or someone told him to call Mike. However, I told Mr. Ruege that I was going to call Mike and I would get back to Mr. Ruege. Mr. Ruege called Mike on the same day. After the conversation, my partner Mike called me and told me that Mr. Ruege was trying to get Mike to sign up and get me to move forward. Mike responded to him and told him that he needs to talk to me, because I am the one who makes the final decision. At the Hearing however, under testimony, Mr. Ruege forgot to mention this.

I asked Mr. Ruege in regards to the contract, if it is reasonable to assume that if the campaign is \$40,000 for 100% of the royalties, that if we were paying \$19,500 and giving away 10% of the royalties, that somewhere the difference between \$40,000 and \$19,500 must be made up. He agreed that that is a reasonable assumption to make. Mr. Ruege also said they might spend more than the customer paid IP&R. He says IP&R would pay the difference of up to generally around \$40,000 for a campaign. The testimony of Jeff Newbury also confirmed that IP&R pays whatever they need to pay above the amount the customer paid IP&R in order to complete the campaign. He stated that it could be \$50,000 or more. Jeff Newbury said that he is not really concerned with the money or how much they spend because he is on the marketing side.

Leading up to the Hearing, Mr. Flores made the point that we have misunderstood what IP&R does. He said that there is a difference between marketing and advertising. He stated that they do not advertise; they market the product. I asked John Ruege, if he knows what "promote" means. He was not aware that the definition for "promote" includes "advertising." On the website <http://www.m-w.com/dictionary/promote> for Merriam-Webster, the partial definition for "promote" is as follows: "to present (merchandise) for buyer acceptance through advertising, publicity, or discounting." We find the word to "promote" or a likeness of, in Exhibit 13, Page 1, and Exhibit 9, Page 2. Not only is Mr. Flores wrong that IP&R does not advertise, but IP&R's own literature says they promote and hence advertise.

While in the conference room at IP&R on our visit on November 1, 2005, I remember the following people being in that room: John Ruege, Ajay Gupta, Scott McFaddin, my partner Mike, and one of their secretaries who bought me a sandwich from downstairs. Ajay Gupta, as Mr. Ruege stated, did drop by for a few minutes. Mike and I remember Mr. Gupta stating that this is a great product, because there are not many new tennis products, and that golf is on its way down and tennis is moving up. We did not see any numbers to prove that his statistics were correct, but it was another way of luring us to retain their services. Mr. Flores questioned Mr. Ruege, asking him if he remembers Mr. Gupta mentioning anything about the tennis or golf markets going up or down. Mr. Ruege stated that "It sounded like something that Ajay would say." At the Hearing, I questioned Mr. Ruege as to whether or not he stated a number such as \$750,000 to \$1,000,000 in potential income that we might see over the course of three to four years before someone takes our idea. He answered that he does not give a monetary number because of all the different variables and he did not give us a monetary number. Mr. Ruege said that he does say that the "potential is there," but he doesn't give out numbers. I asked him, how can you say that there is potential without assigning a number to that? He reiterated what he said previously. Mr. Ruege claims, that we asked him how much we would make, but Mr. Ruege voluntarily said the dollar amount. We may have discussed potential, but we know we did not ask him how much we might make. Apparently in his rehearsed rambling of "potential," he slipped out some numbers. Mike and I know for a fact he mentioned the numbers above. I can personally see in my eyes where he sat and how he said it. We understand now that the contract says we were not to rely on anything other than what the contract says, Exhibit 7, Page 4, Number 8, but IP&R is also obligated not to give us any monetary figures or other information that is contrary to the contract, which may, and later did lead us to believe that they are hiding behind the contract after they said many things that they now deny.

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How can we argue something if they purposefully do it knowing they are protected by a lawyer and an "inventor-eating" contract?

Scott McFadden testified that he was not introduced as a project manager. I brought this up, not as a major component of our case, but simply that I understood this to be true, and had never heard from him again. Mr. Flores mentioned to us in Discovery that they had no "Scott" at IP&R that matched our description. In a conference call two weeks before the trial, he alluded to Scott McFadden, who turned out to be the correct person.

Mr. McFadden did testify that the salesmen are paid commissions through a "sliding scale." He indicated that the more they sell the higher their commission rate. His testimony also provided us that he receives a commission of roughly 2.5% for every account that he gets that receives a license. Testimony from Mr. McFadden also revealed that they are taught "persuasion techniques," or a likeness of. I believe also that Mr. McFadden mentioned that Ajay Gupta told them they are not to think of themselves as salesmen. However, if they are making commission, clearly they are salesmen. They are looking out for their pocketbook and may not be as concerned about the potential customer as the American Inventors Protection Act of 1999 is telling them to be. While on the subject of salesmen, while at IP&R on November 1, 2005, Mike and I noticed as we were leaving that there were about 30 people in a room being trained. I remember discussing with Mike that I think those are people being trained because the company is growing so fast.

The testimony of Adam Nafea was filled with long-winded answers that seemed to dance around the question. Mr. Nafea stated that he was there at the time that our brochure, Exhibit 12b, was being worked on in December 2005. He did not directly work on our project, but one of his graphic designers did. Having asked Zack Gideon, our product manager in December of 2005, what programs the art department uses, he said that they are using Publisher. Asking Mr. Nafea at the Hearing, he said that they use the common Adobe programs, which is what I expected. I asked him about our project and if he knew about all the errors, Exhibit 9, 10, 11, 12 & 12a, that we had complained about, and he said that he knew about the problems. I showed him Exhibit 8, which shows a reply e-mail from Zack Gideon referencing that someone from graphics had told him that the files that we sent them can't be used the way that we are asking them to. I responded that these are common graphics files from Adobe Illustrator, and that I can put them in EPS format. I actually agreed to do the work and can be paid \$195/hr if they would give me the files because I wanted this to be done correctly.

I asked Mr. Nafea why there were so many spelling errors on the brochures that we were given. He said that what probably happened is that when they export the files into PDF format, they lost characters in the translation. I have been doing graphics myself for five or six years and I know that font substitution does occur sometimes, but you never completely lose characters, and they don't magically become misspelled. In addition, generally you get to choose what font to substitute it with if you have to. What can happen to the text is that it may get substituted for a font that does not look the same, or in some strange and rare case, a font with symbols might fill the spot where the character was supposed to be. In Exhibit 19, Page 2, the second attempt at the brochure was sent to us. I'm inclined to believe through the multiple errors in the brochures, that they are not proofed for graphical or typographical errors. My main point of this Exhibit, is that it was signed by someone who was not our product manager, and just as importantly, it is approved with obvious spelling errors still on the page. We have spent the money, they are the professionals, and we expected them to proof their work and let us examine the overall look. We should not have to correct obvious errors.

According to the contract, Exhibit 7, Page 7, Number 3, we read that the brochure is to be delivered to the client within 45 days of IP&R's receipt of items from the client that may be useful in creating the brochure. We believe that if a client does not have any items to give them, then 45 days will start from the "Effective Date." In our case we were never asked for any materials, however, I voluntarily gave

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them images and later created an FTP account so they could download items that I put on the server because they were too large to e-mail. Although I have cleaned out the folder on the server, a folder for IP&R is still there that I created for them. In addition, Mr. Nafea said in testimony that they could create a brochure just by having the product that we gave them. They had our website as well, www.straightstrings.com. An e-mail dated November 28, 2005, that I sent to Zack Gideon includes seven pictures of the Power Key in full retail packaging. This e-mail was sent to Mr. Flores during Discovery but I did not propose it as an Exhibit. However, I have inserted and labeled it as Exhibit 71 for reference, if it is needed. The text that I wrote Zack is as follows: "Hi Zack, I got side-tracked. Here are some pics. However, I do not believe that they are going to work for you. We did not have print ready photos done. I made these work for our brochure and website. I think you can do better there. Scott." We believed that IP&R could do a better brochure than I did. We were greatly disappointed with our first draft.

In testimony we learned that Mr. Nafea was only allowed to spend 12 hours making a brochure. There is nothing in the contract that specifies a limited amount of time in this regard. We were never aware that if we ask for changes on our brochure that it would be sent to the bottom of the pile regardless if there was urgency or trade shows to attend or not. This verifies our concern that while trade shows were happening, our brochure was not done, nor appeared to be a priority.

Mr. Nafea was very adamant in his position as Director of the Art Department, that all he has to do is provide a draft brochure to the customer within 45 days of the "Effective Date" or whoever says what the date is supposed to be. It appears that nobody is quite clear what that date is. He interpreted it or someone told him that was his obligation. However, I asked him, who interprets what Exhibit 7, Page 7, Number 3 means, do you, does Mr. Flores, does the owner of the company? There is some ambiguity in number three of that exhibit. Mr. Nafea told us that when he turns in the first draft of the brochure that he is done, and that any changes that had come back to be fixed go to the bottom of the pile; the brochure is no longer a priority and it will get done as they have time to get it done. He did note that they can still market the product without the brochure, but Mr. Flores received an unexpected answer when Mr. Nafea said twice, that even with the product, they have to have a brochure. Jeff Newbury iterated the same response. Mr. Newbury said that they can't take loads of products to the show because it would look like a garage sale. Therefore, they use a brochure for that. If the brochure is not done, then they can't take it to the trade shows.

The testimony with Mr. Newbury revealed many answers that Mr. Flores did not expect, as well as revealed problems with Discovery. While I did not have any time left to examine Jeff Newbury, I did glean a lot from the examination by Mr. Flores. I am thankful for Mr. Carley giving me five minutes with Mr. Newbury.

The product managers that we had while under contract with IP&R, including the three-month extension, were Zack Gideon, Jeff Newbury, Miyoung Kang, Jeffrey Fritts, Geoffrey Reyes, and Joshua Hammond. Jeff Newbury was filling in after Zack Gideon left IP&R, (AbsolutelyNew,) and before Miyoung Kang took over. Mr. Fritts was mentioned to have been working on our campaign, but we never heard anything from him directly. Mr. Newbury mentioned that Mr. Reyes was an Assistant Product Licensing Manager. While I knew this, once Mr. Reyes was announced as our new contact, we had never heard from Ms. Kang after that. Exhibit C for the Defendant, Page 42, shows the last page of the January 2006 monthly report. This page shows a picture of Ms. Kang. That is the last report, where Ms. Kang is associated with our project insofar as having a picture on it. Although I have further contact with Ms. Kang, she is no longer associated with the monthly reports that we receive. Mr. Newbury, under testimony, mentions that he was certain that Ms. Kang was still our Product Licensing Manager, but we have shown otherwise here. We never heard from Ms. Kang after Mr. Reyes took over as our main contact. Thus, our complaints were all directed at Mr. Reyes or Mr. Newbury.

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Under testimony from Mr. Flores, Mr. Newbury mentioned that a brochure and a marketing research report, Exhibit 70, being completed is not a prerequisite for them to market a product. In fact, our December monthly report does indicate that some contacts were made by Mr. Gideon. We realize that the three main deliverables that IP&R are obligated to give to us are the marketing research report, the monthly reports, and the brochure. The contract states in, Exhibit 7, Page 7, Number 10, that if the monthly reports are late, that IP&R is in no breach of contract. However, the other items, if they are late, does position IP&R to be in breach of contract. Moving back to the monthly report in December, Exhibit 14, Page 1 & 2, Zack Gideon made only three contacts. Mr. Newbury testified that he did tell him that he needs to make more contacts. This would indicate to me that Zack Gideon did not have proper training. This would also indicate to me that they are not performing in a manner parallel to what they suggested in their brochures and unsolicited letters, Exhibit 8 & 8b, prior to us signing the contract; stating that they can do a top notch job and get the product out there faster than we can.

Through testimony, we have seen a continuing theme. As stated above, the contract says per Exhibit 7, Page 7, Number 10, that if IP&R is late with delivering the monthly reports, they are not in breach of contract. Further, it says if they do not deliver a report, then we can request a copy. This did in fact happen to us, where Mr. Reyes forgot to send us a copy of the April monthly report. We did in fact receive a copy after requesting one. However, IP&R is once again protecting themselves in the contract roughly stating, yes we have to provide you with monthly reports, but if we don't send it to you, or it is late, we are not liable for that, and in fact you have to request a copy from us. So in reality, they don't have to send us any monthly reports at all, unless we ask for them. Taking a look at the brochure, as discussed previously, they say when it is due, Exhibit 7, Page 7, Number 3, but they are ambiguous as to when the starting point from the 45 days begins. Then under testimony the witnesses give different opinions of whether or not the brochure is needed, and when it is needed, and even why it is needed. This while knowing that the brochure is one of the three main deliverables. Looking again at the marketing research report, which Exhibit 7, page 7, Number 2, names, as "...the basis of IP&R's marketing campaign with respect to the invention," we find under testimony of Mr. Newbury, that this acts as the "roadmap" for the campaign. This does tie in to the quote above. However looking at the marketing research report, we only see discussion of the sporting industry, one paragraph on tennis, 80 pages of questionable contacts that they may or may not actually contact per Mr. Newbury's testimony, and lastly, the trade show schedule. Mr. Newbury, under testimony, says that the brochure and a marketing research report are necessary; however, they are not necessarily needed to market the product, especially with a finished product like we already have. But these items are important and must be done he says. He also agrees that these items were late and he says that he is sorry for that.

Following up on this common theme, which is repeating some information, we see that we have a contract, Exhibit 7, that says these items are due, but Mr. Nafea says that he is only obligated to turn in a draft brochure within 45 days; after that, it is whenever he gets to it. Yet, under questioning Mr. Nafea says, absolutely we must have the brochure. Mr. Newbury, says that yes, we must have the marketing research report, and we must have the brochure, however, they can start a campaign without those items and they don't really need them. He says that if they are at a trade show, they need the brochure, because it will look like a garage sale with a bunch of products there, and the marketing research report serves as the "roadmap" for the campaign, but yet they can still market the products. We see, a "yes," but "no" mentality. They protect themselves with the monthly reports, and they protect themselves with the brochure and the marketing research reports. The three items that they are obligated to deliver, are in the end, all ambiguous as to when they are to deliver, and if they are really needed.

Mr. Newbury mentioned at the Hearing that they do in fact give surveys at roughly 45, 90, and 120 days from the "Effective Date," Exhibit 13, Page 3, Paragraph 4. The first survey was to be received by

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us roughly December 29, 2005. The first survey was never received. The second survey was to be received by us roughly February 14, 2006, but was dated March 6, 2006, Exhibit 15. The third survey was to be received by us roughly March 16, 2006, but was mailed May 24, 2006, 10 days after the end of the sixth month contract term, May 14, 2006, Exhibit 16. In fact, none of these surveys were even responded to, nor was IP&R, from our perspective, concerned about us being unhappy. Mr. Newbury stated at the Hearing that he was sorry for the survey not being sent out properly. Exhibit 17 shows a timeline that I created, and the associated exhibits.

While short on time at the Hearing to question Mr. Newbury, I was not able to bring up a particular aspect of the phone call that we had on or around June 6, 2006 with both Mr. Reyes and Mr. Newbury. On this phone call we discussed the three month extension. However, we were also told by Mr. Newbury that he would attend other trade shows, and he had other people he could talk to. We never heard about any of those trade shows or him talking to anybody in those three months. This is another example, of the promises that IP&R makes, but do not follow through with.

During my examination of Mr. Newbury, I asked him, what proof that he had for attending the trade shows? Mr. Newbury replied, stating that he didn't have anything, but that we could see his expense reports. We did not receive those expenditure reports in Discovery. In a conference call regarding my concern that we had not received all of the Discovery from Mr. Flores, Mr. Flores stated that he is not obligated to give us any information in lists, and that they do not keep accounting information relative to each account. As a business owner myself, I keep track and document everything regarding all the clients that we have. It seems that IP&R does not do this, and does not track the expenses for each account; it appears that they are more concerned with the overall profit than they are with making sure that each customer gets what they are due for the money that they pay. Mr. Carley asked Mr. Flores if he had given us all of the documents that we have asked for, being financial or otherwise. Mr. Flores said yes. Mr. Carley said he was happy with that answer. Mr. Newbury, under testimony, stating that he could have given us the expense reports, has now proven that Mr. Flores was deceitful in a purposeful manner to hide this information from us. Nonetheless, Mr. Flores lied to the arbitrator, and he must be held accountable for that. We do not know how many other documents were withheld, how many of the witnesses could have potentially lied, even under oath, and what ever else they might have been protecting, that we would not have access to. If we had more documents, we may even have had a greater case against IP&R. In addition to this, when receiving the contact information a week before the Hearing from Mr. Flores for the previously employed people at IP&R, I performed a diligent search, and both addresses from Mr. Gideon and Mr. Reyes were for their parents' house. Mr. Reyes address we received was for someone in Colorado, presumably his mother, Sally, and she did not live there anymore. I was able to find his father who lived in the area, and he gave Mr. Reyes our contact information, but we never heard from him. Mr. Gideon's contact information for my IP&R led us to his parents, who also gave him our contact information, but we never heard from Mr. Gideon. Miyoung Kang had no listing whatsoever at the address that we received from Mr. Flores. Excluding Ms. Kang, we clearly have Mr. Reyes and Mr. Gideon's home addresses given to us for their parents. It is inconceivable to believe that Mr. Reyes needed to give his parents address in Colorado, when he was working in San Francisco. It appears more that we were given emergency contact information for their parents, than we were their actual addresses. This once again appears to be a tactic by Mr. Flores to keep us from bringing the truth further into this case. It is important to note that Laurel Pallock of the San Francisco District Attorney's office told me that they have a higher turnover rate, and that they cannot contact anyone after they've left IP&R because they disappear.

Exhibit 18, Page 2, shows Mr. Gideon as having been terminated from IP&R. Mr. Flores, at the Hearing, mentioned that he had separated from the company. Although this may seem insignificant, it shows the lack of precision and detail when giving us the Discovery that we asked for. In addition, we

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put forth and retained much more evidence in this case than IP&R did. This signifies a passion that we had for that campaign, and that we continue to have for our products, that IP&R, although paid \$15,062 in our good faith after their poor performance, obviously did not have. We still believe that we did not receive everything we asked for in Discovery, and that was proven at the Hearing. This finding also clears us of the ridiculous issue that Mr. Flores brought up that I called a "trade show" a "convention." Although true, is completely irrelevant. Mr. Flores said "termination" and "separation" are the same thing. That is far more of a overstretch than a "trade show" and a "convention" being the same thing.

I would also like to bring to light, that I did add a few extra exhibits after the due date of the exhibits, March 20, 2007. The exhibits I added were in response to Mr. Flores stating that I had not given as exhibits the responses of the USPTO to the complaints such as Exhibit 61 & 61a. Therefore, I wanted to remove any redaction that he claims on the other exhibits, but also include the responses from IP&R to the USPTO.

Mr. Flores, sent us an e-mail on March 20, 2007 with the pretrial statement, and his exhibits sent to us included in the same request for documents that he gave us on February 6, 2007. Thus, we had no exhibits from Mr. Flores. Realizing his mistake, he said that he was going to use his exhibits that he sent us already in Discovery. However, I did not get his three exhibits: the brochure, marketing research report, and the monthly reports until March 26, 2007. At the Hearing Mr. Flores brought a folder with documentation we had received in Discovery, except for a few items. Mr. Flores also brought out some brochures for our campaign that we never saw, that appeared to be in-house copies pronounced with markups on it for changes and such. He showed those at the Hearing, but I've never seen those before. For whatever reason, I did not get those attachments, or he mistakenly did not send them to us.

In an e-mail dated March 23, 2007, Mr. Flores sent us about 20 documents that apparently they found on a different server. At that point, I knew that we had not received everything that we're supposed to get in Discovery. If they had done a thorough investigation, then we would not have these exhibit issues. The following is what Tony stated to me in the first sentence of the above noted e-mail: "Scott, I found theses documents on another server in our network, that I did not know of until tonight." It again seems to us that getting us the documentation that we should've had was not as important to Mr. Flores as we had hoped. In fact, Mr. Flores was trying to get us to drop the case, saying that we have a successful business, and that we were just expecting too much from IP&R. We were not expecting too much; we were expecting what they told us they are pro's at. I told Mr. Flores that we have too much evidence against them, and we were not going to accept less than the amount that we paid as mediation. We also are quite certain, that if we had accepted any money, that we would be under a gag order.

At the hearing I asked Mr. Newbury why we had not received the flowchart that he had told us that we would receive in Exhibit 18, Page 1. Mr. Newbury said he was sorry that he did not get it to me. I asked Mr. Newbury why when I mentioned that we expected this to be a \$40,000 campaign in Exhibit 19, Page 2, we were not responded to or told we were wrong, and at the Hearing he said he was sorry for not responding. Apparently, Mr. Newbury does not deal with the financial aspects, and thus says he did not consider that information. In the same exhibit, I ask repeatedly for accounting information, so that we know that they are holding up their end of the contract, and spending the money that we gave them. Mr. Newbury's answer was that he was sorry, and that he knew earlier, but did not tell me until later. Exhibit 34, Page 2 & 3, was the phone call on April 14, 2006 where this was discussed between Mr. Newbury and I. He said that the 12 trade shows were incorrect, and the November 15 trade show was also incorrect. He apologized for that and also mentioned that he cannot give me the accounting information unless we hired them at \$195 per hour rate. I was obviously disappointed, but I did mention that Mr. Reyes seem to be doing a better job. Later on in the following months the same ineffective work that I have seen in the past showed up again, along with the lack of communication.

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This further led me to believe that IP&R did not know what they were doing and really wasted our money and time.

We were also told that we would receive phone calls from our product managers every month. Mr. Newbury stated under testimony that we are supposed to have received two phone calls per month. These phone calls were to be from IP&R to us, unsolicited, to tell us what is happening with our campaign and ask if we have any questions or how we think things are going. I know that we never received any phone calls unless we solicited them or complained about something. Exhibit 34, Page 1, shows a phone call on or around October 11, 2006, with Lisa Roundtree-Fitzpatrick, their customer service manager. Even she had told me that we received one call per month, but I told her that we did not. It appeared that not one person knew what the other person was doing. Exhibit C, Page 35, Paragraph 4, shows the February 2006 monthly report with a new communication request: "We have recently analyzed our daily call schedules and have concluded that the Product Licensing Managers allocate a good portion of their time on the phone with their clients. While we recognize the importance of keeping you informed, it takes the Product Licensing Managers away from their ultimate goal." Reading this, I can't help but interpret it to be telling us not to call them, or vice versa. How are we, the customer, supposed to receive two phone calls a month, or at minimum, have verbal communication at some point, if we are not supposed to talk to them?

We received the April 2006 monthly report with the May monthly report, because Mr. Reyes forgot to send us the April report. I noted under testimony, that the report, Exhibit 21, is addressed to me, but then opens with "Dear Marc." I indicated that it appeared to be very a "cookie-cutter" approach. That mistake proves that they put very little effort into the personalization for our campaign, but use a blanket statement for everyone, which may not even apply to our campaign.

Mr. Flores questioned Mr. Newbury about our complaints regarding Axis International and Nike. Mr. Newbury's answer that these two contacts should've been closed out, because Nike is slow, and Axis International was a typographical error by Mr. Reyes, appear to be preplanned answers. Mr. Newbury stated that he has contact with Axis International also, but that Mr. Reyes completely wrote down the wrong information for that contact. Mr. Newbury said that Mr. Reyes knew that the product was manufactured already. I was so upset I replied back to Mr. Reyes asking why that happened, Exhibit 24. Looking at Exhibit 22, Page 2, it is not reasonable to assume that Mr. Reyes wrote a whole paragraph as a mistake, stating that they wanted a more manufactured product. If that was a mistake, then how many more mistakes were made on our campaign that we do not know about? Looking at the Nike issue, Exhibit 14, Page 1, shows that Mr. Gideon contacted Katie Maksym, the President of Nike, and found that she was out of the office for holidays and will try again in January. To further provide evidence, refer to Exhibit C submitted by Mr. Flores. Page 40 shows the entry for Nike in the January report to read that they will follow-up with Nike next month. Page 36 shows the entry for Nike in the February report to read that they will follow-up with Nike next month. The March report, on the page 31, shows the entry to read "All new product information must be submitted with application. Mailed request for application. Will submit product information when application is received." So after two months of delays, IP&R, a company that says that they have tremendous experience with many companies, has to get information on how to contact one of the biggest manufacturers of sports products in the world. Page 25, the April report, now shows that Katie Maksym is no longer the President of Nike, but rather a product manager. The entry for this month states "Update from previous month: All new product information must be submitted with application. Mailed request for application. We'll submit product information when application is received." Page 18, the May report, shows the same response from the previous month. Page 11, the June report, shows the same response from the previous month. Page 3, the July report, shows the following response, "Update from previous month: Idea Submission Agreement form received. Needs to have Power of Attorney signed by client

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prior to sending forms back to Nike. Will mail Power of Attorney form to client." It is again, a surprise that IP&R does not have an idea submission agreement form for Nike. At this point, I would like to add, that we never received a power of attorney form from IP&R. For whatever reason Mr. Flores did not include the August 2006 report in his exhibit C. Refer to Exhibit 29, Page 3, in the August monthly report, to read the following entry for Nike: "Must submit a non-disclosure agreement prior to submitting any design. After submitting agreement process takes several weeks. We will be contacted if there is of any interest." So from December 2005 through August 2006, IP&R are was not competent enough to follow through on a major company. It took them four months to find out that they needed to request an application form. In July of 2006, it says that we need to sign a power of attorney form which we never received. In August of 2006, we are told that we need to sign a non-disclosure agreement. If we had known that IP&R was going to perform in such an unprofessional manner, the least of which not following through, then we never would have signed up with IP&R. We even had communication gaps in the Spring from mid February to mid March, and then from mid March to mid April when Mr. Newbury said he was sorry and wished he could say he was on vacation, Exhibit 20. I certainly would not have signed the \$9,750 check of my own personal money and sent it to them.

At the Hearing, I failed to ask Mr. Newbury, what proof that they have that they sent any of the Power Key's to anyone. He did mention to Mr. Flores that he took some to a trade show, and that he gave one to his niece, who thought the product was neat. Mr. Newbury commented though that his niece is only 10 years old. Mr. Newbury made it sound like only a 10-year-old would be interested in this product. We have seen no other proof of samples sent out other than sending some Power Keys to a company called Quickey. Mr. Flores brought up the point and tried to reinforce it with Mr. Newbury, that most everybody that Mr. Newbury and his managers contacted regarding the Power Key, were saying that people like to use their fingers, and they saw no benefit of the Power Key. Mike and I are well aware of this situation, but when we hear this, we reinforce our Power Key by showing them how it works. Most patent lawyers know that many patents are ahead of their time and often are not ready for the marketplace without tremendous marketing efforts. We have proven many people wrong watching them struggle with their fingers in relation to how easy the Power Key is. We also respond to people who say "they just use their fingers," with, "that this is why we have the Power Key, so you don't have to use your fingers." However, it appears that the managers at IP&R did not follow up with these contacts and defend the product. Rather, they simply called it a contact made, and a contact closed. It appeared to us that the product managers made contacts because they had to, not because they wanted to, or because they might gain royalties if they made a deal.

Jeff Newbury indicated that IP&R had some organizational problems at the time during our contract. I noted that Mr. Gideon and Mr. Reyes only lasted about two to three months. I asked Mr. Newbury why they have such a high turnover rate. He said they didn't have a very high turnover rate, but that there were a few people and/or a few problems they were having. I specifically remember Mr. Gideon telling me on the phone in December or January that they were having a lot of problems there and that Zack had been sick for two weeks. Exhibits 34, Page 3, list some calls that Zack and I had around this time.

Per the e-mail sent to the parties on March 30, 2007, Mr. Carley received a phone call from a Lance Burton of AbsolutelyNew regarding a message that he may have left with them back in 2001. We believe that this is not a coincidence, and that although Mr. Flores states that they are updating some patent attorney list, they were likely in fact trying to discredit Mr. Carley, the arbitrator. Not only was Mr. Carley contacted once by phone, but Mr. Flores contacted him again by e-mail, after Mr. Flores was told not to contact the arbitrator directly. We may have made some mistakes along the way, but nothing in the realm of what Mr. Flores has done during this case.

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I had tried to contact Wade Carrell in March of 2007, a former client of IP&R, in an effort to prepare for the hearing. Mr. Carrell can be reached at Work (xxx) xxx-xxxx and Home (xxx) xxx-xxxx. See Exhibit 73 for Mr. Carrell's letters to and from IP&R. I left a message, and he said it was written down wrong, but he finally tracked me down and I spoke to him on April 2, 2007. Mr. Carrell said he hired a lawyer, and ultimately received some money in return, but it was not what he put in. Mr. Carrell said he would've come to the Hearing to act as a witness if I had heard from him earlier. Because I could not contact him, I did not submit his information during the hearing. However I did submit this exhibit to Mr. Flores on March 20, 2007, Exhibit 69. Mr. Carrell told me, that a District Attorney for San Francisco, Mr. Benham, (not currently there now,) was helping them on his case and also Robert Manno's case, Exhibit 59 & 59a. Upon Mr. Carrell's information, I called the DA for San Francisco and found out that Mr. Benham was not there. I told the attendant that we were referred, were having problems with IP&R, and I wanted our arbitrator to have somebody to contact at the DA's office. I received a call two minutes later from an investigator in the fraud department. Her name is Laurel Pallock. She can be reached at 415-551-9575 and is happy to talk with anyone regarding IP&R. I spoke with her today, Tuesday, April 3, 2007. She told me that just before I called that same day, she received another complaint on IP&R from another customer. Apparently this customer said that IP&R was changing their website as we were talking on the phone, however, I can't verify this. She did mention Tony Flores, and that he had just started their a while back, and he has been cooperative thus far. She was very interested in what I had to say. She mentioned that IP&R has a very high turnover rate which is the antithesis of what Mr. Newbury said under oath. Ms. Pallock also said that they can't contact the employees after they've left, saying that they just disappear. This lines up with our experience of trying to contact the ex-employees; they just disappear.

I urge Mr. Carley to contact all of the witnesses for the sake of our case, and our concerns for more protecting other potential victims. See Exhibit 64 which gives complaints regarding IP&R for the past 36 months from the Better Business Bureau of Oakland. Specifically though, contact Ms. Pallock of the San Francisco DA's office; she will have the most recent information and has spoken with Mr. Flores already.

Summary

1. Did IP&R fulfill their obligations according to the contract between Power Key Company, (Plaintiff,) and IP&R (Defendant,) in its entirety?
 - a. We have shown that the Defendant did in fact deliver the monthly reports, a marketing research report, and the brochure. However, some of these items were delivered late which we deem as a breach of contract.
2. Did Defendant perform their obligations according to the contract which mirrors their advertising of services whether in brochures, letters to Plaintiff, statements on Defendants website, or that of oral statements by employees thereof in response to the inquires of the Plaintiff prior to the "Effective Date," November 14, 2005?
 - a. IP&R did not perform their obligations in a complete and professional manner, which stretch beyond the actual deliverables themselves. IP&R can say they have professionals with industry experience working for them, but the customer is not in a position to know anything about the campaign other than the monthly reports. It is like someone is hired to put a new roof on a house; they completed the roof and it looks completed, but they put the cheap wood on. The owner would not know until it is too late.
3. Did they perform their obligations with respect to their advertisements in their brochures?

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- a. We have shown that their brochures overstate their capabilities, and make statements that simply do not reflect the service that we received.
 - b. Their brochure indicates that they hire the best product managers, when clearly their turnover rate is so high that we in fact had five different product managers.
 - c. They state that they have a proven system. They know how to locate targets and sell. But when they located someone, they did not "sell" the customer on our product. There was never any salesmanship or attainable incentive for them to get a license.
 - d. They state that they have a personal approach. IP&R makes its contacts over the phone or in person. However, IP&R makes very little effort to meet with potential contacts in person. We have seen that the criteria for a contact is rather shallow.
 - e. They state that they have first class quality with the lowest cost. IP&R is an expensive endeavor, and not low in cost relative to other invention promotion firms. Their quality is horrible, with others complaining of the quality also.
4. Did they perform their obligations with respect to the letters they sent us?
- a. We have shown that IP&R has failed to perform as stated in their letters to us.
 - i. Exhibit 13
 - ii. Exhibit 8b -
 1. None of the stores listed on page 2 were contacted.
 2. The letter states that IP&R works exclusively with certain companies. We never saw any mention of exclusivity within our project.
5. Did they perform their obligations with respect to statements on their website?
- a. Although the contract is not related to the website, the look of the website makes us believe that we have professionals working for us.
6. Did they perform their obligations with respect to oral statements?
- a. We have shown that their 25 - 30% success rate not only has been stated to not be true by the owner, but their own company says it's true in an MSNBC article.
 - i. Exhibits 59b, 46, 38
 - b. We have shown that we were told that they would attend 10 to 12 trade shows, to be told later by Jeff Newbury that that was a mistake, and that he didn't have that many trade shows to go to. In fact, they only went to three out of the five that they put in written form that they said they would go to.
 - i. Exhibit 25 - Page 2
 - ii. Exhibit 19 - Page 2
 - c. We have shown that we were told they would attend a November 15 trade show and create a brochure for it. There was no such show or brochure ever made for that trade show.
 - i. Exhibits 1 (Page7:Paragraph 3,) 4.
 - d. We believe that we received false and misleading statements by IP&R in order to get us to sign up to meet quotas and/or receive commissions. It was the end of the month.
7. Did Defendant purposely create ambiguity between what the contract states and what the client is led to believe? i.e. adding clauses that hold Defendant blameless for misleading statements made to Plaintiff from salesmen of Defendant; such as "Estimated Earnings."

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- a. We believe that we have proved that IP&R purposely created ambiguity so that we would not fully understand what we were receiving when we signed the contract.
 - b. We understood that we were to be getting a \$40,000 campaign. There is clearly ambiguity when we were told one thing, but only later to find out that it is not what the contract means according to Mr. Flores, but not Mr. Ruege or Mr. Newbury. This leads us to believe that IP&R knows that if they get you to sign the contract, it is no longer their responsibility for you being misled.
 - c. The contract mentions estimated earnings. It states that IP&R did not make any oral or written statements regarding making a profit from our campaign. This clause obviously stands to protect IP&R, however, we were told estimated earnings while in San Francisco on November 1, 2005.
8. Is the Defendant monetarily liable for monies paid by the Plaintiff to the Defendant with respect to questions 1, 2, and 3?
- a. We believe that IP&R is liable, and they have been found liable to others in the past as well.
9. What monetary compensation is Defendant liable for with respect to questions 1, 2, and 3?
- a. According to the American Inventors Protection Act of 1999, section 4102, clause 297, subpart B) we find the following:

Any customer who enters into a contract with an invention promoter and who is found by a court to have been injured by any material false or fraudulent statement or representation, or any omission of material fact, by that invention promoter (or any agent, employee, director, officer, partner, or independent contractor of such invention promoter), or by the failure of that invention promoter to disclose such information as required under subsection (a), may recover in a civil action against the invention promoter (or the officers, directors, or partners of such invention promoter), in addition to reasonable costs and attorneys' fees—

“(A) the amount of actual damages incurred by the customer; or

“(B) at the election of the customer at any time before final judgment is rendered, statutory damages in a sum of not more than \$5,000, as the court considers just.

“(2) Notwithstanding paragraph (1), in a case where the customer sustains the burden of proof, and the court finds, that the invention promoter intentionally misrepresented or omitted a material fact to such customer, or willfully failed to disclose such information as required under subsection (a), with the purpose of deceiving that customer, the court may increase damages to not more than three times the amount awarded, taking into account past complaints made against the invention promoter that resulted in

regulatory sanctions or other corrective actions based on those records compiled by the Commissioner of Patents under subsection (d). (See attached:

- b. I have made the complaints available to you here, already.
 - i. Exhibit 59 and 59a - Robert Manno complaint and response.
 - ii. Exhibit 59b and 63 - Robert Enriquez complaint, Terry Medeiros complaint and response
 - iii. Exhibit 59c - Robert Enriquez response
 - iv. Exhibit 60 and 60a - Francis J. Davison complaint and response.
 - v. Exhibit 61 and 61a - Joann Geer complaint and response.
 - c. With this in mind, we believe that the invention promoter intentionally misrepresented or omitted material facts to the plaintiff, and willfully failed to disclose information as required under the American Inventors Protection Act of 1999, with the purpose of deceiving the plaintiff.
10. If Defendant is found liable for question 4, is Defendant liable for damages due to Plaintiff's loss of patent lifespan time from October 28, 2005 through March 27, 2007 and for stress and anxiety?
- a. We believe that the Defendant being liable for all monies paid to them by the Plaintiff is also liable for the Plaintiff's loss of patent lifespan from October 28, 2005 through March 27, 2007, and for stress and anxiety.
 - b. If necessary I can provide receipts for a psychiatrist and medication.
 - c. However, we are basing our compensation on the American Inventors Protection Act of 1999 and will allow for damages spoken of in this Protection Act to be a substitute on behalf of the damages we are asking for in the parent question.
11. What monetary compensation is the Defendant liable for with respect to question 6?
- a. With regard to the American Inventors Protection Act of 1999, IP&R is liable for "...not more than three times the amount awarded..." We believe that we should be rewarded the full return amount of \$15,062. Three times this amount is \$45,186. However this amount, with the others, is higher than are claim amount.
12. If Defendant is found liable in question 6, is Defendant is obligated to pay for Plaintiff's expenses for arbitration and all travel costs?
- a. The Defendant is obligated to pay for our arbitration and travel costs of:
 - i. AAA fees of \$1825.00 (as of 3/23/07)
 - ii. Travel fees: Airline: \$218.00
 - iii. Hotel Costs: \$193.00
 - iv. Transportation and Meals: \$231.00
 - v. For a total of \$2,467.
13. Totals:
- a. $\$2467 (12a) + \$15,062 (Returned\ payments) + \$45,186 (Damages\ from\ 11a) = \$62,715.$
 - b. $Corrected\ total\ claim\ to\ account\ for\ our\ \$50,000\ claim = \$2467 (12a) + \$15,062 (Returned\ payments) + \$32,471 (Damages) = \underline{\$50,000}$

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We believe that we have satisfied the burden of proof in this Hearing. We have shown exhibits, witness testimony, former IP&R customers, and the San Francisco District Attorney's Office that reinforces that we deserve the judgment to be in our favor. Thank you for your time and effort in this arbitration matter. If there is any clarification needed, please contact me. Thank You.