

1 Plaintiff DatCard Systems, Inc. brought the present action against
2 Defendant Pacsgear, Inc. alleging infringement of five patents: U.S. Patent Nos.
3 7,302,164 (“the ‘164 Patent”), 7,729,597 (“the ‘597 Patent”), 7,783,174 (“the
4 ‘174 Patent”), 7,734,157 (“the ‘157 Patent”), and 7,801,422 (“the ‘422 Patent”).
5 Pacsgear filed counterclaims seeking a declaration that each of the patents is not
6 infringed, is invalid, and is unenforceable due to inequitable conduct.

7 On March 12, 2013, this Court granted Pacsgear summary judgment of
8 invalidity of the ‘422 Patent. On April 1, 2013, this Court granted Pacsgear
9 summary judgment of non-infringement of the ‘164 Patent, the ‘597 Patent, and
10 the ‘174 Patent. Also on April 1, 2013, this Court granted Pacsgear summary
11 judgment of invalidity of the ‘157 Patent. Through these rulings, the Court has
12 determined that Pacsgear has no liability under any of the five patents in suit.

13 The only remaining undecided claims are (1) Pacsgear’s counterclaim for
14 a declaration of invalidity of the ‘164 Patent, ‘597 Patent, and ‘174 Patent, and
15 (2) Pacsgear’s counterclaim for a declaration of unenforceability of all five
16 patents in suit due to inequitable conduct.

17 DatCard has informed the Court that it plans to appeal at least some of
18 this Court’s summary judgment rulings. Pursuant to Rule 54(b) of the Federal
19 Rules of Civil Procedure, the Court expressly finds that there is no just reason
20 for delay of DatCard’s appeal of the summary judgment rulings.

21 Accordingly, **FINAL JUDGMENT IS HEREBY ENTERED UNDER**
22 **FED. R. CIV. P. 54(b) AS FOLLOWS:**

23 1. Judgment is entered in favor of Pacsgear on DatCard’s claim of
24 infringement of the ‘164 Patent, based upon this Court’s finding on summary
25 judgment that Pacsgear has not infringed the ‘164 Patent;

26 2. Judgment is entered in favor of Pacsgear on DatCard’s claim of
27 infringement of the ‘597 Patent, based upon this Court’s finding on summary
28 judgment that Pacsgear has not infringed the ‘597 Patent;

1 3. Judgment is entered in favor of Pacsgear on DatCard's claim of
2 infringement of the '174 Patent, based upon this Court's finding on summary
3 judgment that Pacsgear has not infringed the '174 Patent;

4 4. Judgment is entered in favor of Pacsgear on DatCard's claim of
5 infringement of the '157 Patent, based upon this Court's finding on summary
6 judgment that the asserted claims of the '157 Patent are invalid under 35 U.S.C.
7 § 103;

8 5. Judgment is entered in favor of Pacsgear on DatCard's claim of
9 infringement of the '422 Patent, based upon this Court's finding on summary
10 judgment that the asserted claims of the '422 Patent are invalid under 35 U.S.C.
11 § 103;

12 6. Judgment is entered in favor of Pacsgear on Pacsgear's
13 counterclaim for a declaration of non-infringement of the '164 Patent, based
14 upon this Court's finding on summary judgment that Pacsgear has not infringed
15 the '164 Patent;

16 7. Judgment is entered in favor of Pacsgear on Pacsgear's
17 counterclaim for a declaration of non-infringement of the '597 Patent, based
18 upon this Court's finding on summary judgment that Pacsgear has not infringed
19 the '597 Patent;

20 8. Judgment is entered in favor of Pacsgear on Pacsgear's
21 counterclaim for a declaration of non-infringement of the '174 Patent, based
22 upon this Court's finding on summary judgment that Pacsgear has not infringed
23 the '174 Patent;

24 9. Judgment is entered in favor of Pacsgear on Pacsgear's
25 counterclaim for a declaration of invalidity of the '157 Patent, based upon this
26 Court's finding on summary judgment that the asserted claims of the '157
27 Patent are invalid under 35 U.S.C. § 103; and

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1 10. Judgment is entered in favor of Pacsgear on Pacsgear's
2 counterclaim for a declaration of invalidity of the '422 Patent, based upon this
3 Court's finding on summary judgment that the asserted claims of the '422
4 Patent are invalid under 35 U.S.C. § 103.

5 11. As discussed above, there are two remaining undecided claims: (1)
6 PacsGear's counterclaim for a declaration of invalidity of the '164 Patent, '597
7 Patent, and '174 Patent, and (2) Pacsgear's counterclaim for a declaration of
8 unenforceability of all five patents in suit due to inequitable conduct.

9 12. DatCard has stated that it plans to appeal some of this Court's
10 summary judgment rulings. The parties agree to stay the proceedings on the
11 above remaining counterclaims until after DatCard's appeal of the summary
12 judgment ruling is decided. The Court concurs and hereby stays the
13 proceedings on the two remaining claims identified above, pending appeal. Any
14 motions for attorneys' fees are also stayed and need not be filed, pending
15 appeal.

16 13. PacsGear, as prevailing party, is entitled to recover its costs,
17 pursuant to Rule 54(d), in an amount to be determined.

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22 DATED: June 6, 2013

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Hon. Mariana R. Pfaelzer
United States District Judge

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