Keithley v. The Home Store.Com, Inc. et al

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18	SAN FRANCISCO DIVISION				
19	KEVIN KEITHLEY and TRE		CASE No. C03-044	47 SI (EDL)	
20	TECHNOLOGIES HOLDINGS Plaintiffs,		STIPULATION AND [PROPOSED] ORDER REGARDING STATISTICS		
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22	v. THE HOMESTORE.COM, IN	Catal			
23	Defendants				
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INTRODUCTION

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2 This stipulation concerns two sets of statistics that were cited in a pleading filed by Plaintiffs. 3 One URL at which these statistics were located has been changed since this pleading was filed. Given this change of location, the parties to this stipulation provide copies of these statistics and 4 5 their current URLs for the Court's convenience. 6 **STIPULATION** 7 IT IS HEREBY STIPULATED AS FOLLOWS: 8 On October 24, 2008, Plaintiffs filed a pleading entitled Opposition to Defendants' (1)9 Motion for Partial Summary Judgment Regarding Willfulness, Docket No. 805 ("Plaintiffs" Opposition"); (2)On page thirteen (13) of the above-referenced pleading, Plaintiffs cited to two (2) reports of reexaminations. The first report concerns the USPTO's *Performance and Accountability Report*, 2007, which is now available at http://www.uspto.gov/web/offices/com/annual/2007/index.html. Table 13A, specifically referenced in Plaintiffs' Opposition is available at http://www.uspto.gov/web/offices/com/annual/2007/50313a table13a.html. A true and correct copy of Table 13 of this report is attached as Exhibit A to this stipulation. Plaintiffs also cited reexamination statistics. The URL of this report was subsequently changed. The report, now available at http://www.uspto.gov/web/patents/documents/ex parte.pdf, is attached as Exhibit B to this stipulation; and /// 22 /// 23 /// 24 /// 25 /// 26 /// 27 /// 28 /// STIPULATION AND [PROPOSED] ORDER 495461 1

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(3) The parties stipulate that these statistics as found in the above-referenced URLs, also
attached as Exhibits A and B hereto, may be considered by the Court in this case as the Court deems
necessary as if they had been attached as exhibits to Plaintiffs' Opposition. The parties stipulate,
however, that Defendants may challenge Exhibits A and B hereto as they normally would be entitled
to do, including preserving all rights under the Federal Rules of Evidence including whether or not
these reports were actually published by the USPTO.¹

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8		INNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P.	
9			
10			
11	E	By: /s/ Scott R. Mosko	
12		Attorney for Plaintiffs Kevin Keithley and TREN	
13		Technologies Holdings, LLC	
14	S	SYNDER, MILLER & ORTON LLP	
15			
16	E	By: /s/ Bruce J. Rose	
17		Attorneys for Defendants	
18		Homestore.com, Inc; The National Association of Realtors; and The National Association of Home Builders of the	
19		United States	
20			
21	I declare under penalty of perjury that Defendants' counsel has authorized me to file this		
22	stipulation with counsel's signature.		
23	_	/s/ Scott R. Mosko	
24		Scott R. Mosko	
25			
26			
27			
28	¹ Defendants take no position as to the authenticity of these documents or the statistics they purport to contain therein.		
	495461	2 STIPULATION AND [PROPOSED] ORDER Case No. C03-04447 SI (EDL)	

[PROPOSED] ORDER The Court hereby enters into the record Exhibits A and B attached to the Parties' Stipulation, corresponding to the reports cited on page thirteen of Plaintiffs' Opposition to Defendants' Motion for Partial Summary Judgment Regarding Willfulness (Dkt. 805) filed October 24, 2008. IT IS SO ORDERED aran Alton Dated: Hon. Susan Illston United States District Judge STIPULATION AND [PROPOSED] ORDER