

# **EXHIBIT Q**

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 8 CALCAR, INC. and AMERICAN  
 CALCAR, INC.  
 9

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA

12 CALCAR, INC., a California  
 corporation; and AMERICAN  
 13 CALCAR, INC., a Delaware corporation,

14 Plaintiffs,

15 vs.

16 THE CALIFORNIA CARS  
 INITIATIVE, INC., an unknown  
 17 business entity; and FELIX KRAMER,  
 an individual,

18 Defendants.  
 19

Case No. SACV07-00723 AG (JWJx)

**DECLARATION OF MICHAEL  
 OBRADOVICH IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR  
 PARTIAL SUMMARY  
 JUDGMENT**

**DATE: July 21, 2008  
 TIME: 10:00 a.m.  
 CTRM: 10D**

**Hon. Andrew J. Guilford**

20  
 21 I, Michael Obradovich, declare as follows:

22 1. I am President and owner of Plaintiffs Calcar®, Inc. and American  
 23 Calcar®, Inc. (collectively, "Calcar®"). I have personal knowledge of the  
 24 contents of this declaration and, if called as a witness, could and would  
 25 competently testify thereto.

26 2. For more than ten years, Calcar® has been designing and providing  
 27 the automotive industry with innovative products and services that furnish the end  
 28 consumer with quick and easy access to essential information about the operation

1 of the consumer's vehicle. It has done so in multiple media, both electronic and  
2 print.

3 3. On the electronic side, Calcar® has invented and is marketing the  
4 Auto Director® in-vehicle electronic screen display system that allows a vehicle's  
5 driver to instantly survey and command a wealth of information about the  
6 vehicle's systems, condition and operation, such as engine performance. This  
7 system is marketed both to automakers and to the parts and systems suppliers,  
8 sometimes called "tier one" suppliers, who feed those automakers.

9 4. On the print side, Calcar® produces and sells to automakers and end  
10 users the Quick Tips®, Quick Tips® Lite, and Start-up Tips® printed guides. To  
11 date, Calcar® has sold or licensed over twelve million of these guides. Each  
12 guide distills owner's manual information for a particular vehicle model into a  
13 brief, easy-to-use reference. Unlike an owner's manual, however, these guides are  
14 not loaded down with dry, linear text, but are instead organized in the modern,  
15 "Just in time learning" manner that intuitively appeals to a public who embraces  
16 E-mail, cell phones and iPods.

17 5. One of the models for which a printed Calcar® Quick Tip® guide  
18 has been sold, for Mazda, is a hybrid vehicle.

19 6. Calcar® is still further expanding and into additional areas of  
20 automotive technology, including researching, developing and patenting new  
21 hybrid and other automotive technology. Calcar® has recently hired additional  
22 technical R&D staff to develop this technology, and currently plans to hire more.

23 7. The major automakers to whom Calcar® would market its products  
24 are a small and well-known group, numbering about twenty. However, there are  
25 far more tier one suppliers, and they are a large enough group that it is hard to pay  
26 them all individual attention, or even to know who they all are.

27 8. Calcar® attempts to reach and market to its target customer group in  
28 a number of ways, among them personal contact, "cold calling," and mailings.

1           9. In its business Calcar® both sells products and licenses technology.  
2 American Calcar®, Inc. (“ACP”) holds almost four dozen patents relating to  
3 multimedia automobile information systems and other automotive safety, comfort  
4 and control technology, including patents that concern or are useable with hybrid  
5 vehicles. Calcar® aggressively markets its appropriate patents and technology to  
6 automakers and suppliers to induce them to adapt and license this technology.

7           10. Occasionally, Calcar® happens across companies who have already  
8 begun to use its inventions without authorization. In these situations, Calcar® will  
9 of course defend its patent rights, but always with an eye to promoting the  
10 availability of its innovative technology through licensing and increasing the use  
11 and distribution of that technology.

12           11. A dispute arose with automaker BMW, as it appeared that BMW was  
13 using American Calcar®’s inventions. This dispute led to federal litigation. That  
14 litigation has been resolved, an accommodation has been reached with BMW, and  
15 BMW is now a licensee of American Calcar®’s patented technology, directed  
16 among other areas, to informative, interactive on-board displays.

17           12. A dispute has also arisen with automaker Honda, as it appears that  
18 Honda has been using American Calcar®’s inventions. This dispute has led to  
19 federal litigation, currently ongoing. American Calcar® expects to resolve its  
20 dispute and litigation with Honda.

21           13. Calcar®, Inc. owns United States Trademark Registration No.  
22 2,419,611 (the “’611 Registration”) for the word mark CALCAR® with respect  
23 to “[c]omputer hardware and computer software for use in telecommunications,  
24 weather reporting, messaging, global positioning, database access, imaging, and  
25 pre-recorded software on CD-Rom related to automobiles, advertising, global  
26 computer networks, web sites, and telecommunications.” A true and correct copy  
27 of the ‘611 Registration is attached hereto as Exhibit A. The ‘611 Registration has  
28 become incontestable.

1           14. Calcar®, Inc. permits ACI (American Calcar®, Inc.) to use the  
2 CALCAR® mark in connection with ACI's business.

3           15. Calcar® has continuously used the CALCAR® mark in connection  
4 with the goods and services it provides the automotive industry.

5           16. I deal directly with many automakers, many of whom are Calcar®  
6 customers. Based on my dealings with those manufacturers, I know that the  
7 CALCAR® mark is well known within the industry, with automakers and others  
8 in the industry recognizing CALCAR® as a mark that is associated with the high-  
9 quality goods and services that Calcar® provides, and with Calcar® as the source  
10 of those goods and services.

11           17. I am familiar with the notion of plug-in hybrid vehicles that CalCars  
12 advocates. Not all automakers are in favor of this notion or believe it to be  
13 practical. The impatient, heckling manner in which CalCars pushes its message is  
14 likely to alienate the automakers still further.

15           18. After Calcar® filed its complaint against Defendants in the previous  
16 action, Mr. Kramer began harassing me, my wife, and my colleagues. For  
17 example, on the morning of May 3, 2007, Defendant Felix Kramer telephoned my  
18 office three times demanding to speak to me. He told my staff that he would keep  
19 calling unless he located me. He then started calling my house that day. At 10:06  
20 a.m., he spoke with my wife, who asked him to leave her alone. At 10:16 a.m., he  
21 left a telephone message stating that he would not leave my wife alone until he  
22 found me. He called twice more and hung up without leaving any message;  
23 according to my answering machine, these telephone calls took place at 3:59 p.m.  
24 and at 8:23 p.m. He called me again at 9:06 p.m., at which time I told him to hire  
25 a lawyer, and to stop calling or I would get a restraining order. He called again at  
26 9:08 p.m. During that call, Mr. Kramer threatened to tell the press false stories  
27 about Calcar® and me, and that no restraining order would stop him for doing so,  
28 or from continuing to contact me. I then hung up and unplugged the telephone.

1           19. There is a serious risk of irreparable harm to Calcar® if Defendants  
2 were to begin directing their vitriol and erratic behavior at Calcar®'s customers  
3 under the CALCARS banner. If Defendants were, while using the CALCAR®  
4 mark, to direct at automakers the type of harassment inflicted of my wife and me,  
5 the victimized manufacturers would likely stop doing business with Calcar®.  
6 There are only approximately 20 automakers in the United States, and Calcar®  
7 cannot afford to lose any as a customer. The financial harm to Calcar® could not  
8 be measured, because Calcar® would never know how much business it stood to  
9 lose over the years.

10           20. Calcar® uses a website for marketing and conducting its business,  
11 using the domain name *www.calcar.net*.

12           21. I have performed a search on the Google search engine, using the  
13 mark CALCAR® as the search term. The search returned results from both  
14 Calcar® and Defendant The California Cars Initiative using the phrase  
15 CALCARS. I found these results confusing as to who was CALCAR® and who  
16 was CALCARS. If I was confused by these results, as familiar as I am with the  
17 situation, I believe many of the people who perform such a search on Google  
18 must be confused as well.

19           22. I received a telephone message from Stacey Spiegel of the  
20 environmental consulting firm Gladstone Anderson. Ms. Spiegel stated that she  
21 had read an article about Calcar®'s cars in a March 2007 San Francisco  
22 Chronicle article. Ms. Spiegel offered Calcar® space in an Ontario Auto Show at  
23 the end of April for 5 to display its environmental vehicle at the show. Ms.  
24 Spiegel also asked me if I would like to offer demonstrations of the car for several  
25 days after the show concluded.

26           23. I have reviewed, and have attached hereto as Exhibit B a true and  
27 correct copy of, the article to which Ms. Spiegel appears to have been referring.  
28 Calcar® is not mentioned in that article. Instead, the article referred to Defendants

1 Kramer and The California Cars Initiative, gave their website address,  
2 *www.calcars.org*, and referred to The California Cars Initiative as "Calcars,"  
3 which is not that company's name.

4 24. Calcar® is an established business that it is well-respected in the  
5 automotive industry since 1993, while Defendants operate what is essentially a  
6 politically-tinged "start-up" company having a decidedly commercial aim.  
7 Calcar® risks being "tainted" by the activities of Defendants as confusion  
8 continues.

9 25. Calcar® faces actual irreparable harm if Defendants are permitted to  
10 continue their willful infringement. Calcar® has spent years developing a  
11 reputation in the automotive industry. It depends for its business on the  
12 relationships it has developed with car manufacturers (including the technology  
13 departments of those manufacturers, with whom Calcar® deals), and on the  
14 goodwill it has established in the marketplace. That reputation and goodwill are  
15 likely to be harmed irreparably if Defendants continue to confuse consumers, the  
16 trade and the public.

17 26. I personally selected the mark CALCAR®. I did not simply take the  
18 words "California" and "cars" and put them together; that would have been  
19 illogical, as there is nothing about Calcar®'s products that is tied to California.  
20 Instead, I chose the mark because "calcar" is Latin for "spur." The mark was  
21 chosen to convey the concept of a rider spurring on a willing horse, analogous to  
22 the driver of a car, while reflecting technological innovation and leadership. That  
23 same motif is carried through in the Calcar® graphic logo, which is a stylized  
24 depiction of a horse's head.

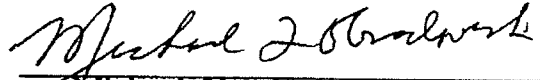
25 27. Attached as Exhibit C hereto is an accurate image of a display layout  
26 for one of Calcar®'s Auto Director® electronic display systems.

27  
28 I declare under penalty of perjury under the laws of the United States of

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America that the foregoing is true and correct.

Executed on June 29, 2008.

  
\_\_\_\_\_  
Michael Obradovich



# Exhibit A

**Int. Cls.: 9 and 38**

**Prior U.S. Cls.: 21, 23, 26, 36, 38, 100, 101, and 104**

**Reg. No. 2,419,611**

**United States Patent and Trademark Office**

**Registered Jan. 9, 2001**

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**

**CALCAR**

CALCAR, INC. (CALIFORNIA CORPORATION)  
122 S. EL CAMINO REAL, #139  
SAN CLEMENTE, CA 92672 BY CHANGE OF NAME;  
BY CHANGE OF NAME CALCAR ADVERTISING,  
INC. (CALIFORNIA CORPORATION) SAN  
CLEMENTE, CA 92672

FOR: COMPUTER HARDWARE AND COMPUTER  
SOFTWARE FOR USE IN TELECOMMUNICATIONS,  
WEATHER REPORTING, MESSAGING, GLOBAL PO-  
SITIONING, DATABASE ACCESS, IMAGING, AND  
PRE-RECORDED SOFTWARE ON CD-ROM RELAT-  
ING TO AUTOMOBILES, ADVERTISING, GLOBAL

COMPUTER NETWORKS, WEB SITES, AND TELE-  
COMMUNICATIONS, IN CLASS 9 (U.S. CLS. 21, 23,  
26, 36 AND 38).

FIRST USE 3-0-1997; IN COMMERCE 3-0-1997.

FOR: PROVIDING TELECOMMUNICATIONS CON-  
NECTIONS TO A GLOBAL COMPUTER NETWORK,  
IN CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 3-0-1997; IN COMMERCE 3-0-1997.

SN 75-481,514, FILED 5-8-1998.

GERALD C. SEEGARS, EXAMINING ATTORNEY

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CALCAR 1805

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# Exhibit B



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SFGate

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San Francisco Chronicle

## Cars that make hybrids look like gas guzzlers Plug-in versions can go 100 miles on a gallon of gasoline

Sherry Boschert  
Sunday, March 4, 2007

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Toyota Prius owners tend to be a proud lot since they drive the fuel-efficient hybrid gas-electric car that's the darling of mainstream environmentalists and one of the hottest-selling vehicles in America. A few, however, felt that good was not good enough. They've made "improvements" even though the modifications voided parts of their warranties.



Ron Gremban of Corte Madera did it. So did Felix Kramer of Redwood City, and Sven Thesen of Palo Alto. Why? Five words: one hundred miles per gallon.

### Opinion

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- ▶ Chronicle Sunday Insight
- ▶ Chronicle Campaigns

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SF Chronicle Submissions

- ▶ Letters to the Editor
- ▶ Open Forum
- ▶ Sunday Insight

"We took the hybrid car to its logical conclusion," Kramer says, by adding more batteries and the ability to recharge by plugging into a regular electrical socket at night, making the car a plug-in hybrid.

Compared with the Prius' fuel efficiency of 50 mpg, plug-in hybrids use half as much gasoline by running more on cleaner, cheaper, domestic electricity. If owners forget to plug in overnight, it's no big deal -- the car runs like a regular hybrid.

These trendsetters monkeyed with the car for more than their own benefit. They did it to make a point: If they could make a plug-in hybrid, the major car companies could, too. And should.

Kramer, Gremban and a cadre of volunteers formed the California Cars Initiative (online at [calcars.org](http://calcars.org)), and in 2004 converted Gremban's Prius to a plug-in hybrid in his garage. They added inexpensive lead-acid batteries and some innovative software to fool the car's computerized controls into using more of the energy stored in the batteries, giving the car over 100 mpg in local driving and 50 to 80 mpg on the highway. The cost of conversion is

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about \$5,000 for a do-it-yourselfer.

**CalCars'** efforts to publicize plug-in hybrids were so successful that in January 2006 the Bush administration lifted a photo of the car peeking out from Gremban's garage and featured it on the White House Web site as a harbinger of good cars to come. Do-it-yourselfers in Illinois and elsewhere converted their hybrids to plug-ins. Several small companies like EnergyCS in Southern California started doing small numbers of conversions for fleets and government agencies using longer-lasting, more energy-dense lithium-ion batteries.

Kramer hired EnergyCS to convert his Prius and reported on a typical day of driving. He traveled 51 miles, mostly on the highway, at fuel efficiencies of 124 mpg of gas and about a penny's worth of electricity per mile. Compared with driving his Prius before the conversion, he used 61 percent less gas and spewed out two-thirds less greenhouse gases at a total cost of \$1.76 for electricity and gasoline, instead of the \$3.17 it would have required on gasoline alone.

Pacific Gas and Electric Co. acquired an EnergyCS plug-in Prius conversion, too. It so impressed Thesen, a PG&E supervisor in the clean air transportation group, that he offered his privately owned Prius to **CalCars** as a guinea pig. Back in Gremban's garage, **CalCars** and the Electric Auto Association converted it in November to a plug-in with lead-acid batteries as part of a video and educational package to guide do-it-yourselfers ([www.eaa-phev.org](http://www.eaa-phev.org)).

Support for plug-in hybrids from a utility like PG&E, which still produces 45 percent of its electricity from polluting fossil fuels, makes some environmentalists nervous. The data on plug-in hybrids, however, have calmed their fears. On the U.S. electrical grid, which gets more than half of its power from dirty, nasty coal, plug-in cars produce fewer overall emissions of greenhouse gases and other pollutants than do other cars.

California's grid uses less coal, which makes plug-in cars even cleaner. As more wind and solar power get added to the energy mix, driving on electricity gets cleaner still. Driving on gasoline will only get dirtier as conventional sources dry up and we desperately turn to hard-to-extract oil that requires lots of energy to get at, producing lots more pollution.

Enthusiasm over plug-in hybrids has created strange bedfellows. Perched somewhat uneasily alongside PG&E and the former oil man in the White House, Sierra Club leaders representing 13 chapters in California and Nevada adopted a resounding endorsement of plug-in hybrids in the past year.

Former Sierra Club President Larry Fahn has been looking for a mechanic to convert his Prius for more than a year. Therein lies the problem. People want plug-in hybrids but can't get them. Dealers don't sell them yet, and the few conversion services cater to fleets.

There are only a few dozen plug-in hybrids in the world, while demand for them is growing

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rapidly. The city of Austin, Texas, which uses more renewable power than any other U.S. city, started a Plug-in Partners Campaign and gathered more than 8,000 advance orders for plug-in hybrids. In the Bay Area, San Francisco, Alameda, Berkeley and Marin County signed on as Plug-in Partners.

Are the automakers listening? Maybe.

Several showed plug-in hybrid prototypes in the 1990s but cast them aside during their battle to weaken California's Zero-Emission Vehicle Mandate. Stung by bad publicity from the 2006 documentary "Who Killed the Electric Car?", General Motors reversed course and showed the prototype plug-in hybrid Chevrolet Volt at a January auto show. In the past year, at least six major car companies have said they're developing plug-in vehicles, including Toyota officials, who seem none too happy about amateurs messing with the Prius.

Plug-in hybrids won't hit the market, though, until better batteries are developed, the automakers say. That doesn't sit well with drivers like Marc Geller of San Francisco, who co-founded the nonprofit group Plug In America ([www.pluginamerica.org](http://www.pluginamerica.org)). The nickel-metal hydride batteries in Gellers' all-electric 2002 Toyota RAV4-EV give the compact SUV plenty of power, take him all over the Bay Area, and are expected to last the life of the car, based on utility company fleet tests.

Consumers appear to have three options to hasten the arrival of plug-in hybrids: Demand them ("Tell the automakers that you won't buy a new car unless it has a plug on it," Geller says), or push for government incentives or interventions. (The California Air Resources Board is planning to revise the zero-emissions mandate this year.)

Or, build your own plug-in hybrid.

*Sherry Boschert is the author of "Plug-in Hybrids: The Cars That Will Recharge America" and a member of Plug In America. She will speak about renewable energy and plug-in cars at a free public event on Thursday at 7 p.m. at Sierra Club headquarters, 85 Second St., third floor, San Francisco. Contact us at [insight@sfgchronicle.com](mailto:insight@sfgchronicle.com).*

*This article appeared on page E - 1 of the San Francisco Chronicle*

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**Surviving Abuse**

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# Exhibit C



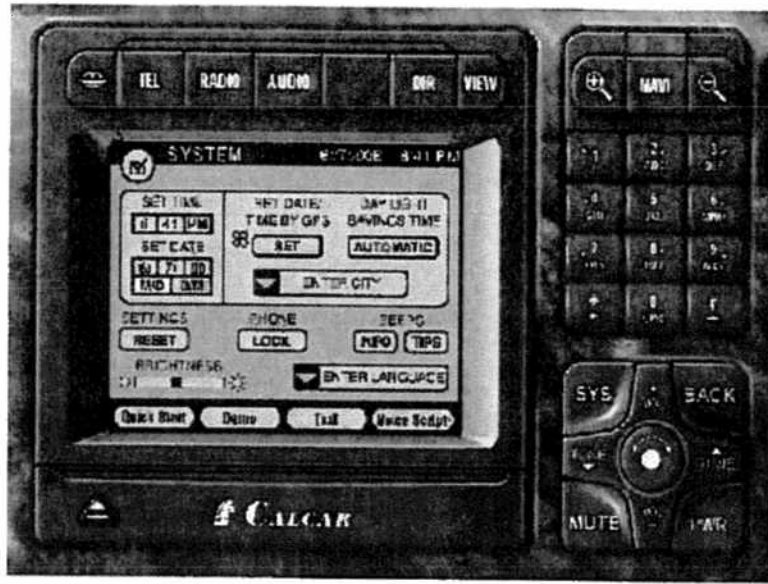


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