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11 Attorneys for Plaintiff
COGNIZANT TECHNOLOGY SOLUTIONS U.S.
12 CORPORATION

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

17 COGNIZANT TECHNOLOGY
SOLUTIONS U.S. CORPORATION,

18 Plaintiff,

19 v.

20 JOHN MCAFEE, d/b/a FUTURE TENSE
21 CENTRAL,

22 Defendants.

CASE NO. 3:14-cv-01146 WHO

**TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE WHY
MOTION FOR PRELIMINARY
INJUNCTION SHOULD NOT BE
GRANTED**

1 Having reviewed and fully considered the *ex parte* motion for temporary restraining order
2 filed by Plaintiff Cognizant Technology Solutions U.S. Corporation (“Plaintiff” or “Cognizant”)
3 pursuant to L.R. 7-11 and 65-1(a), the accompanying memorandum of points and authorities,
4 declarations and attached exhibits, and complaint on file in this action, and based on the facts and
5 representations therein, the Court finds that:

6 (1) It has jurisdiction over the subject matter of this action;

7 (2) Cognizant sought and obtained two U.S. Trademark Registrations (Nos. 2,484,075
8 and 2,498,530) for the COGNIZANT Mark (the “COGNIZANT Mark”);

9 (3) Defendant John McAfee, d/b/a Future Tense Central (“Defendant” or “McAfee”),
10 announced his intent to release a download application for mobile devices and tablets (the
11 “Infringing Application”) under the name “Cognizant” (the “Infringing Trade Name and Mark”)
12 on or before March 20, 2014;

13 (4) Cognizant has shown a likelihood of success on the merits of its trademark
14 infringement claim;

15 (5) Cognizant has shown a likelihood that it will suffer irreparable injury if the
16 temporary restraining order is not granted because Cognizant, which is well-known and respected
17 in the business world, will lose control over its reputation and will suffer a loss of goodwill if
18 McAfee, who is well-known and has received press coverage about the Infringing Application,
19 releases the Infringing Application;

20 (6) Cognizant has shown that the balance of equities tips in favor of Cognizant;

21 (7) Cognizant has shown that injunctive relief is in the public interest;

22 (8) There is likely no adequate remedy at law; and

23 (9) Plaintiff has attempted to personally serve Defendant at two separate California
24 residences where, on information and belief, Defendant previously resided and Plaintiff has
25 attempted to provide Defendant with electronic notice of the *ex parte* application in advance of
26 the hearing, but Defendant has not been successfully served or appeared in this action.

27 IT IS HEREBY ORDERED that a temporary restraining order is entered, effective
28 immediately, restraining, enjoining and requiring Defendant McAfee, d/b/a Future Tense Central,

1 and each of his respective officers, directors, partners, agents, subcontractors, servants,
2 employees, representatives, franchisees, licensees, subsidiaries, parents, and related companies or
3 entities, and all others acting in concert or participation with Defendant with regard to the matters
4 described herein, are temporarily restrained from:

- 5 (1) using the Infringing Trade Name and Mark or any variation or colorable imitation
6 thereof in relation to the “Infringing Application”;
- 7 (2) infringing the COGNIZANT Mark;
- 8 (3) representing that Defendant is employed by, associated with, or in any way related
9 to Cognizant; and
- 10 (4) offering for sale, advertising, or promoting goods and services under the Infringing
11 Trade Name and Mark, or any variation or colorable imitation thereof, in any manner not
12 authorized by Cognizant or the Court.

13 The temporary restraining order shall expire 14 days from the date it is issued. Within
14 seven days of issuance, Plaintiff shall file a notice with the Court explaining what further efforts
15 Plaintiff has made to serve or notify Defendant of this action and the results of such efforts.
16 Within five days thereafter, Plaintiff shall file another such notice and explain whether and why
17 the temporary restraining order should be extended.

18 The Plaintiff is ORDERED to post a bond of \$100.00.

19 IT IS FURTHER ORDERED THAT Defendant shall appear before the Honorable
20 William H. Orrick, United States District Judge, in Courtroom 2 of the United States District
21 Court, Northern District of California, located at 450 Golden Gate Avenue, San Francisco,
22 California, on April 18, 2014, at 10:00 a.m., and show cause why a preliminary injunction should
23 not issue during the pendency of this action restraining and enjoining Defendant and each of his
24 respective officers, directors, partners, agents, subcontractors, servants, employees,
25 representatives, franchisees, licensees, subsidiaries, parents, and related companies or entities,
26 and all others acting in concert or participation with Defendant with regard to the matters
27 described herein, from:

1 (1) using the Infringing Trade Name and Mark or any variation or colorable imitation
2 thereof in relation to the "Infringing Application";

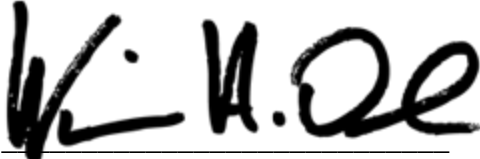
3 (2) representing that Defendant is employed by, associated with, or in any way related
4 to Cognizant; and

5 (3) offering for sale, advertising or promoting goods and services under the Infringing
6 Trade Name and Mark or any variation or colorable imitation thereof, in any manner not
7 authorized by Cognizant or the Court.

8 This Order to Show Cause and supporting papers shall be served on Defendant no later
9 than 14 days before the hearing. Any response or opposition to this Order to Show Cause shall be
10 filed 7 days before the hearing, and any reply by Plaintiff shall be filed 3 days before the hearing.

11 **IT IS SO ORDERED.**

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13 Dated: March 21, 2014

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17 WILLIAM H. ORRICK
18 UNITED STATES DISTRICT JUDGE