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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Mformation Techs., Inc.,

NO. C 08-04990 JW

Plaintiff,

**ORDER REQUESTING FURTHER
BRIEFING**

v.

Research in Motion Ltd., et al.,

Defendants.

The parties are currently scheduled to appear before the Court on **August 6, 2012 at 9 a.m.**¹ for a hearing on post-trial Motions. In preparing for this hearing, the Court finds that it would benefit from additional briefing from the parties on two issues. Accordingly, on or before **July 27, 2012**, the parties shall each file a single simultaneous brief addressing the following issues:

A. Evidence re. Transmission of the Contents of the Mailbox

The Court construed the language of Claim 1 to mean that “delivering” a command from the server had to be performed in a sequence of recited sub-steps. The first sub-step requires “without a request from the wireless device . . . establishing a connection between the wireless device and the server . . . wherein the connection is established based on a threshold condition.” The Court construed this language to mean that when performing this sub-step, a connection must be made by the server with the wireless device.

¹ Please note that this time represents a modification of the Court’s July 13, 2012 Minute Order. (See Docket Item No. 1025.)

1 The second recited sub-step in the “delivering” step is “transmitting the contents of the
2 mailbox from the server to the wireless device.” The Court construed the claim language to mean
3 that the “establishing a connection” sub-step must be completed before the “transmitting the
4 contents of the mailbox” sub-step can commence. Thus, under the Court’s construction, a
5 connection between the server and the wireless device must be established before transmission of a
6 command is commenced.


7 In light of the Court’s construction, the parties are directed to point to the evidence produced
8 during Plaintiff’s case-in-chief which shows that a command is transmitted from the Blackberry
9 Enterprise Server to the Blackberry handheld device after a connection has been established between
10 the server and the handheld device.²

11 **B. Anticipation**

12 The jury returned a verdict finding that: (1) Claims 1 and 6 of the ‘917 Patent are not
13 anticipated, and that (2) Claims 21-25 of the ‘917 Patent are anticipated. (See Docket Item No. 1026
14 at 9.) However, Claims 6, 21-25 are dependent on Claim 1.

15 The parties are directed to address the issue of whether the jury verdict is inconsistent,
16 insofar as the jury found that the independent Claim 1 of the ‘917 Patent is not anticipated, but that
17 claims that depend on that independent claim are anticipated.³ The parties shall also address any
18 course of action they would ask the Court to take with respect to this verdict.

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20 Dated: July 17, 2012



JAMES WARE
United States District Chief Judge

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25 ² In their briefing, the parties shall clearly quote and cite to the trial transcript.

26 ³ See, e.g., Duhn Oil Tool, Inc. v. Cooper Cameron Corp., No. 1:05-CV-1411-MLH, 2012
27 WL 604138, at *4 (E.D. Cal. Feb. 23, 2012) (stating that “[i]f an independent claim is not
28 anticipated, any claims that depend upon that claim cannot be anticipated”) (citations omitted).

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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Dated: July 17, 2012

Richard W. Wieking, Clerk

By: /s/ JW Chambers
William Noble
Courtroom Deputy