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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 OMNITRACS, LLC and XRS
12 CORPORATION,

13 Plaintiffs,

14 v.

15 PLATFORM SCIENCE, INC.,

16 Defendant.

Case No.: 20-cv-958-CAB-DDL

**ORDER GRANTING IN PART
DEFENDANT’S MOTION FOR
ISSUANCE OF LETTER
ROGATORY**

[Dkt. No. 279]

17
18 Before the Court is Defendant Platform Science, Inc.’s (“Defendant”) unopposed
19 Motion for Issuance of Letters Rogatory to the Ontario Superior Court of Justice for Colin
20 D. Warkentin (the “Motion”). Dkt. No. 279. The Court held a hearing on the Motion on
21 March 22, 2023, at which counsel for Plaintiffs Omnitracs, LLC and XRS Corporation
22 (“Plaintiffs”) and Defendant appeared. The Court has considered the moving papers, the
23 applicable law, and the arguments of counsel. For the reasons stated below and at the
24 hearing, the Motion is **GRANTED IN PART**.

25 Defendant seeks documents and testimony from Colin D. Warkentin, who is the first
26 named inventor on two of the patents-in-suit (the ‘568 and ‘575 patents) and a former
27 employee of XRS Corporation. Dkt. No. 279 at 4. According to Defendant, Mr. Warkentin
28 possesses unique knowledge regarding the conception and reduction to practice regarding

1 the '568 and '575 patents. *Id.* at 4-5, 11. Defendant further asserts that Mr. Warkentin is
2 uniquely knowledgeable about the “key prior art products” that were developed by XRS
3 Corporation during his employment there. *Id.* at 11. Defendant also seek any documents
4 that Mr. Warkentin has in his possession, custody and control related to the development
5 of these products. Plaintiffs do not oppose the Motion and indeed have identified Mr.
6 Warkentin as a witness with relevant knowledge in their Rule 26 disclosures. *See* Dkt. No.
7 279-9 at 9. Defendants have tried to contact Mr. Warkentin to solicit his voluntary
8 cooperation with their discovery efforts, but to no avail. Dkt. No. 279 at 9.

9 “A letter rogatory is ‘a formal written request sent by a court to a foreign court’ for
10 the purpose of obtaining evidence, including depositions and documents, in a pending
11 action.” *Scalia v. Int’l Longshore & Warehouse Union*, 337 F.R.D. 281, 287 (N.D. Cal.
12 2020) (citation omitted). The issuance of such a request is within the Court’s inherent
13 powers and is also implicitly authorized by 28 U.S.C. § 1781. *See Asis Internet Servs. v.*
14 *Optin Global, Inc.*, No. C-05-05124 JCS, 2007 WL 1880369, at *3 (N.D. Cal. June 29,
15 2007); see also Fed. R. Civ. P. 28(b)(1)(B) (providing for the taking of foreign depositions
16 by means of a letter rogatory). Whether to do so is a matter of the Court’s discretion.
17 *Scalia*, 337 F.R.D. at 288. As with any other discovery request, discovery sought by means
18 of a letter rogatory must be within the scope of discovery defined by Rule 26(b). *See id.*

19 Defendant has provided the Court with its proposed letter rogatory setting forth the
20 requested discovery, which consists of 11 document requests and 13 topics for examination
21 at deposition. *See* Dkt. No. 279-1.

22 Having reviewed Defendant’s Motion and considered the information provided by
23 counsel at the March 22 hearing, the Court finds that the deposition testimony and
24 documents sought by Defendant are within the scope of Rule 26(b) with the exception of
25 proposed deposition topic number 13. Therefore, and for good cause shown, Defendant’s
26 Motion is **GRANTED IN PART**. The Court hereby authorizes a request for discovery
27 from Colin D. Warkentin consistent with the terms of this Order and as reflected in the
28 attached Letter Rogatory. It shall be the responsibility of the parties to deliver the Letter

1 Rogatory to the appropriate authorities in Canada. A signed copy of the Letter Rogatory
2 bearing the Court's seal is available to be picked up from the Clerk of the Court, whose
3 address and business hours are available on the Court's website.

4 **IT IS SO ORDERED.**

5 Dated: March 24, 2023

6 *David Leshner*

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8 Hon. David D. Leshner
9 United States Magistrate Judge



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

OMNITRACS, LLC and XRS CORPORATION, Plaintiffs, v. PLATFORM SCIENCE, INC., Defendant.
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Case No.: 20-cv-958-CAB-DDL

**LETTER ROGATORY TO THE
ONTARIO SUPERIOR COURT FOR
JUSTICE**

**TO THE APPROPRIATE JUDICIAL AUTHORITY OF THE STATE OF
CANADA:**

The United States District Court for the Southern District of California (hereafter “United States District Court”) presents its compliments to the Ontario Superior Court of Justice and respectfully requests international judicial assistance to obtain evidence to be used in the above-captioned civil action proceeding before this Court. The United States District Court has determined that it would further the interests of justice if the Ontario Superior Court of Justice utilizes its proper and usual process to summon Colin D. Warkentin to appear before a person empowered under Canadian law to administer oaths and take testimony forthwith, to give testimony under oath or affirmation by questions and answers upon oral examination in respect of the matters and issues identified in Schedule

1 B, and permit the parties to create a written transcript and video recording of such
2 testimony. The United States District Court has also determined that it would further the
3 interests of justice if the Ontario Superior Court of Justice utilizes its proper and usual
4 process to summon Colin D. Warkentin to produce copies of the documents in his
5 possession, custody, or control that are identified in Schedule A.

6 The applicant for this letter is Defendant Platform Science, Inc. Counsel is available
7 to answer any questions the Ontario Superior Court of Justice may have.

8 This request is made pursuant to Rule 4(f)(2)(B) of the Federal Rules of Civil
9 Procedure; the All Writs Act, 28 U.S.C. §1651, and 28 U.S.C. §1781 (permitting the
10 transmittal of letters rogatory through the district courts and the Department of State); the
11 Ontario Evidence Act, R.S.O. 1990, c. E. 23; and the Canada Evidence Act, R.S.C., 1985,
12 c. C-5. The United States District Court is a competent court of law and equity which
13 properly has jurisdiction over this proceeding and has the power to compel the attendance
14 of witnesses and production of documents both within and outside its jurisdiction.
15 According to information provided by the parties in the above-captioned matter, Colin D.
16 Warkentin resides in Canada, within the Province of Ontario, and has or is likely to have
17 possession of the documents specified in Schedule A and knowledge of the subject matter
18 specified in Schedule B herein.

19 The testimony and production of documents are intended for use at trial or directly
20 in the preparation for trial in this case, and in the view of the United States District Court,
21 will be relevant to claims and defenses in this case. This request is made with the
22 understanding that it will in no way require any person to commit any offense, or to
23 undergo a broader form of inquiry than he or she would if the litigation were conducted in
24 a Canadian court. The United States District Court is satisfied that the evidence sought to
25 be obtained through this request is relevant and necessary and cannot reasonably be
26 obtained by other methods. Because the United States District Court lacks authority to
27 compel participation of Mr. Warkentin and, such participation being necessary in order that
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1 justice be served in the above-captioned proceedings, the United States District Court
2 respectfully requests assistance from the Ontario Superior Court of Justice.

3 **1. SENDER**

4 Honorable David D. Leshner

5 United States Magistrate Judge

6 United States District Court for the Southern District of California

7 333 West Broadway

8 San Diego, CA 92101

9 **2. CENTRAL AUTHORITY OF THE REQUESTED STATE**

10 Ontario Superior Court of Justice, St. Catharines Courthouse

11 59 Church Street

12 St. Catharines, ON

13 L2R 7N8

14 **3. PERSON TO WHOM THE EXECUTED REQUEST IS TO BE**
15 **RETURNED**

16 Brent P. Ray

17 bray@kslaw.com

18 KING & SPALDING LLP

19 110 N. Wacker Dr., Ste. 3800

20 Chicago, IL 60606

21 Tel: 312-764-6925

22 **4. SPECIFICATION OF DATE BY WHICH REQUESTING**
23 **AUTHORITY REQUIRES RECEIPT OF THE RESPONSE TO THE**
24 **LETTER OF REQUEST**

25 A response is requested as soon as possible, in order to ensure that the evidence may
26 be obtained before the deadline for discovery in this case, currently set for June 23, 2023.

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1 **5. NAMES AND ADDRESS OF THE PARTIES AND THEIR**
2 **REPRESENTATIONS OF THE CASE (ARTICLE 3(B))**

3 The evidence requested relates to the action *Omnitracs, LLC and XRS Corporation*
4 *v. Platform Science, Inc.*, Case No. 3:20-cv-0958-CAB-DDL, pending in the United States
5 District Court for the Southern District of California.

6 **The parties and their representatives are listed herein as follows:**

7 a. Plaintiffs

8 Omnitracs, LLC and XRS Corporation

9 *Contact through counsel identified below:*

10 **Michael W. De Vries** (S.B.N. 211001)

11 michael.devries@kirkland.com

12 **Justin Singh** (S.B.N. 266279)

13 Justin.singh@kirkland.com

14 KIRKLAND & ELLIS LLP

15 555 South Flower Street, Suite 3700

16 Los Angeles, CA 90071

17 Telephone: (213) 680-8400

18 **Adam R. Alper** (S.B.N. 196834)

19 adam.alper@kirkland.com

20 **Akshay S. Deoras** (S.B.N. 301962)

21 akshay.deoras@kirkland.com

22 KIRKLAND & ELLIS LLP

23 555 California Street

24 San Francisco, CA 94104

25 Telephone: (415) 439-1400

26 **Gianni Cutri** (Admitted Pro Hac Vice)

27 gianni.cutri@kirkland.com

28 KIRKLAND & ELLIS LLP

300 North LaSalle

Chicago, IL 60654

Telephone: (312) 862-2000

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1 **Leslie M. Schmidt** (Admitted Pro Hac Vice)
2 leslie.schmidt@kirkland.com
3 **Aaron D. Resetarits** (Admitted Pro Hac Vice)
4 aaron.resetarits@kirkland.com
5 KIRKLAND & ELLIS LLP
6 601 Lexington Avenue
7 New York, NY 10022
8 Telephone: (212) 446-4800

9 b. Defendant

10 Platform Science, Inc.

11 *Contact through counsel identified below:*

12 **Brent P. Ray** (Admitted Pro Hac Vice)
13 bray@kslaw.com
14 KING & SPALDING LLP
15 110 N. Wacker Dr., Ste. 3800
16 Chicago, IL 60606
17 Tel: 312-764-6925

18 **Angela Tarasi** (Admitted Pro Hac Vice)
19 atarasi@kslaw.com
20 KING & SPALDING LLP
21 1401 Lawrence St., Ste. 1900
22 Denver, Co 80202
23 Tel: 720-535-2300

24 **6. NATURE AND PURPOSE OF THE PROCEEDINGS AND SUMMARY**
25 **OF THE FACTS**

26 **A. NATURE AND PURPOSE OF THE CLAIMS**

27 Omnitrac, LLC and XRS Corporation (“Plaintiffs”) filed this action against
28 Platform Science, Inc. (“Defendant”) alleging infringement of five United States patents
including U.S. Patent Nos. 8,626,568 (“the ’568 patent”) and 10,255,575 (“the ’575
patent”). Counsel for Defendant will provide copies of the U.S. Patents referenced herein
for the Ontario Superior Court of Justice’s review. Defendant has asserted affirmative
defenses and counterclaims of noninfringement and invalidity as to the asserted patents.

1 Plaintiff XRS Corporation (“XRS”), formerly known as XATA Corporation, is a
2 provider of fleet management solutions to transportation and logistics companies. Their
3 solutions include smartphone- and tablet-based systems that enable trucking companies to
4 manage their fleets and comply with Department of Transportation (DOT) regulations
5 promulgated by the Federal Motor Carrier Safety Administration (FMSCA).

6 Defendant is an enterprise-grade Internet of Things (“IoT”) fleet management
7 platform. Defendant offers an open platform upon which commercial fleets may freely
8 develop, customize, and integrate telematics, applications and IoT solutions for their
9 businesses and end-users. Its customers have the power to create or choose solutions and
10 apps they need from among a variety of partners, which can be deployed in their vehicles.

11 **B. COLIN D. WARKENTIN**

12 Colin D. Warkentin is a former employee of XRS, but he is no longer employed by
13 any party to this suit. During his employment at XRS, Mr. Warkentin served as Vice
14 President of Development and Chief Operating Officer. Whether Mr. Warkentin is
15 represented by counsel and, if so, the identity of his counsel, is unknown.

16 Mr. Warkentin is listed as the first named inventor on the ’568 and ’575 patents. Mr.
17 Warkentin has also been identified by Plaintiffs as being knowledgeable of the work and
18 invention that led to the ’568 and ’575 patents. Furthermore, documents provided by
19 Plaintiffs evidencing the date of conception and reduction to practice of the asserted claims
20 of the ’528 and ’575 patents explicitly show that Mr. Warkentin authored revisions in
21 design documents for implementing key limitations found in the claims of the ’568 and
22 ’575 patents.

23 **C. EVIDENCE TO BE OBTAINED AND PURPOSE**

24 The evidence to be obtained consists of documents for use at trial or in preparing for
25 trial in this matter. Defendant has also requested oral testimony from Mr. Warkentin.
26 Based on information provided by the parties to these proceedings, the United States
27 District Court concludes that Mr. Warkentin may possess of information and documents
28 relevant to the parties’ claims and defenses and defenses pertaining the infringement and

1 validity of the '528 and '575 patents. The requested documents may therefore be needed
2 for use in the trial or other adjudication of the action.

3 The United States District Court further concludes that it is in the interests of justice
4 for Mr. Warkentin to be examined on the topics listed in Schedule B and to produce the
5 documents listed in Schedule A. Production of the documents in Schedule A is within the
6 scope of permissible discovery in these proceedings.

7 To the extent that some of the documents in Schedule A, and the testimony sought
8 in Schedule B, may call for confidential, or trade secret information. The United States
9 District Court has issued a Protective Order [Dkt. 176] that governs this case, and extends
10 to the document productions or testimony of third parties including Mr. Warkentin.
11 Counsel for Defendant will provide a copy of the governing Protective Order for the
12 Ontario Superior Court of Justice's review.

13 Mr. Warkentin resides in Ontario, Canada, and the United States District Court has
14 not been presented any evidence that he is domiciled or otherwise subject to process in the
15 United States. Thus, the United States District Court cannot directly compel Mr. Warkentin
16 to provide the requested documents and testimony.

17 The United States District Court therefore respectfully asks that the Ontario Superior
18 Court of Justice compel Mr. Warkentin to produce documents responsive to the requests
19 for production set forth in Schedule A to this Letter of Request, to the extent that they are
20 in his possession, custody, or control, and are not privileged under the applicable laws of
21 Canada or the United States. The United States District Court also respectfully asks that
22 the Ontario Superior Court of Justice compel the appearance of Mr. Warkentin to testify
23 under oath, concerning the topics set forth in Schedule B to this Letter of Request.

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1 **D. IDENTITY AND ADDRESS OF THE ENTITIES AND PERSON**
2 **TO BE EXAMINED**

3 The identity and address of the person to be examined is set forth below. The address
4 provided is based on currently available information and may be supplemented.

5 Colin D. Warkentin
6 162 Martindale Rd, 810
7 St. Catharines, ON L2S 3S4
8 Canada

9 **E. STATEMENTS OF THE SUBJECT MATTER ABOUT WHICH**
10 **THE PERSON WILL BE EXAMINED**

11 The United States District Court requests that the Ontario Superior Court of Justice
12 summon Colin D. Warkentin to testify regarding the topics listed in Schedule B to this
13 Letter of Request.

14 **F. DOCUMENTS AND OTHER EVIDENCE TO BE EXAMINED**

15 The United States District Court requests that the Ontario Superior Court of Justice
16 summon Colin D. Warkentin to produce or make available for inspection the documents
17 set forth in Schedule A to this Letter of Request.

18 **G. REQUIREMENTS THAT THE EVIDENCE BE GIVEN ON**
19 **OATH OR AFFIRMATION**

20 The United States District Court requests that the Ontario Superior Court of Justice
21 summon Colin D. Warkentin to appear before a person empowered under Canadian law to
22 administer oaths and take testimony and give testimony under oath or affirmation on the
23 topics listed in Schedule B by questions and answers upon oral examination at a convenient
24 location in Ontario.

25 **H. SPECIAL PROCEDURES AND METHODS TO BE**
26 **FOLLOWED**

27 The examinations shall be conducted pursuant to the discovery rules as provided for
28 in the Federal Rules of Civil Procedure of the United States, except to the extent such
procedure is incompatible with the laws of Canada. The United States District Court further

1 requests: (1) that the examination be taken orally; (2) that the examination be taken before
2 a commercial stenographer and videographer selected by Plaintiffs; (3) that the
3 videographer be permitted to record the examination by audiovisual means; (4) that the
4 stenographer be allowed to record a verbatim transcript of the examination; (5) that the
5 examination be conducted in English, or, if necessary, with the assistance of an interpreter
6 selected by Plaintiffs; (6) that, if the examination is conducted through an interpreter,
7 verbatim transcripts of the proceeding in both English and French be permitted; (7) that
8 Mr. Warkentin be examined for no more than ten and a half (10.5) hours if he requires an
9 interpreter or seven (7) hours if he does not require an interpreter; (8) that the time allotted
10 for the examination be divided equally between Plaintiffs and Defendant; and (9) that Mr.
11 Warkentin be examined as soon as possible.

12 In the event that the evidence cannot be taken according to some or all of the
13 procedures described above, this Court requests that it be taken in such manner as provided
14 by the laws of Canada for the formal taking of testimonial evidence.

15 **I. REQUEST FOR NOTIFICATION**

16 None.

17 **J. REQUEST FOR ATTENDANCE OR PARTICIPATION OF**
18 **JUDICIAL PERSONNEL OF THE REQUESTING AUTHORITY**
19 **AT THE EXECUTION OF THE LETTER OF REQUEST**

20 None.

21 **K. SPECIFICATION OF PRIVILEGE OR DUTY TO REFUSE TO**
22 **GIVE EVIDENCE UNDER THE LAW OF THE STATE OF**
23 **ORIGIN**

24 Under the laws of the United States, a witness has a privilege to refuse to give
25 evidence if to do so would disclose a confidential communication between the witness and
26 his or her attorney that was communicated specifically for the purpose of obtaining legal
27 advice and which privilege has not been waived. United States law also recognizes a
28 privilege against criminal self-incrimination. Other limited privileges on grounds not

1 applicable here also exist, such as certain communications between doctors and patients,
2 husband and wife, and clergy and penitent. Certain limited immunities are also recognized
3 outside the strict definition of privilege, such as the limited protection of work product
4 created by attorneys during or in anticipation of litigation.

5 **L. REIMBURSEMENT**

6 The fees and costs incurred in the execution of this Request which are reimbursable
7 will be borne by the above-named Defendant. Defendant is willing to reimburse the
8 reimbursable fees and costs incurred by Colin D. Warkentin complying with any order of
9 the Ontario Superior Court of Justice giving effect to this Request for International Judicial
10 Assistance.

11 **RECIPROCITY**

12 The United States District Court also assures your authority that it will reciprocate
13 with similar assistance in like cases and extends to the Judicial Authorities of Canada,
14 including the Ontario Superior Court of Justice, the assurances of its highest consideration.

15 Date of Request: **March 24, 2023**

16 Signature and Seal of the Requesting Authority:

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23 Honorable David D. Leshner
24 United States Magistrate Judge



1 **SCHEDULE A**

2 **I. DEFINITIONS**

3 The words and phrases used in these Requests shall have the meanings ascribed to
4 them under the Federal Rules of Civil Procedure and the Local Rules of the United States
5 District Court for the Southern District of California. In addition, the following terms shall
6 have the meanings set forth below whenever used in any request:

7 1. “Litigation” means *Omnitracs LLC and XRS Corporation v. Platform Science,*
8 *Inc.* (No. 3:20-cv-00958-CAB-DDL), pending in the United States District Court for the
9 Southern District of California.

10 2. “You,” “Your,” or “Colin D. Warkentin” refer to Colin D. Warkentin.

11 3. The “Patents-in-Suit” means U.S. Patent Nos. 8,626,568; 10,255,575; and
12 9,262,934.

13 4. “2010 DOT Regulations” refers to 75 Fed. Reg. 17207 (April 5, 2010) (to be
14 codified at 49 C.F.R. §§350, 385, 395, and 396), p. 17208.

15 5. “Document” or “Documents” is synonymous in meaning and equal in scope
16 to the usage of this term in Fed. R. Civ. P. 34(a) and includes, without limitation, any
17 written, printed, typed, stored, electronic, photostated, photographed, recorded, or
18 otherwise reproduced communication or representation, including computer or
19 electronically generated or stored information, data, or source code, whether assertedly
20 privileged or not. “Document” specifically includes all forms of electronic data and
21 tangible things. A draft or non-identical copy is a separate document within the meaning
22 of the term.

23 6. “Thing(s)” has the broadest meaning allowable under Fed. R. Civ. Proc. 34
24 and Commission Rule 210.30 and includes every tangible object other than a Document
25 including, without limitation, objects of every kind and nature, as well as prototypes,
26 models, or physical specimens thereof.

27 7. “Person” or “Persons” means any natural person or any business, legal, or
28 governmental entity or association or any other cognizable entity, including, without

1 limitation, corporations, proprietorships, partnerships, joint ventures, consortiums, clubs,
2 associations, foundations, governmental agencies or instrumentalities, societies, and
3 orders.

4 8. “Vehicle Onboard Computing Product” means any device or component that
5 may generate, receive, transmit, capture, or record information from one or more vehicle
6 components (such as engine data, electronic control module (ECM) data, diagnostics,
7 telematics, etc.) and includes but is not limited to onboard computers; display devices (e.g.,
8 connected physically or wirelessly); automatic onboard recording devices; and devices or
9 components that (a) record, generate, process, store, or transmit hours of service
10 information and/or driver logs, including devices in compliance with 49 C.F.R. §395.15,
11 (b) generate, receive, or monitor trip schedules, (c) collect driver, route, and delivery
12 information in real-time, (d) receive or interface navigation (GPS) information and
13 geofencing; and/or (e) interface with any such device or component.

14 “Vehicle Onboard Computing Product” also includes any device or component that
15 may be more commonly referred to as an electronic logging device (ELD), electronic on-
16 board recorder (EOBR), electronic driver logs (EDLs), automatic on-board recording
17 device (AOBRD), computer assisted logs (CALs), and digital tachograph.

18 “Vehicle Onboard Computing Product” also includes any software, application, or
19 program designed to operate on or integrate with the above-mentioned onboard devices or
20 components. This includes but is not limited to software, applications, or programs for
21 vehicle routing, dispatch, customer service, and regulatory compliance.

22 “Vehicle Onboard Computing Product” includes but is not limited to XRS
23 Corporation’s Routetracker and Routetracker2 products as well as any related or
24 substantially similar products.

25 This definition is limited to products, devices, and components that were made, used,
26 sold, or offered for sale, prior to February 16, 2016.

27 9. The words “and” and “or” shall be construed conjunctively or disjunctively,
28 whichever makes the request most inclusive.

1 10. “Time Period” means prior to February 16, 2016.

2 **II. INSTRUCTIONS**

3 1. These Requests shall apply to all Documents in your possession, custody, or
4 control at the present time or coming into your possession, custody, or control prior to the
5 date of production.

6 2. With respect to documents, communications, or information you contend are
7 privileged, please provide the following information for any responsive document or thing
8 withheld from production on the grounds that it is protected from disclosure by the
9 attorney-client privilege, the work product doctrine, or any other relevant privilege:

10 a. The author of the document;

11 b. The person(s) for whom the document was prepared, to whom it was sent, and
12 who received copies;

13 c. The date of the document;

14 d. The subject matter of the document;

15 e. The type of document (e.g., letter, memorandum, note, report, etc.);

16 f. The number of pages and attachments; and

17 g. The nature and the basis for the claim of privilege.

18 3. Documents and things requested herein shall be produced in the same
19 sequence as they are contained or found and with the file folders and other identifying
20 documents or containers (e.g., copy of envelope, file cabinet market, binder tab) in which
21 such documents were located when these requests were served. If you do not produce each
22 document requested herein as kept in the usual course of business, you are requested to
23 organize and label the documents or things produced to correspond with the particular
24 document request to which the document or thing is responsive.

25 4. Electronic and computerized materials must be produced in an intelligible
26 format or together with a description of the system from which it was derived sufficient to
27 permit review of the material.

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1 5. If you object to a request, or any part of a request, please produce all
2 documents to which your objection does not apply.

3 **III. DOCUMENTS AND THINGS TO BE PRODUCED**

4 1. Documents and Things related to the design, development, components,
5 features, functionality, architecture, and operation of each Vehicle Onboard Computing
6 Product, including Routetracker and Routetracker2, made, used, sold, or offered for sale
7 during the Time Period. This includes but is not limited to any design specifications,
8 requirement documents, user manuals, installation manuals, architecture documents,
9 reference manuals, data sheets, and programming instructions.

10 2. Documents and Things related to how each Vehicle Onboard Computing
11 Product, including Routetracker and Routetracker2, recorded, generated, processed,
12 displayed, stored, and transmitted hours of service (HOS) information and/or driver logs,
13 including but not limited to which component(s) were involved in each process, which
14 component(s) generated the HOS information or logs, what data was used in the process
15 and from where the data was collected or provided, and how the HOS information and logs
16 were transferred between components in the vehicle and to remote computers (such as an
17 inspection agent).

18 3. Documents and Things related to how each Vehicle Onboard Computing
19 Product, including Routetracker and Routetracker2, generated, modified, transmitted,
20 received, displayed, and monitored trip schedules, including information such as the
21 driver's current location; destinations for the trip; times when the vehicle is expected to
22 reach its destination; a time remaining to complete route; a trip route; a trip map; a time for
23 which the driver may remain on duty; and one or more safety graphics.

24 4. Documents and Things related to how each Vehicle Onboard Computing
25 Product, including Routetracker and Routetracker2, collected, generated, transmitted, and
26 displayed driver, route, communications (e.g., messages, such as emails or SMS), and
27 delivery information, including whether any of these functions were performed in real-
28 time.

1 5. Documents and Things related to how each Vehicle Onboard Computing
2 Product, including Routetracker and Routetracker2, used or interfaced with navigation
3 (GPS) systems, including how the information was used, transmitted, displayed, or
4 presented to a driver, as well as any geofencing features.

5 6. Documents and Things related to how each Vehicle Onboard Computing
6 Product, including Routetracker and Routetracker2, interfaced with or connected to vehicle
7 systems or components (such as electronic control modules), including, for example, 1)
8 whether it connected to a diagnostic port or was hardwired into the vehicle systems, 2)
9 which vehicle protocols it was compatible with, 3) how it determined which vehicle
10 protocol were in use in the vehicle; and 4) how it selected which protocol to transmit or
11 receive data; and 5) how received data from each vehicle system or component.

12 7. Documents related to the 2010 DOT Regulations, including how you used,
13 relied on, and/or otherwise considered them during the design or development of any
14 Vehicle Onboard Computing Product, including Routetracker and Routetracker2. This
15 includes, for example, any documents related to whether any features of the Vehicle
16 Onboard Computing Product were added to comply with, or based on, the 2010 DOT
17 regulations, such as USB ports, the ability to transfer logs from the device out the USB
18 port, file transfer from a mobile device to the device, and that the file transfer comprised
19 HOS information.

20 8. Documents related to the first offer for sale and first sale in the United States
21 of each Vehicle Onboard Computing Product, including Routetracker and Routetracker2,
22 during the Time Period. This includes but is not limited to the date of the offer or sale, date
23 of delivery, the buyer and seller, the quantity, and the sale price.

24 9. Documents related to the first public use or display in the United States of
25 each Vehicle Onboard Computing Product, including Routetracker and Routetracker2,
26 during the Time Period. This includes but is not limited to the date, location, parties
27 involved, and the subject matter shown, used, or displayed.

28

1 10. Documents related to how each Vehicle Onboard Computing Product,
2 including Routetracker and Routetracker2, was marketed to the public dated, published, or
3 otherwise distributed during the Time Period.

4 11. Documents related to the Patents-in-Suit, including any documents related to
5 any search for prior art to the Patents-in-Suit.

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1 **SCHEDULE B**

2 **I. DEFINITIONS**

3 The words and phrases used in these Requests shall have the meanings ascribed to
4 them under the Federal Rules of Civil Procedure and the Local Rules of the United States
5 District Court for the Southern District of California. In addition, the following terms shall
6 have the meanings set forth below whenever used in any request:

7 1. “Litigation” means *Omnitracs LLC and XRS Corporation, v. Platform*
8 *Science, Inc.* (No. 3:20-cv-00958-CAB-DDL), pending in the Southern District of
9 California.

10 2. “You,” “Your,” or “Colin D. Warkentin” refer to Colin D. Warkentin.

11 3. The “Patents-in-Suit” means U.S. Patent Nos. 8,626,568; 10,255,575; and
12 9,262,934.

13 4. “2010 DOT Regulations” refers to 75 Fed. Reg. 17207 (April 5, 2010) (to be
14 codified at 49 C.F.R. §§350, 385, 395, and 396), p. 17208.

15 5. “Person” or “Persons” means any natural person or any business, legal, or
16 governmental entity or association or any other cognizable entity, including, without
17 limitation, corporations, proprietorships, partnerships, joint ventures, consortiums, clubs,
18 associations, foundations, governmental agencies or instrumentalities, societies and orders.

19 6. “Vehicle Onboard Computing Product” means any device or component that
20 may generate, receive, transmit, capture, or record information from one or more vehicle
21 components (such as engine data, electronic control module (ECM) data, diagnostics,
22 telematics, etc.) and includes but is not limited to onboard computers; display devices (e.g.,
23 connected physically or wirelessly); automatic onboard recording devices; and devices or
24 components that (a) record, generate, process, store, or transmit hours of service
25 information and/or driver logs, including devices in compliance with 49 C.F.R. §395.15,
26 (b) generate, receive, or monitor trip schedules, (c) collect driver, route, and delivery
27 information in real-time, (d) receive or interface navigation (GPS) information and
28 geofencing; and/or (e) interface with any such device or component.

1 “Vehicle Onboard Computing Product" also includes any device or component that
2 may be more commonly referred to as an electronic logging device (ELD), electronic on-
3 board recorder (EOBR), electronic driver logs (EDLs), automatic on-board recording
4 device (AOBRD), computer assisted logs (CALs), and digital tachograph.

5 “Vehicle Onboard Computing Product” also includes any software, application, or
6 program designed to operate on or integrate with the above-mentioned onboard devices or
7 components. This includes but is not limited to software, applications, or programs for
8 vehicle routing, dispatch, customer service, and regulatory compliance.

9 “Vehicle Onboard Computing Product” includes but is not limited to XRS
10 Corporation’s Routetracker and Routetracker2 products (with or without TP Mobile) as
11 well as any related or substantially similar products.

12 This definition is limited to products, devices, and components that were made, used,
13 sold, or offered for sale, prior to February 16, 2016.

14 7. The words “and” and “or” shall be construed conjunctively or disjunctively,
15 whichever makes the request most inclusive.

16 8. “Time Period” means prior to February 16, 2016.

17 **II. TOPICS FOR DEPOSITION**

18 1. The design, development, components, features, functionality, architecture,
19 and operation of each Vehicle Onboard Computing Product made, used, sold, or offered
20 for sale during the Time Period.

21 2. The recording, generation, processing, display, storage, and transmission of
22 hours of service (HOS) information and/or driver logs for each Vehicle Onboard
23 Computing Product.

24 3. The generation, modification, transmission, reception, display, and
25 monitoring of trip schedules for each Vehicle Onboard Computing Product.

26 4. The collection, generation, transmission, and display of driver, route,
27 communication, and delivery information for each Vehicle Onboard Computing Product.

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1 5. The use and interface of navigation (GPS) systems for each Vehicle Onboard
2 Computing Product.

3 6. The interface and connection to vehicle systems for each Vehicle Onboard
4 Computing Product.

5 7. The use, reliance upon, or otherwise consideration of the 2010 DOT
6 Regulations in the design and development of each Vehicle Onboard Computing Product
7 during the Time Period.

8 8. The first offer for sale and first sale in the United States of each Vehicle
9 Onboard Computing Product during the Time Period.

10 9. The first public use or display in the United States of each Vehicle Onboard
11 Computing Product during the Time Period.

12 10. The marketing for each Vehicle Onboard Computing Product.

13 11. The Patents-in-Suit and any search for prior art to the Patents-in-Suit.

14 12. The authenticity of the documents and things produced in response to the
15 Document Requests.

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