

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VERTICAL COMPUTER SYSTEMS, INC.

Plaintiff,

v.

INTERWOVEN, INC., LG ELECTRONICS
MOBILECOMM U.S.A., INC., LG
ELECTRONICS INC., SAMSUNG
ELECTRONICS CO., LTD., SAMSUNG
ELECTRONICS AMERICA, INC.,

Defendants.

CIVIL ACTION NO. 2:10-cv-490

(Eastern District of Texas)

JURY TRIAL DEMANDED

**LGE'S ANSWER TO
VERTICAL'S ORIGINAL COMPLAINT**

Defendants LG Electronics Mobilecomm U.S.A., Inc. and LG Electronics Inc. (collectively "LGE") file this Answer and Defenses to Plaintiff Vertical Computer Systems, Inc.'s ("Vertical") Complaint. LGE denies the allegations and characterizations in Vertical's Complaint unless expressly admitted in the following paragraphs.

PARTIES

1. LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint, and therefore denies them.

2. Paragraph 2 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint, and therefore denies them.

3. LGE admits that LG Electronics Mobilecomm U.S.A., Inc. is a California corporation. LGE admits that LG Electronics Mobilecomm U.S.A., Inc. has a principal place of business in San Diego, CA 92131. LGE admits that LG Electronics Mobilecomm U.S.A., Inc.

may be served with process through its registered agent, Alan K. Tse, 10101 Old Grove Road, San Diego, CA 92131.

4. LGE admits that LG Electronics, Inc. is a company organized and existing under the laws of Republic of Korea. LGE admits that LG Electronics, Inc. has a principal place of business in Seoul, Republic of Korea.

5. Paragraph 5 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint, and therefore denies them.

6. Paragraph 6 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Complaint, and therefore denies them.

JURISDICTION AND VENUE

7. LGE admits that Vertical's Complaint purports to state claims of patent infringement that arise under the patent laws of the United States, 35 U.S.C. §§ 101 et seq. LGE admits that this Court has subject matter jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. Paragraph 8 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint, and therefore denies them.

9. LGE admits that venue will lie in this district under 28 U.S.C. § 1391. LGE denies that this district is more convenient for the witnesses or parties than another district and denies that the interests of justice are served by the continued prosecution of this case in this

district. Except as expressly admitted herein, LGE denies each and every allegation of Paragraph 9 of the Complaint.

10. Paragraph 10 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Complaint, and therefore denies them.

PURPORTED PATENT INFRINGEMENT

11. LGE admits that U.S. Patent No. 6,826,744 (“the ’744 patent”) states on its face that (a) it is entitled “System and Method for Generating Web Sites in an Arbitrary Object Framework”; and (b) it was issued on November 30, 2004. LGE denies that the ’744 patent was duly and legally issued. Except as expressly admitted in this paragraph, LGE lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 11 of the Complaint, and therefore denies them.

12. LGE admits that U.S. Patent No. 7,716,629 (“the ’629 patent”) states on its face that (a) it is entitled “System and Method for Generating Web Sites in an Arbitrary Object Framework”; and (b) it was issued on May 11, 2010. LGE denies that the ’629 patent was duly and legally issued. Except as expressly admitted in this paragraph, LGE lacks knowledge sufficient to confirm or deny the remaining allegations of Paragraph 12 of the Complaint, and therefore denies them.

13. LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint, and therefore denies them.

14. Paragraph 14 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint, and therefore denies them.

15. As to the allegations concerning LGE only, LGE denies the allegations of Paragraph 15 of the Complaint. LGE lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 15 of the Complaint not concerning LGE, and therefore denies them.

PURPORTED STATUTORY NOTICE

16. LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint, and therefore denies them.

PURPORTED WILLFUL INFRINGEMENT

17. Paragraph 17 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint, and therefore denies them.

18. Paragraph 18 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint, and therefore denies them.

19. Paragraph 19 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint, and therefore denies them.

20. Paragraph 20 does not require a response by LGE. To the extent a response is deemed required, LGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint, and therefore denies them.

PURPORTED RELIEF

21. As to the allegations concerning LGE only, LGE denies the allegations of Paragraph 21 of the Complaint. LGE lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 21 of the Complaint not concerning LGE, and therefore denies them.

22. As to the allegations concerning LGE only, LGE denies the allegations of Paragraph 22 of the Complaint. LGE lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 22 of the Complaint not concerning LGE, and therefore denies them.

JURY DEMAND

23. To the extent that a response is required, LGE admits that Vertical's Complaint contains a request for a jury trial.

RESPONSE TO VERTICAL'S PRAYER FOR RELIEF

24. LGE requests that the Court deny all relief to Vertical, including that requested by Vertical in its Prayer for Relief.

AFFIRMATIVE DEFENSES

25. Pursuant to Federal Rule of Civil Procedure 8(c), and without conceding that LGE must necessarily plead any of the following as an affirmative defense or that LGE necessarily bears the burden of persuasion for any of the following, LGE asserts the following defenses to Vertical's Complaint. LGE reserves the right to amend its Answer to add additional Affirmative Defenses consistent with the facts discovered in this case.

**FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)**

26. Vertical's Complaint fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE
(Non-Infringement)**

27. LGE does not infringe and has not infringed under any theory (including directly (whether individual or jointly) or indirectly (whether contributorily, or by inducement)), any claim of the '744 and '629 patents (collectively, the "Asserted Patents"), either literally or under the doctrine of equivalents.

**THIRD AFFIRMATIVE DEFENSE
(Invalidity)**

28. The claims of the Asserted Patents are invalid, unenforceable, and/or void for failure to comply with one or more requirements of the Patent Laws of the United States, 35 U.S.C. § 100, *et seq.*, including without limitation §§ 101, 102, 103, 112 and/or 116.

**FOURTH AFFIRMATIVE DEFENSE
(Laches, Waiver, Acquiescence, Estoppel, and/or Statute of Limitations)**

29. Laches, waiver, acquiescence, estoppel, and/or 35 U.S.C. § 286 bar Vertical's remedies under the Asserted Patents.

**FIFTH AFFIRMATIVE DEFENSE
(Notice, Damages, and Costs)**

30. 35 U.S.C. § 286 and/or § 287 limit Vertical's claims for relief and alleged damages.

31. 35 U.S.C. § 288 bars Vertical from recovering costs in connection with this action.

**SIXTH AFFIRMATIVE DEFENSE
(Claim Construction Estoppel)**

32. Vertical is estopped from construing the claims of the Asserted Patents to cover any LGE product because representations, omissions, and/or concessions made during prosecution of the Asserted Patents, and/or related U.S. or foreign patents and patent applications, limit the scope of the claims of the Asserted Patents.

**SEVENTH AFFIRMATIVE DEFENSE
(Prosecution History Estoppel)**

33. Prosecution history estoppel bars Vertical from asserting infringement of claims of the Asserted Patents under the doctrine of equivalents and from adopting claim construction positions contrary to statements and amendments made during prosecution of the Asserted Patents and/or related U.S. or foreign patents and patent applications.

**EIGHTH AFFIRMATIVE DEFENSE
(Inequitable Conduct)**

34. LGE alleges that each of the Asserted Patents is unenforceable by reason of the Applicant's inequitable conduct during their respective prosecutions. The basis for this allegation is detailed in the following paragraphs. In summary, during the pendency of the parent application, the '744 patent, inventor Aubrey McAuley failed to disclose material prior art that Mr. McAuley was aware of. Additionally, during the pendency of the child application, the '629 patent, Vertical, inventor Aubrey McAuley, and Vertical's counsel did not disclose all material prior art it obtained during Vertical's patent litigation with Microsoft Corporation concerning the parent patent, the '744 patent.

The '744 Patent: WebOS Technology

35. The claims of the '744 patent are unenforceable as a result of inequitable conduct before the United States Patent and Trademark Office ("PTO"). One or more of the people

substantively involved in the prosecution of the application leading to the '744 patent, including inventor Aubrey McAuley, were aware of information material to the patentability of the '744 patent, but withheld that information from the PTO with the intent to deceive, and made false and misleading statements to the PTO during the prosecution of the '744 patent, as set forth herein.

36. Aubrey McAuley, the named inventor of the '744 patent, was a founder and president of Adhesive Media, Inc. (“Adhesive”).

37. On information and belief, Adhesive offered for sale and sold software products and/or services based on its “WebOS” technology more than one year before October 1, 1999, the filing date of the application leading to the '744 patent. Those software products and/or services included Adhesive’s “NewsFlash” product, as well as a number of websites that Adhesive designed for particular customers, purportedly using Adhesive’s WebOS technology.

38. On information and belief, Adhesive also published information relating to its software products and/or services based on its “WebOS” technology more than one year before October 1, 1999. For example, more than one year before October 1, 1999, Adhesive posted on the Internet a diagram of the Web Object Management Facility of its WebOS technology, which is attached hereto as Exhibit A.

39. Exhibit A is nearly identical to Figure 5 of the '744 patent.

40. The specification of the '744 patent describes Figure 5 as an alleged embodiment of “the present invention.” *See* '744 patent at 5:3-17.

41. Therefore, Adhesive’s commercial offer for sale and sale of products and services based on its WebOS technology, and Adhesive’s publication of information relating to its

WebOS technology, all of which occurred more than one year before October 1, 1999, constitute material prior art.

42. Upon information and belief, prior to issuance of the '744 patent, Mr. McAuley had knowledge of Adhesive's offer for sale and sale of its WebOS technology and Adhesive's publication of information relating to its WebOS technology.

43. None of the persons involved in the prosecution of the '744 patent, including but not limited to Mr. McAuley, disclosed to the PTO Adhesive's offer for sale or sale of its WebOS technology or the publication of information relating to its WebOS technology.

44. Information regarding Adhesive's offer for sale and sale of WebOS technology, and publications relating thereto, was withheld from the PTO with intent to deceive.

45. This withholding of information material to patentability with intent to deceive the PTO constitutes inequitable conduct, which renders the '744 patent unenforceable.

The '629 Patent

46. The claims of the '629 patent are unenforceable as a result of inequitable conduct before the PTO. On information and belief, one or more of the people substantively involved in the prosecution of the application leading to the '629 patent, including inventor Aubrey McAuley and patent agent Jack D. Stone Jr., were aware of information material to the patentability of the '629 patent, but withheld that information from the PTO with the intent to deceive, and made false and misleading statements to the PTO during the prosecution of the '629 patent, as set forth herein.

47. During the prosecution of the '629 patent, Vertical initiated a patent infringement suit against Microsoft Corporation in the Eastern District of Texas, Civil Action No. 2:07-CV-144 ("the Microsoft litigation"), alleging infringement of the '744 patent.

48. During the course of the Microsoft litigation, material information regarding the patentability of the '744 patent was disclosed by Microsoft to Vertical and Vertical's attorneys. For example, Microsoft raised inequitable conduct allegations regarding the '744 patent in its Answer to Vertical's complaint, Microsoft served invalidity contentions explaining how numerous prior art references anticipated and/or rendered obvious the claims of the '744 patent, Microsoft produced copies of the underlying prior art references, and Microsoft filed a claim construction brief arguing that numerous claims of the '744 patent were invalid under 35 U.S.C. § 112. However, this material information was not properly disclosed to the PTO during the prosecution of the '629 patent.

49. Because the application leading to the '629 patent is a continuation of the '744 patent, and because the claims and specifications of the '629 and '744 patents are substantially similar, Microsoft's inequitable conduct allegations, invalidity contentions and arguments, and the invalidating prior art references it produced in the Microsoft litigation are also material to the patentability of the '629 patent.

The '629 Patent: Microsoft's Inequitable Conduct Allegations

50. On July 13, 2007, Microsoft filed its Answer, Affirmative Defenses, and Counterclaims ("Microsoft's Answer") in the Microsoft litigation. Microsoft alleged that the '744 patent was unenforceable due to the inequitable conduct of Mr. McAuley in failing to disclose material information to the PTO. In particular, Microsoft alleged that Mr. McAuley, with intent to deceive, failed to disclose Adhesive's offer for sale and sale of products and services based on Adhesive's WebOS technology, and publications relating thereto, more than one year prior to October 1, 1999.

51. Microsoft's inequitable conduct allegations disclose critical information expressly challenging the validity and enforceability of the related '744 patent, and thus constitute material prior art.

52. None of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO either Microsoft's Answer or the existence or substance of Microsoft's inequitable conduct allegations.

53. Further, during prosecution of the '629 patent, the applicant disclosed certain prior art documents relating to Adhesive's prior art WebOS technology relied on by Microsoft during the Microsoft litigation, but failed to disclose the critical facts that Mr. McAuley was the founder and president of Adhesive and other information indicating that the WebOS technology qualified as prior art under 35 U.S.C. § 102(b).

54. The knowledge that Mr. McAuley is both a named inventor of the '629 patent and the founder and president of Adhesive, as well as the date of the WebOS materials, is essential for the PTO to fully understand the relevance and applicability of Adhesive's prior art WebOS technology.

55. During prosecution of the '629 patent, the applicant selectively disclosed to the PTO only certain information and prior art materials from the Microsoft litigation.

56. The selective disclosure to the PTO of information arising out of the Microsoft litigation demonstrates that Mr. McAuley and Mr. Stone were aware of the Microsoft litigation and the existence of material regarding the patentability of the '629 patent information arising out of that litigation.

57. This selective disclosure to the PTO also demonstrates that Mr. McAuley and Mr. Stone made a deliberate decision to withhold material information from the PTO, and thus demonstrates an intent to deceive.

58. The withholding of information material to patentability with intent to deceive constitutes inequitable conduct, which renders the '629 patent unenforceable.

The '629 Patent: Microsoft's Invalidity Contentions and Claim Construction Brief

59. On January 18, 2008, Microsoft served its Invalidity Contentions in the Microsoft litigation.

60. Microsoft's Invalidity Contentions identified 58 prior art references that anticipated and/or rendered obvious claims 1-5, 9, 11, 17-19, 21, 23, 25-29, 33, 39-41, 43, 45, and 47-48 of the '744 patent and provided over 50 pages of narrative analysis of how the identified prior art anticipated and/or rendered obvious the asserted claims. The Invalidity Contentions also included over 250 pages of claim charts mapping the prior art references to each limitation of the asserted claims. Further, the Invalidity Contentions include an analysis of the '744 patent's invalidity based on lack of enablement, lack of written description, and indefiniteness.

61. On July 18, 2008, Microsoft served its First Amended Invalidity Contentions in the Microsoft litigation.

62. Microsoft's First Amended Invalidity Contentions added three prior art references to Microsoft's prior Invalidity Contentions, identifying a total of 61 prior art references that anticipated and/or rendered obvious claims 1-5, 9, 11, 17-19, 21, 23, 25-29, 33, 39-41, 43, 45, 47-48, and 53 of the '744 patent. As with the initial Invalidity Contentions, Microsoft First Amended Invalidity Contentions provided over 50 pages of narrative analysis of how the

identified prior art anticipated and/or rendered obvious the asserted claims and included over 250 pages of claim charts mapping the prior art references to each limitations of the asserted claims. Further, the First Amended Invalidity Contentions include an analysis of the '744 patent's invalidity based on lack of enablement, lack of written description, and indefiniteness.

63. On June 6, 2008, Microsoft filed its Claim Construction Brief in the Microsoft litigation.

64. Microsoft argued in its Claim Construction Brief that the term "arbitrary object framework" is fatally indefinite.

65. The term "arbitrary object framework" is found in all independent claims of both the '744 and '629 patents, making Microsoft's indefiniteness argument material to the patentability of the '629 patent.

66. Microsoft's Invalidity Contentions, First Amended Invalidity Contentions, and Claim Construction Brief disclose critical information expressly challenging the validity of the related '744 patent, and thus constitute material prior art.

67. None of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO Microsoft's Invalidity Contentions, First Amended Invalidity Contentions, or Claim Construction Brief. Further, none of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO the existence of Microsoft's Invalidity Contentions, First Amended Invalidity Contentions, or Claim Construction Brief or the substance of the invalidity arguments set forth therein.

68. Only some prior art references relied on during the Microsoft litigation were selectively disclosed to the PTO during prosecution of the '629 patent.

69. The selective disclosure to the PTO of information arising out of the Microsoft litigation demonstrates that Mr. McAuley and Mr. Stone were aware of the Microsoft litigation and the existence of material information regarding the patentability of the '629 patent arising out of that litigation.

70. This selective disclosure to the PTO also demonstrates that Mr. McAuley and Mr. Stone made a deliberate decision to withhold material information from the PTO, and thus demonstrates an intent to deceive.

71. The withholding of information material to patentability with intent to deceive constitutes inequitable conduct, which renders the '629 patent unenforceable.

'629 Patent: Prior Art References Produced by Microsoft

72. In an Information Disclosure Statement, the '629 patent applicant disclosed to the PTO 24 of the 61 prior art references (or excerpts thereof) that were identified by Microsoft in its Invalidity Contentions and First Amended Invalidity Contentions as anticipating and/or rendering obvious certain claims of the '744 patent.

73. On information and belief, none of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO any references identified in Microsoft's Invalidity Contentions or First Amended Invalidity Contentions that pertain to the prior art Borland Delphi technology. Specifically, none of the persons involved in the prosecution of the '629 patent disclosed to the PTO: (i) Borland Delphi 3 for Windows 95 & Windows NT, User's Guide, Borland International, Inc. (1997); (ii) Borland's Official No-Nonsense Guide to Delphi 2, Sams Publishing (1996); (iii) Osier et al., Teach Yourself Delphi 3 in 14 Days, Sams Publishing (1997); (iv) Reisdorph, Sams Teach Yourself Borland Delphi 4 in

21 Days, Sams Publishing (1998); (v) Swan, Delphi 4 Bible, IDG Books Worldwide, Inc., Tom Swan (1998); (vi) Teixeira et al., Borland Delphi 4 Developer's Guide, Sams Publishing (1998).

74. On information and belief, none of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO any references identified in Microsoft's Invalidity Contentions or First Amended Invalidity Contentions that pertain to the prior art Microsoft Visual J++ technology. Specifically, none of the persons involved in the prosecution of the '629 patent disclosed to the PTO: (i) Doss, DCOM Networking with Visual J++ 6.0, Wordware Publishing, Inc. (1999); (ii) Morgan et al., Visual J++ Unleashed, Sams.net Publishing (1997); (iii) Mulloy, Using Visual J++ 6, Que Corporation (1998); (iv) Wood, Visual J++ 6 Secrets, IDG Books Worldwide, Inc. (1998).

75. On information and belief, none of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO any references identified in Microsoft's Invalidity Contentions or First Amended Invalidity Contentions that pertain to the prior art ASP technology. Specifically, none of the persons involved in the prosecution of the '629 patent disclosed to the PTO: (i) Fedorchek et al., ASP: Active Server Pages, IDG Books Worldwide, Inc. (1997); (ii) Fedorov et al., ASP 2.0 Programmer's Reference, Wrox Press (1998).

76. On information and belief, none of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO any references identified in Microsoft's Invalidity Contentions or First Amended Invalidity Contentions that pertain to the prior art Lotus Notes and Domino 4.5 technology. Specifically, none of the persons involved in the prosecution of the '629 patent disclosed to the PTO: (i) Forlini et al.,

Lotus Notes and Domino 4.5 Professional Reference, New Riders Publishing (1997); (ii) Krantz, Building Intranets with Lotus Notes & Domino, Maximum Press (1997).

77. On information and belief, none of the persons involved in the prosecution of the '629 patent, including Mr. McAuley and Mr. Stone, disclosed to the PTO any references identified in Microsoft's Invalidity Contentions or First Amended Invalidity Contentions that pertain to the prior art Paradox 7 technology. Specifically, none of the persons involved in the prosecution of the '629 patent disclosed to the PTO: (i) Karim et al., Paradox 7 Projects for Windows 95, The Benjamin/Cummings Publishing Company, Inc. (1997); (ii) Weingarten et al., Paradox 7 for Windows 95 Illustrated Brief Edition, CTI (1997).

78. Just as was the case with the 24 prior art references from the Microsoft litigation that the applicant did disclose to the PTO, the narrative and claim charts submitted with Microsoft's Invalidity Contentions and First Amended Invalidity contentions demonstrate how the undisclosed Borland Delphi, Microsoft Visual J++, ASP, Lotus Notes and Domino 4.5, and Paradox 7 prior art references listed in Paragraphs 73-77 above anticipate and/or render obvious the asserted claims in the Microsoft litigation. Therefore, the undisclosed Borland Delphi, Microsoft Visual J++, ASP, Lotus Notes and Domino 4.5, and Paradox 7 prior art references listed in Paragraphs 73-77 above constitute material prior art.

79. The selective disclosure to the PTO of prior art references identified by Microsoft during the Microsoft litigation demonstrates that Mr. McAuley and Mr. Stone were aware of the Microsoft litigation and the existence of material information regarding the patentability of the '629 patent arising out of that litigation.

80. This selective disclosure to the PTO also demonstrates that Mr. McAuley and Mr. Stone made a deliberate decision to withhold material information from the PTO, and thus demonstrates an intent to deceive.

81. The withholding of information material to patentability with intent to deceive constitutes inequitable conduct, which renders the '629 patent unenforceable.

PRAYER FOR RELIEF

WHEREFORE, LGE requests judgment as follows:

- a. that the Court dismiss Vertical's Complaint with prejudice;
- b. that the Court deny Vertical any and all relief it has requested in its Complaint;
- c. that the Court deny any preliminary or permanent injunctive relief in favor of Vertical and against LGE
- d. that Vertical shall take nothing by way of its Complaint
- e. that the Court find that this case is an exceptional case under 35 U.S.C. § 285, and require Vertical to pay costs of suit that LGE has incurred, including attorneys' fees and costs, pursuant to 35 U.S.C. § 285 and all other applicable statutes, rules, and common law; and
- f. that the Court grant LGE such other and further relief as this Court deems just and equitable.

Respectfully submitted,

/s/ David J. Healey

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on this 20th day of May, 2011 to all counsel of record who are deemed to have consented to electronic service via the Court's EM/ECF system per Local Rule CV-5(a)(3).

/s/ Stacci H. Mahadeo
