

# EXHIBIT G



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March 4, 2021

**VIA ELECTRONIC MAIL**

Shahar Harel, Esq.  
Commercial Litigation Branch  
Civil Division  
Department of Justice  
Washington, DC 20530

Re: e-Numerate Solutions, Inc. et al. v United States, Case No. 19-859-RTH

Dear Shahar:

We are in receipt of the Judge's Order setting a status conference for March 15, 2021, in the above-referenced matter. Per your request, we set forth some issues that we would like to bring up with the Court at the hearing. It would be helpful if we could see if the Government will agree to these items in advance to minimize the areas of dispute between the parties.

Initially, we set forth the procedural posture of the case as it stands now as well as what we believe the procedural posture of the case should be after the hearing and any amended pleading that follows. We then address the following:

(1) amendment of the Complaint to assert U.S. Patent 10,423,708 against the Government and third party vendors (such as Toppan Merrill) providing validation of XBRL data;

(2) amendment of the Complaint to assert the '748 patent (and its asserted dependent claims) against the Government and the '842 patent, claim 29, against third party vendors providing validation of XBRL data;

(4) whether the Government will provide a verified response to an interrogatory identifying all systems in the Government that validate XBRL data pursuant to the XBRL validation standard;

(5) amendment of the Complaint to assert infringement of the '748, '842 and '708 patents against the governmental agencies/departments identified in (4);

(6) amendment of the Complaint to assert the '355, '816 and '383 patents against the SEC;

(7) whether the Government will provide a verified response to an interrogatory identifying all XBRL analysis systems/programs in the Government used to analyze XBRL data;

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(8) amendment of the Complaint to assert the '355, '816 and '383 against the systems identified in (7);

(9) use of a representative third party product (e.g., Toppan Merrill bridge) to prove infringement against the vendors that supply XBRL filings to the SEC; and

(10) re-setting the schedule for claim construction;

Each issue is addressed in turn.

#### I. Procedural Posture Of The Case

e-Numerate served its preliminary infringement contentions on December 15, 2020, pursuant to Court of Federal Claims Patent Rules ("CFCPR") 4 and 5 and D.I. 36 and 38. You sent us a letter raising purported inadequacies regarding those contentions on January 21, 2021. Although we disagreed with your assertions, we supplemented the infringement contentions on February 26, 2021.

It should be apparent from these contentions that e-Numerate has no interest in playing "hide the ball" with the Government about what it contends is infringing the patents-in-suit. From our standpoint, the case as pleaded presently looks as follows:

<b>Accused Toppan Merrill Bridge/Third Party Vendor Functionality<sup>1</sup></b>	<b>Applicable Patents<sup>2</sup></b>
Validation of data	'748 patent, claim 1.
Gathering numerical data from numerous source documents and combining/transforming the numerical data	'816 patent; '383 patent; and/or '355 patent.
"Change Once, Change Everywhere"	'384 patent; '748 patent, claims 11 and 19 and asserted dependent claims; '337 patent.

<sup>1</sup> Please see *infra* for a discussion of the Toppan Merrill/third party vendor functionality.

<sup>2</sup> For ease of reference, we have only discussed independent claims here. The complete listing of asserted claims is set forth in our infringement contentions. The '748 patent has independent claim 1 which we contend applies to the validation functionality of Toppan Merrill Bridge (and the SEC) and independent claims 11 and 19, which we contend applies to the "change once, change everywhere" functionality of Toppan Merrill Bridge.

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<b>United States Securities Exchange Commission</b>	<b>Applicable Patents</b>
Validation of data	'842 patent, claim 29.

We believe that the procedural posture of the case should look as follows once all the asserted claims are amended and parties are joined:

<b>Accused Toppan Merrill Bridge/Third Party Vendor Functionality</b>	<b>Applicable Patents</b>
Validation of data	'748 patent, claim 1; '842 patent, claim 29; and '708 patent.
Gathering numerical data from numerous source documents and combining/transforming the numerical data	'816 patent; '383 patent; and/or '355 patent.
"Change Once, Change Everywhere"	'384 patent; '748 patent, claims 11 and 19 and asserted dependent claims; '337 patent.

<b>All Government Agencies/Departments That Perform Validation of XBRL Data</b>	<b>Applicable Patents</b>
Validation of data	'748 patent, claim 1; '842 patent, claim 29; '708 patent.

<b>All Government Agencies/Departments That Perform Analyses of XBRL Data</b>	<b>Applicable Patents</b>
Combining/Tranforming Numerical Data	'816 patent; '383 patent; and/or '355 patent.

## II. Amendment To Assert The '708 Patent

We would like to amend the Complaint to assert the '708 patent against third party vendors supplying XBRL filings to the SEC (such as Toppan Merrill) and the SEC itself along with every other Government agency/department that validates XBRL data.

To put our position into context, please review the following:

<https://specifications.xbrl.org/validation.html>

This page begins with the sentence:

The core XBRL specifications (see XBRL Essentials) define validation constraints which XBRL processors *must* impose on all XBRL reports. These enforce not only basic syntactical checks, but also ensure that the reports comply with the definitions in the taxonomy.

*Id.* (emphasis added). Three of the validation checks are: datatypes, calculations and units. Validation rules are recited in the claims of the '708 patent (and the '748 patent, claim 1, and '842 patent, claim 29). It is e-Numerate's position that systems that validate XBRL data as required by the standard infringe the relevant asserted claims of the '748, '842 and '708 patents.<sup>3</sup>

Please advise if you oppose the foregoing amendment.

III. Amendment Of The Complaint To Assert The '748 patent (at least claim 1)  
Against The Government And The '842 patent, claim 29, Against Third Parties

As set forth above, the '748 patent is presently being asserted against third party vendors such as Toppan Merrill. The '842 patent is presently being asserted against the Government. Upon reviewing the situation in more detail, it is apparent that '748 patent applies to Government infringement and the '842 patent applies to third party infringement. As a result, we would like to amend the complaint to assert the '748 and the '842 against both the third parties and the Government.

Please advise if you oppose this amendment.

IV. Government Identification Of Validation Systems

As set forth above, we would ask the Government to provide a verified interrogatory response identifying all systems that validate XBRL data in the Government's possession, custody and control pursuant to the XBRL validation standard. This identification should include an identification of the system name and the agency/department that runs the system and/or the third party(ies) that run the system on the Government's behalf.

Your letter of January 29, 2021 states that the SEC's compliance and anti-fraud systems do not validate XBRL data (at least insofar as you are interpreting "XBRL validation"). We have no independent way to confirm that. Similarly, there is no readily available way for e-

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<sup>3</sup> As we set forth below, we have reason to believe third party vendors that supply XBRL filings to other Government agencies (*e.g.*, the FDIC) are similarly infringing the '748, '842, and '708 patents as are the agencies themselves. Given that these vendors are in the exact same position as Toppan Merrill, e-Numerate contends that these vendors are also operating with the Government's authorization and consent. Please advise if you disagree.

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