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July 31, 2015

Eric W. Schweibenz
Oblon, McClelland, Maier & Neustadt, L.L.P.
1940 Duke Street
Alexandria, VA 22314
Email: eschweibenz@oblon.com

VIA EMAIL

Re: *CTP Innovations, LLC, Patent Litigation Action*
Case No. 14-md-02581-MJG (Lead Action)

CTP Innovations, LLC, v. Command Web Offset Co. Inc.
Maryland Case No. 1:15-cv-1470-MJG

CTP Innovations, LLC, v. Sandy Alexander, Inc.
Maryland Case No. 1:15-cv-1471-MJG

CTP Innovations, LLC, v. Worzalla Publishing Co.
Maryland Case No. 1:15-cv-1646-MJG

Dear Mr. Schweibenz:

Per our July 9, 2015 letter, the following is an additional response to your letters dated June 29, 2015 and July 8, 2015.

CTP Innovations, LLC and my firm take allegations of Rule 11 misconduct very seriously. We intend to fully explore the items raised in your letters. Please be advised that we will very likely file a counter-motion for Rule 11 sanctions against any defendant and attorney who improperly threaten to and/or file such a motion against CTP and/or its counsel.

The accusations in your letters are baseless. CTP's cases are nothing like the *View Engineering, Inc. v. Robotic Systems, Inc.* case you cite. In *View Engineering*, the sanctioned party admitted that it had no factual basis for the counterclaims and that the only basis for

filing that the counter-claims in that lawsuit was a Senior Vice-President's belief that the devices-at-issue "probably infringed" the patents-at-issue.

In the CTP cases, CTP and its counsel analyzed the '349 patent, the prosecution history of the '349 patent and considered claim constructions. Evidence of previous constructions of the claims is publicly available from CTP's now-dismissed cases filed in the Eastern District of Texas and other courts, as well as in the preliminary response to the *inter partes* review petition filed by your firm. You are well-aware of those publicly stated positions. We also had a patent attorney with over two decades of patent prosecution and litigation experience conduct an element-by-element analysis of publicly available information regarding your clients in coordination with a third-party consulting expert with decades of experience in the printing industry. All of that analysis and communications with the consulting expert are protected by the work product doctrine. CTP has not waived its rights in that regard and, therefore, we will not provide more information to you regarding the analysis and protected communications. Our purpose for providing this background is to apprise you of the evidence you will be facing should you continue to make frivolous and bad faith allegations of inadequate pre-filing investigation. If you file a Rule 11 motion based upon your frivolous and bad faith allegations of inadequate pre-filing investigation, our client will avail itself of the remedies provided for under Rule 11 and applicable law.

Noticeably absent from your letter is a definitive statement that your clients have not used a work flow that included low resolution "for placement only" type files that are swapped for high resolution files. Indeed, your use of "several years (if ever)" does not definitively state whether such a workflow was used at any point during the six years prior to the date of filing of lawsuits against each of your clients. If it is your position that the accused workflow has not been used in the six years preceding the filing of the lawsuits, we demand that you provide us written confirmation from your clients of that position.

Notwithstanding the foregoing, we previously agreed to provide additional limited information regarding our infringement positions and are doing so through this letter. As for your demand for full infringement contentions and claim construction positions, your request is declined. Your frivolous allegations are not a basis to leap-frog or dispense with the time for such actions as provided in Local Rules 804 and 805. Accordingly, we will provide to you disclosures and claim construction positions as required at the dates set forth in Local Rules 804 and 805.

From your letter, it appears that your clients do not contest that they (1) provide remote access to imaging files for searching and retrieving images used in the design of a page layout by a remote user and (2) convert PDF files to a file in a plate ready format. Therefore, the following information pertains only to the publicly available pre-discovery examples, not all evidence, of your clients' use of post-script and low-resolution/high-resolution image swapping:

1. Command Web Offset: Contrary to your assertions, it appears that Command Web does in fact practice elements b-d of claim 4 of the '349 patent. According to

<http://www.commandweb.com/history.htm>, Command Web Offset owns and operates SCI Strategic Content Imaging. On Command Web Offset's website, it specifically references the ability to submit PostScript files (see <http://www.commandweb.com/preflight.htm>) and PostScript files "suitable for SCI's workflow" (see http://www.commandweb.com/images/ps_pdf.pdf). Moreover, Command Web utilizes and accepts files in QuarkXpress and InDesign, both of which have PostScript and OPI capabilities. See <https://www.commandweb.com/Tips.htm>. On http://www.commandweb.com/images/ps_pdf.pdf, Command Web references the ability to use OPI in the workflow if "an OPI workflow has been discussed in advance." OPI is explained in detail at Open Prepress Interface (OPI) Specification - Version 2.0, Technical Note #5660, (19 January 2000). Web Command expressly references the ability to link images for placement purposes. See <https://www.commandweb.com/Tips.htm>. Finally, Command Web's website indicates that Command Web uses Preps Imposition Software, which supports PDF and postscript file formats. See <http://www.commandweb.com/capabilities.htm#I>. Further, Command Web provides "Remote/Soft Proofing." Accordingly, it is reasonable to believe that Command Web converts the fat postscript file to PDF. This is further confirmed by Command Web's failure to contest the final element of claim 4 of the '349 patent, which necessarily means that postscript files are converted to PDF form prior to conversion to a file in a plate ready format.

2. Sandy Alexander: Also contrary to your assertions, it appears that Sandy Alexander does in fact practice elements b-d of claim 4 of the '349 patent. According to its June 2015 equipment list (available at <http://sandyinc.com/wp-content/uploads/2015/06/EQUIPMENT8.pdf>), Sandy uses EskoArtwork Systems Nexus Processors & Rips (used with prepress) and Apple Mac computers with EskoArtwork System apps & tools. According to the Esko Nexus 10.1 Reference Manual (available at http://www.esko.com/en/HelpDocuments?language=en-us&productname=nexus&versionname=10.1&docname=userguide&filename=Manual_Nexus101v02.pdf), Esko's Nexus is a comprehensive workflow management system that automates the pre-press production workflow in commercial printing as well as packaging and labeling environments. *Id.* at 13. Nexus handles PostScript files. *Id.* Esko provides specific instructions for taking in postscript files with low resolution images. *Id.* at 199-200. Further, it is reasonable to believe that Sandy is/was providing its customers with low resolution images in lieu of high resolution images based on its statements that it serves as a digital repository for its clients' "high resolution images. See https://web.archive.org/web/20071030162142/http://www.sandyinc.com/servicecenter/products_services.html?products_services_item=51147&db_item=listitem ("Our pre-press department serves as a digital repository for our clients' high-resolution images. Because of our extensive experience in the digital manipulation of such images, our pre-press area is the ideal location for leveraging high-end graphic resources into a wide variety of new media formats.") Moreover, again according to the Esko Nexus 10.1 Reference Manual, postscript files with low resolution data may be parsed to extract the data that would lead to replacing the low resolution data with high resolution data prior to importing into Nexus. See pp. 199-200. Postscript files with low resolution images also may be submitted directly to Nexus with OPI links that will allow Nexus to perform an "OPI swap" as part of the prepress workflow. *Id.* at 204. This is consistent with Sandy's statements that it serves as a repository for its clients' high resolution images. See

https://web.archive.org/web/20071030162142/http://www.sandyinc.com/servicecenter/products_services.html?products_services_item=51147&db_item=listitem. The Nexus manual expressly discusses “OPI Generation” that allows for the generation of “low resolution images from high resolution images, e.g. for use in a page layout environment” and the swapping of the low resolution images for high resolution images. *Id.* at 266. According to the Esko Nexus 10.1 Reference Manual Nexus has preset workflows that create a PDF from a postscript file. *Id.* at 96. Nexus distills postscript files to portable document (PDF) files as part of a prepress workflow. *Id.* at 369-370. This is further confirmed by Sandy Alexander’s failure to contest the final element of claim 4 of the ‘349 patent, which necessarily means that postscript files are converted to PDF form prior to conversion to a file in a plate ready format.

3. Worzalla: It appears reasonably certain that Worzalla practices elements b-d of claim 4 of the ‘349 patent. Worzalla accepts both QuarkXpress and InDesign format files. *See* <http://www.worzalla.com/documents/WPCOffsetSpecifications.pdf>. Both of these applications allow for output in postscript format. Further, both of these applications permit the use of OPI in connection with files created through the applications. Therefore, it is reasonable to believe that the references, to the extent output of the applications are in postscript, are used to create the thin/fat postscript swap while moving through Worzalla’s workflow. Worzalla’s website suggests that it uses Kodak’s Insite prepress portal for online proofing. <http://www.worzalla.com/customers/proofing.html>. Kodak’s Insite prepress portal is PDF-based and, therefore, it is reasonable to believe that any postscript files that proceed through Worzalla’s workflow are converted to PDF format. Similar to Command Web and Sandy Alexander, your client’s admission that the final element is met appears to confirm that such conversion to PDF occurs.

Notwithstanding the foregoing, if your clients’ workflows currently and for the six years preceding the filing of the lawsuits have not involved any postscript files - in essence, all submissions from its customers were in PDF format or another application format that was not converted to postscript prior to ultimate conversion to PDF format - CTP is willing to consider dismissing the cases.

We trust that this letter concludes your attempt to attack CTP and its counsel through frivolous and baseless claims of inadequate pre-filing investigation. If it does not, we are available for a telephone conference at a mutually available time during the next month. Given the current limited stay of proceedings, the timing of such conference should not present any prejudice or other impact upon your clients. Should we be persuaded by your position through the conference and other evidence you provide, we will consider withdrawing the lawsuit(s). We also remain willing to otherwise resolve these lawsuits (unless dismissed voluntarily after a conference) via reasonable settlement terms.

Finally, you have not responded to our demand regarding spoliation. The webpage located at <http://www.worzalla.com/solutions/pre-press.html>, of which we have a screen capture from prior to filing the lawsuit against Worzalla, remains down. Please provide us with confirmation by August 5, 2015, that the webpage has been preserved and that you and your

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clients have sent proper preservation notices to all relevant custodians and taken appropriate preservation steps. If you do not provide such confirmation, we will raise the matter via motion with the District of Maryland and request a forensic expert be given access to your client's electronically stored information for an inspection, at your expense, to ensure that electronically stored information has been properly and completely preserved.

Sincerely,

A handwritten signature in black ink, appearing to read "S. F. Miller", written in a cursive style.

Samuel F. Miller

cc: CTP Innovations, LLC
Tobin Taylor, Esq.
Bradley Mullins, Esq.