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[Your Name]

[Your Title]

[Your Company]

[Street Address, City, State ZIP]

May 14, 2026

[Opposing Counsel Name]

[Firm Name]

[Address]

Re: U.S. Patent No. US5978773 — Response to Assertion of Infringement

Dear Counsel,

We acknowledge receipt of your correspondence asserting infringement of U.S. Patent No. US5978773 (the "US5978773 Patent"). After preliminary review, we have substantial concerns about the validity, enforceability, and scope of the asserted claims, summarized below. We reserve all rights and defenses.

1. Subject Patent — Summary

Concise Summary of U.S. Patent No. 5,978,773

A detailed analysis of U.S. Patent No. 5,978,773 reveals a system and method for utilizing identification codes on commercial products to access information on remote computers. This technology allows a user to scan a product's existing barcode, such as a UPC, to automatically access a related network resource, like a website.

Title: System and method for using an ordinary article of commerce to access a remote computer

Assignee: The patent was initially assigned to Neomedia Technologies, Inc. However, ownership has been reassigned multiple times, with the current assignee on record as NM LLC.

Inventors: Frank C. Hudetz, Peter R. Hudetz...

2. Validity Concerns under 35 U.S.C. § 102 — Prior Art

We have identified prior-art references that, in our preliminary view, anticipate one or more asserted claims of the US5978773 Patent:

Analysis of Prior Art for U.S. Patent No. 5,978,773

As a senior patent analyst, a thorough review of the prior art cited against U.S. Patent No. 5,978,773 is crucial to understanding the landscape of the invention and the patent's

enforceability. The following analysis details the most relevant prior art references and their potential impact on the claims of the '773 patent under 35 U.S.C. § 102, which pertains to novelty and anticipation.

The core of the '773 patent, as defined by its independent claims (1, 12, 22, 33, 35, and 36), is a system and method for using a pre-existing, standardized identification number on a commercial product (like a UPC) to access a corresponding network address (like a URL) via a database that links the two.

Based on the citations of record for US5978773, the following prior art is most relevant:

1. U.S. Patent No. 5,243,655: "Apparatus for generating and reading machine-readable symbols which represent both data and a method for interpreting the data"

- Full Citation: U.S. Patent No. 5,243,655
- Publication Date: September 7, 1993
- Filing Date:...

3. Obviousness under 35 U.S.C. § 103

Independent of § 102, we believe the asserted claims are obvious in view of combinations of prior art that a person having ordinary skill in the art would have been motivated to combine:

An analysis of the obviousness of U.S. Patent No. 5,978,773 ("the '773 patent") under 35 U.S.C. § 103 requires an evaluation of the prior art from the perspective of a Person Having Ordinary Skill in the Art (PHOSITA) at the time of the invention, with a priority date of June 20, 1995.

A PHOSITA in mid-1995 would likely possess a bachelor's degree in computer science or a related field, coupled with practical experience in computer networking, database management, and the use of common input peripherals like barcode scanners. This individual would be aware of the explosive growth of the public internet and the World Wide Web, the function of URLs, and the use of browsers to access information. They would also be familiar with the ubiquitous use of the Universal Product Code (UPC) in retail for point-of-sale and inventory management.

The independent claims of the '773 patent generally describe a system where a standardized product identifier (like a UPC) on an article of commerce is read by an input device, which then prompts a database to return an associated network address (like...

4. Litigation History of the Patent

Public records reflect that the US5978773 Patent has been the subject of the following litigation, which informs our view of the asserted claims and your client's enforcement posture:

- Neomedia Technologies, Inc. v. The Home Depot, Inc. — 2:01-cv-05497 · U.S. District Court for the Eastern District of Pennsylvania · filed 2001-10-31 · Outcome not publicly available
- Neomedia Technologies, Inc. v. Symbol Technologies, Inc. — 2:04-cv-02307 · U.S. District Court for the Eastern District of Pennsylvania · filed 2004-05-27 · Outcome not detailed
- Neomedia Technologies, Inc. v. Amazon.com, Inc. — 1:04-cv-00021 · U.S. District Court for the Northern District of Illinois · filed 2004-01-05 · Final disposition not available
- NM, LLC v. The Kroger Co. — 1:14-cv-01315 · U.S. District Court for the District of Colorado · filed 2014-05-09 · Status or outcome not available

5. Request

In light of the foregoing, we request that your client (i) provide a detailed claim chart identifying each accused product or service and mapping every limitation of each asserted claim, (ii) identify any prior art known to your client, including any references cited during prosecution or reexamination, and (iii) substantiate the basis for any damages or licensing demand. We are prepared to discuss the matter further once we have received and reviewed the foregoing.

Sincerely,

[Your Name]

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