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*Attorneys for Plaintiffs j2 Cloud Services, LLC. and
Advanced Messaging Technologies, Inc.*

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

j2 CLOUD SERVICES, LLC, AND
ADVANCED MESSAGING
TECHNOLOGIES, INC.

Plaintiffs,

v.

FAX87, FARJAD FANI, MATT
JOHNSON FINANCE, INC., ONE
VOIX, MIRALUNA CABERTE
YARDAN, STEVEN THONG WAY
SEN, ROBERT BEAULIEU,
ONLINEFAXES, SOLIDFAX,
FAXVISION, EFAX4LESS,
MYPHONEFAX, RESELLFAX,
AND DOES 1-10

Defendants.

Case No. 13-cv-05353-DDP (AJWx)

**DECLARATION OF EXPERT
WITNESS SIDNEY BLUM IN
SUPPORT OF PLAINTIFFS' MOTION
FOR DEFAULT JUDGMENT
AGAINST DEFENDANTS FAX87,
MATT JOHNSON FINANCE, INC.,
ONE VOIX, MIRALUNA CABERTE
YARDAN, ONLINEFAXES,
SOLIDFAX, FAXVISION, EFAX4LESS,
MYPHONEFAX AND RESELLFAX**

Date: November 28, 2016
Time: 10:00 a.m.
Courtroom: 9C

Judge: Hon. Dean D. Pregerson

1 I, Sidney Blum, declare as follows:

2 1. I have been retained by Ruttenberg IP Law on behalf of j2 Cloud
3 Services, LLC and Advanced Messaging Technologies, Inc. ("j2" or "Plaintiffs") as
4 an expert witness to calculate damages in support of j2's Motion for Default
5 Judgment against Fax87, Matt Johnson Finance, Inc., One Voix, Miraluna Caberte
6 Yardan, OnlineFaxes, SolidFax, FaxVision, eFax4Less, MyPhoneFax, ResellFax, and
7 Does 1-10 (collectively, "Defaulting Defendants"). j2 has brought causes of action
8 for (1) breach of contract, (2) breach of the implied covenant of good faith and fair
9 dealing, (3) promissory fraud, (4-6) infringement of U.S. Patent Nos. 6,208,638 ("the
10 '638 Patent"), 8,310,699 ("the '699 Patent"), and 8,675,220 ("the '220 Patent"), (7)
11 trademark infringement, (8) unfair competition under the Lanham Act, (9) unfair
12 competition under California Business & Professions Code § 17200, and (10) petition
13 to collect a claim from an inactive Washington corporation.

14 2. I have prepared an expert report ("Report") on damages in connection
15 with the above-captioned matter. A true and correct copy of my report is attached
16 hereto.

17 3. My background and experience, as well as materials reviewed, scope of
18 assignment, my understanding of the facts and my conclusions, are set forth in my
19 Report.

20 4. Breach of Contract/Breach of Covenant of Good Faith and Fair Dealing:
21 As detailed in my Report, Plaintiffs have incurred damages in the form of unpaid
22 royalties and unpaid late-free payments from April 2012 and projected through
23 December 31, 2016, resulting from the defendants' breaches of the License
24 Agreement and Settlement Agreement. As detailed in the Report, j2 is owed
25 \$3,730,492.00 in unpaid royalties, plus \$672,424.00 in unpaid late fees, for a total of
26 **\$4,402,916.00**.

27 5. Patent Infringement: As detailed in my Report, Plaintiffs have incurred
28 damages in the form of a reasonable royalty from defendants' breaches of the '638

1 Patent, the '220 Patent, and the '699 Patent (collectively, "Patents-In-Suit"). I
2 determined that a reasonable royalty, which represents the minimum threshold of
3 compensation, is the best form of calculation, in part because the parties provided an
4 agree-upon royalty rate in § 3.1 of the License Agreement. Based upon my
5 examination of the presented information, I have concluded that the royalties due to
6 j2 totals \$3,844,629 for the Defaulting Defendants' infringements of j2's Patents-In-
7 Suit projected through December 31, 2016, plus an additional \$459,511 in
8 prejudgment interest, for a total of **\$4,304,140**.

9 6. Trademark Infringement/Lanham Act Violations: As detailed in my
10 Report, I determined the damages incurred by j2 for Defaulting Defendants' alleged
11 infringement of j2's EFAX® and E-FAX® trademarks. As detailed in my Report, I
12 have determined that the appropriate measure of damages is equal to the
13 disgorgement of j2's EFAX® and E-FAX® trademarks. As detailed in my report, it
14 is my opinion that the amount of damages owed to j2 by for these violations by the
15 Defaulting Defendants is **\$9,579,507**.

16 7. Promissory Fraud: As detailed in my Report, I have also calculated the
17 damages incurred by j2 for Defaulting Defendants' promissory fraud. In calculating
18 these damages, I have considered the royalties Defaulting Defendants would have
19 owed had they not granted the defendants a release in the 2011 litigation based upon
20 the defendants' fraudulent promises, as well as the discounts afforded to the
21 Defaulting Defendants by j2 based upon and in reliance on the false promises. As
22 detailed in my Report, I conclude that the j2 should be awarded \$549,646, plus
23 prejudgment interest in the amount of \$331,001, for pre-settlement damages (up
24 through April 2012). I further conclude that j2 should be awarded an additional
25 \$119,266, plus prejudgment interest in the amount of \$35,561, for discounts afforded
26 the Defaulting Defendants from May 2012 through April 2014. Accordingly, in my
27 opinion, the total compensatory damages that should be award to j2 for the
28 Defaulting Defendants' fraud is **\$1,035,474**.

1 8. Unfair Competition: I have also calculated the amount of profits that
2 should be disgorged as a result of Defaulting Defendants' unfair competition. As
3 detailed in my Report, I have determined that the Defaulting Defendants earned
4 **\$16,048,220** in unjust enrichment that should be disgorged as a result of their
5 conduct.

6 9. Summary of Damages: As detailed in my Report, I recognize that some
7 of these damages and disgorged profits may be duplicative of one another and, absent
8 an appropriate adjustment, this would result in double recovery for j2. Accordingly,
9 as detailed in my report, I only counted the highest award (*e.g.*, only one royalty, lost
10 profit or disgorgement) for each sale. To account for these deductions, I subtracted a
11 total of \$18,349,499 to account for possible double recovery. Without that
12 adjustment, I conclude that the total compensatory award against the Defaulting
13 Defendants should be **\$17,020,758**.

14 10. Attorney Fees: I also understand that j2 seeks recovery for attorney fees
15 in connection with each claim against the defendants. I further understand that this
16 Court uses a formal based on the amount of the judgment for calculating attorney fees
17 in connection with a motion for entry of default judgment. As detailed in my report, I
18 calculate attorney fees owed under that formal as an additional **\$336,389**.

19 11. Punitive/Treble Damages: I also understand that j2 has alleged that the
20 infringement in this case has been willful giving rise to an award of attorney's fees
21 and treble damages, and that the tortious activity has been conducted with malice,
22 oppression and fraud. I understand that j2 seeks treble damages in connection with
23 the fraud and infringement damages. If I want to treble only those damages, I assume
24 that the first instance of the fraud and infringement damages is already subsumed in
25 the compensatory calculations above. Further, if I add two more instances (for a total
26 of three) of the fraud-only damages (excluding interest) through incurred through
27 April 2012, that would add an additional amount of \$1,099,292 in punitive damages.
28 Likewise, if I add two more instances (for a total of three) of the patent infringement-

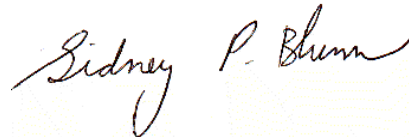
1 only damages (excluding interest) from January 1, 2013 projected through December
2 31, 2016, that would add an additional amount of \$7,689,258. Together, that
3 amounts to an additional sum of **\$8,788,550** for enhanced damages.

4 12. In total, the sum of the compensatory damages, attorney fees and
5 enhanced damages outlined above, with supporting detail in the attached report, is
6 **\$26,145,697**.

7 13. I declare under penalty of perjury under the laws of the United States of
8 America that the foregoing is true and correct, including the findings as set forth in
9 my Report, which I incorporated in full herein by reference.

10 Executed this day, October 31, 2016, in Los Angeles County, California.

11
12 By:

13 

14 SIDNEY BLUM

CERTIFICATE OF SERVICE

I certify that I caused to be served counsel of record on October 31, 2016 with
DECLARATION OF EXPET WITNESS SIDNEY BLUM IN SUPPORT OF IN
SUPPORT OF PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AGAINST
DEFENDANTS FAX87, MATT JOHNSON FINANCE, INC., ONE VOIX,
MIRALUNA CABERTE YARDAN, ONLINEFAXES, SOLIDFAX, FAXVISION,
EFAX4LESS, MYPHONEFAX AND RESELLFAX.

Executed on October 31, 2016 in Los Angeles, California.

By: /s/ Guy Ruttenberg
GUY RUTTENBERG