IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

SMARTMATIC USA CORP., SMARTMATIC INTERNATIONAL HOLDING B.V., and SGO CORPORATION LIMITED, Plaintiffs, v. MICHAEL J. LINDELL and MY PILLOW, INC., Defendants.	Case No. 22-cv-0098-WMW-JFD

DECLARATION OF JAMES LONG IN SUPPORT OF PLAINTIFFS' OPPOSITION TO MOTION TO COMPEL

I, James Long, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18 and I am competent to make this declaration. The fact set forth below are true to the best of my knowledge, information, and belief, and if called upon to testify as a witness, I could and would testify competently to them.

2. I am employed by Smartmatic USA Corporation ("Smartmatic") as the U.S. Director of Voting Systems. In that capacity, I have knowledge of the facts set forth below.

Smartmatic's Role in Los Angeles County

3. The Registrar-Recorder/County Clerk of the County of Los Angeles operates one of the most extensive and complex voting operations in the United States to serve a diverse population larger than that of most states. After finding commercially available options insufficient to meet the County's needs and to address the need for secure elections, verified results, and universal voter access, the Registrar-Recorder/County Clerk directed

development of its Voting Solutions for All People (VSAP) voting system. The VSAP initiative sought to ensure that voters in Los Angeles County had greater opportunities to participate by providing expanded options for voting in a manner that is convenient, accessible and secure.

4. The VSAP Voting System includes a number of components, including:

a. Redesigned Vote-by-Mail ("VBM") Ballot: The new VBM ballot was introduced to County voters in the November 2018 General Election. The new full-face VBM ballot features larger font sizes and clearer instructions making it easy to read, complete and return. In addition, postage is prepaid, so there is no longer a need to attach a stamp. Voters who prefer to drop off their ballot in-person can do so at any VBM drop-off location or vote center throughout the County.

b. Electronic Pollbook ("e-Pollbook"): The e-Pollbook replaces the printed roster that was previously used at voting centers for voters to checkin. The e-Pollbook is connected through a secure private network to the State of California database of eligible voters. This allows voters to check in and cast their ballot at any vote center in the County. The e-Pollbook is updated in real-time and will indicate if a voter has already cast a ballot ensuring voting integrity. In addition, the e-Pollbook enables eligible voters to register to vote at any vote center or update their registration.

c. Interactive Sample Ballot ("ISB"): The ISB is a new convenient option to expedite the in-person voting experience. The ISB allows the voter to mark their sample ballot digitally through a web-based application accessible through the Department's website. Upon completing selections, a Quick Response Code is generated producing a Poll Pass that the voter can print or save onto a mobile device, and which the voter can then take to any vote center to be scanned on the BMD. The voter's selections will be imported onto the BMD allowing the voter to once again review their selections and make any further changes prior to casting their ballot.

d. Tally System: The Tally System is an innovative solution for paper ballot scanning and tabulation that is specifically designed to support Los Angeles County's need to process millions of ballots. It utilizes high-speed scanners to capture high-definition images of ballots and

> a message brokering architecture to process large volumes of digital images quickly and accurately. From paper ballot to digital image to final cast vote record, the Tally System captures data about how each ballot is read and processed, allowing for the tracking and auditing of individual ballots to verify the integrity and accuracy of election results.

5. In addition to the components described above, the VSAP Voting System includes a ballot marking device ("BMD"). The BMD is the primary voter interface device and consists of a touchscreen, an audio and tactile controller, and dual-switch input that voters use to generate, verify, and cast a paper ballot. The BMD allows every voter to customize their experience with both visual and audio access in numerous languages and offers accessibility features that provide voters with disabilities equality, privacy, and independence in casting ballots.

6. For auditability and security, the BMD prints human-readable paper ballots. After verifying that the printed ballot is correct, the voter then inserts the completed ballot back into the BMD, which transfers the ballot to the Integrated Ballot Box, attached to the BMD. The completed ballots are later collected and tallied using the Tally System.

7. The BMD does not retain voting results or tabulate or count votes. The BMD is not connected to the internet.

8. In June 2018, Smartmatic entered into a contract with Los Angeles County to continue previous work on the development, manufacturing, and implementation of BMDs as part of the County's VSAP initiative. Smartmatic provided the following technology and services to Los Angeles County under the VSAP initiative: (1) engineered and manufactured the BMD hardware, (2) programmed the BMD software, (3) facilitated

the California certification process, (4) created the backend software to manage the devices, (5) provided systems integration services, (6) managed the build-out of the VSAP operations center, (7) handled logistics and setup/breakdown of the vote centers, (8) oversaw real-time data management for deployment, and (9) supplied Help Desk services on Election Day. Smartmatic had no role in manufacturing or developing the E-pollbook or Tally System used to tabulate the paper ballots.

9. Under the contract between Smartmatic and Los Angeles County, Los Angeles County retains full ownership of intellectual property rights to the software developed by Smartmatic, as well as ownership of the BMDs themselves.

10. Smartmatic did not contract with any other jurisdiction to provide hardware, software, or any other products or services, in connection with the 2020 U.S. Presidential Election.

Testing and Certification of Voting System

11. Since its initial deployment in 2018, the California Secretary of State has certified five versions of the VSAP Voting System: 1.0; 2.0; 2.1; 2.2; and 3.0. VSAP Voting System 2.2 was utilized for the U.S. Presidential General Election on November 3, 2020.

12. Smartmatic was responsible for the development of the BMD software for VSAP Voting Systems 2.0, 2.1, 2.2, and 3.0.

13. Once development of the voting system was complete, Los Angeles County submitted an application for approval of a voting technology to the California Secretary of State. Pursuant to the California Elections Code, prior to considering any new voting

technology for approval, or any modification to a currently approved voting technology, the California Secretary of State must conduct an examination of the proposed system.

14. The examination and testing of the VSAP Voting System included the examination of application and technical documentation; development of a detailed system test plan that reflected the scope and complexity of the system; source code review for software components; a trusted build to conclusively establish the system version and components being tested; operation and function testing of hardware and software components; security testing that included a full source code review and penetration testing; volume testing of the system and all devices with which the end user directly interacts; functional and performance testing of the integrated system, including testing of the full scope of system functionality, performance tests for telecommunications and security; examination and testing of the system operations and maintenance manual; and accessibility examination and testing.

15. This extensive testing was conducted by an accredited independent testing authority. For VSAP Voting Systems 2.1 and 2.2, the independent testing authority was SLI Compliance. SLI Compliance is accredited by the Election Assistance Commission for voting system testing.

16. After testing was completed, and the software source code finalized, the independent testing authority oversaw the creation of what is known as the "trusted build." Software is written by programmers in a human-readable programming language. This human-readable code is referred to as the source code. During the trusted build process, the source code was transformed into a format that can be executed by a computer, known

as machine code or assembly code. This executable program, built utilizing the software source code, is the trusted build.

17. Upon completion of the trusted build, the independent testing authority created an immutable hash value that uniquely identifies the code built. A hash is a mathematical function that creates a unique string of letters and numbers that identifies a system and its programming. After creation of the hash value for a software file, *any* modification to the file will result in that file returning a different hash code, allowing vendors and elections officials to compare hash values and confirm that the voting system and its source code has not been altered.

18. The independent testing authority then provided the trusted build files to Los Angeles County.

19. VSAP Voting System 2.1 was approved by the California Secretary of State on October 1, 2020. On October 6, 2020, the California Secretary of State issued an administrative approval of VSAP Voting System 2.2, which made minor modifications to VSAP 2.1.

20. Within ten business days of approval by the California Secretary of State, Los Angeles County was required by the California Elections Code to deposit the trusted build files, along with the software source code, to a State of California approved escrow facility. As required by law, access to the materials in escrow is extremely limited.

21. Smartmatic was not involved in conveying the trusted build and source code files to the escrow facility and did not (and does not have) have access to the files placed in escrow.

22. In preparation for the election, Los Angeles County accessed the trusted build files contained in the escrow account. Using the hash code, the County independently confirmed that the trusted build files in its possession were identical to those that were reviewed and tested by the independent testing authority.

23. Los Angeles County then installed those trusted build software files onto the voting system hardware. Smartmatic had no access to the trusted build files during this process.

24. As an additional security mechanism, the VSAP Voting System incorporated an Electronic Signing Authority ("ESA"). The ESA is a method of encryption used to ensure each component of the VSAP system is conforming to security standards and to help ensure that the data being passed to components is secure and authenticated. This system utilizes a pair of encryption keys that allow the voting system hardware to confirm that the software loaded onto the hardware is the verified trusted build file. Utilizing these encryption keys, if the software loaded onto the hardware is not identical to the trusted build file, the software will halt and a notification will be displayed. The machine will not be usable under this condition. Los Angeles County is in sole possession of the encryption keys; Smartmatic never has access to the encryption keys.

25. In its capacity as an LA County contractor, and subject to the permission of LA County and restrictions implemented by LA County, Smartmatic has access to a database containing the copy of the source code that it provided to the independent testing authority and the trusted build file that the independent testing authority subsequently created. But Smartmatic does not have access to the trusted build or software source code

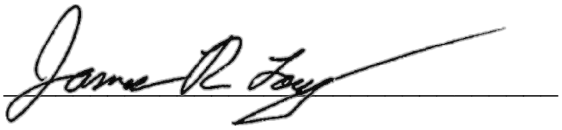
files stored within the escrow account, including the trusted build or software source code files withdrawn from the escrow account by Los Angeles County and installed by Los Angeles County on the BMDs for use in the 2020 Presidential Election.

Possession of BMDs

26. After completion of the development deliverables of its contract with the County, Smartmatic does not generally retain possession of any BMDs with VSAP software installed. Smartmatic performs maintenance as needed on the BMDs in service. The BMDs are stored at a facility owned by LA County and Smartmatic performs maintenance on them at the LA County facility.

27. Upon the certification of a new version of the VSAP Voting System, Los Angeles County follows the procedures detailed above to install the new version onto all BMDs. Accordingly, to the best of my knowledge, no BMD running the software certified in VSAP Versions 2.1 or 2.2 currently exists.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.



James Long

Date: 02/15/2023