

# MorrisonCohen<sub>LLP</sub>

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## VIA ECF

The Honorable Vernon S. Broderick  
District Judge  
United States District Court for the Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *True Return Systems LLC v. MakerDao*, 1-22-cv-8478-VSB  
(the “MakerDao Action”) -  
**NOTIFICATION REGARDING RELATED CASE, 1:22-cv-08483**

Dear Judge Broderick:

We are counsel to non-party Compound Labs, Inc. (“Compound Labs”). We are not a party to the above-referenced MakerDao Action, but we write to advise the Court of the status of a related case commenced by the same plaintiff and involving the same U.S. patent, which case is pending before Judge Jessica G.L. Clarke, *True Return Systems LLC v. Compound Protocol*, No. 1:22-cv-08483 (the “Compound Action”).

The Compound Action was commenced by True Return Systems LLC, which is the same plaintiff that instituted the MakerDao Action. True Return Systems LLC has asserted the same claims of infringement of U.S. Patent No. 10,025,797 (the “’797 Patent”) in both actions. In the Compound Action, Compound Labs has filed a motion to intervene as an intervenor-defendant and counterclaim plaintiff. If Compound Labs’s motion to intervene is granted, Compound Labs intends to defend against the ’797 Patent fully, including, among other things, by seeking judicial determination that the ’797 Patent is facially invalid because it claims ineligible subject matter.

Because the MakerDao and Compound Actions involve precisely the same issues with respect to the same ’797 Patent, any substantive decision made in either case would be potentially relevant to the other case, particularly with respect to the invalidity of the patent. For example, Compound Labs expects that if its motion to intervene is granted, it will move to dismiss the Compound Action pursuant to Federal Rule of Civil Procedure Rule 12(b)(6) on the grounds that the ’797 Patent is facially invalid. If this Court were to evaluate default judgment in the MakerDao Action at the same time that this Rule 12(b)(6) motion is being considered in the Compound Action, then there would be the potential for two judges in the same Court to reach inconsistent conclusions on an identical question of law at materially the same time, particularly if full merits briefing has not been submitted in one of the actions. That is true

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notwithstanding the fact that an invalidity ruling by one judge would lead to final judgment against the plaintiff, which may have an issue preclusive effect in the other case.

In view of the foregoing, we respectfully submit that the Court may deem some degree of coordination between the actions to be appropriate. Briefing on Compound Labs's motion to intervene in the Compound Action will be completed as of July 19, 2023 under the current briefing schedule. If it would assist the Court, we would be happy to report to Your Honor on the outcome of that pending motion.

Respectfully submitted,

*/s/ Jason P. Gottlieb*

Jason P. Gottlieb

cc: David A. Boag (ECF)