UNITED STATES DISTRICT COURT DISTRICT OF UTAH

QUEST SOLUTION, INC.; HTS IMAGE PROCESSING, INC.; HTS (USA), INC.,

Plaintiffs,

V.

REDLPR, LLC; SAGY AMIT; JEREMY JAMES MC MICHAEL BARKER,

Defendants.

Case No. 2:19-cv-00437-PMW

ORAL ARGUMENT REQUESTED **ONLY IF THIS COURT DEEMS NECESSARY** BASED ON THE CURRENT AVAILABLE RECORD

DEFENDANT'S MEMORANDUM IN SUPPORT OF SANCTIONS UNDER (FRCP 11 AND THE COURT INHERENT POWER) FOR FILING AND UNDER (28 U.S.C 1927) FOR MAINTAINING AND UNREASONABLY AND VEXATIOUSLY MULTIPLYING THE PROCEEDINGS

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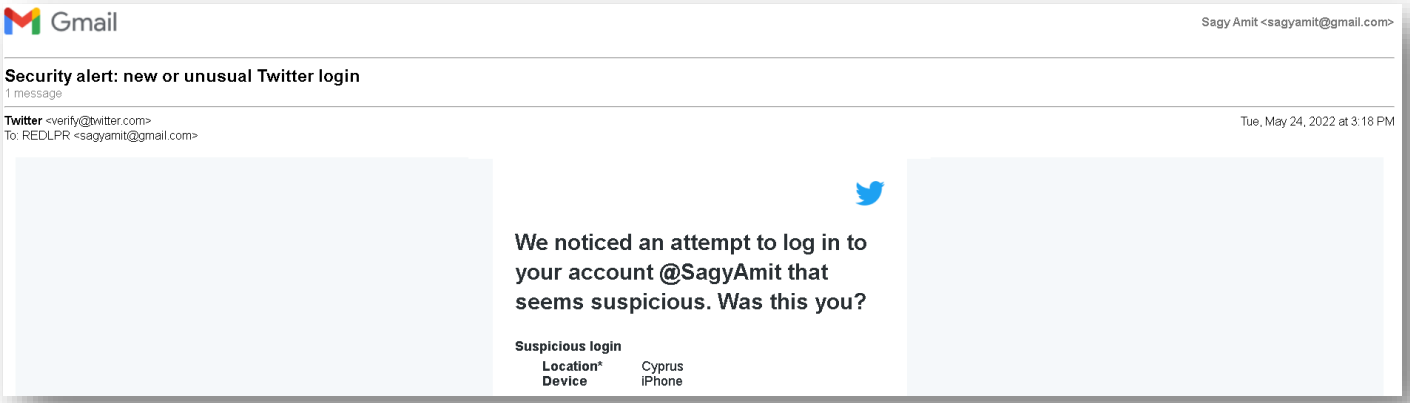
INTRODUCTION

In their [hopefully] final plea to this court defendants intend to once again show beyond a reasonable doubt that this action was prepared, filed, and maintained in objective and subjective bad faith for improper purposes. It lacks a reasonable prefiling investigation to the facts and governing law, void of any supporting evidence after nearly Three years of abusive discovery and depositions practices and was filed and maintained by a vexatious plaintiff and a vexatious counsel. Plaintiff response to the motion will be ignored as equally frivolous, specious and in paradox to the facts and evidence already in the record. The pattern of racketeering provided in the motion are relevant to establish a habit/routine practice and are admissible for such purpose under (Rule 406. Habit; Routine Practice). The supporting exhibits and declarations by defendants (See **Ex. A-F**) and their customers/friends over the years prove that defendants acted in good faith throughout their employment with plaintiff (in a stark contrast to the **frivolous, specious claims** in the complaint and the "FAC"), attempted to reconcile their differences with plaintiffs despite the **brutal and unjust breach of their contracts** until the point in which they were forced to resign (See Barker declaration **Ex. B**). Even after their resignation defendants made numerous good faith attempts to reconcile with plaintiffs prior to filing their actions in San Diego. Likewise, diplomacy failed during this 3 year Utah litigation, and during almost half a year of "Safe Harbor" between serving and filing this sanction motion. Moreover, despite all the bad-faith actions by plaintiff and counsel,

the public defamation and baseless accusations, defendants declined to multiply the actions, declined to further waste The Federal Court valuable time, **and remained on the defense while their good name and reputations were dragged through the mud of this demonstrably specious action.**

As I finalize this memorandum, I received notice (May 24th) that an attempt to hack into REDLPR "twitter" account took place, **originating from Cyprus**. While it may be a coincidence, plaintiff seemed very interested in defendant's social media accounts during depositions[1] for no proper purpose.


Gmail

Sagy Amit <sagyamit@gmail.com>

Security alert: new or unusual Twitter login

1 message

Twitter <verify@twitter.com>
To: REDLPR <sagyamit@gmail.com>

Tue, May 24, 2022 at 3:18 PM

We noticed an attempt to log in to your account @SagyAmit that seems suspicious. Was this you?

Suspicious login

Location* Cyprus
Device iPhone

11	Does RedLPR have any other social media
12	accounts other than -- we saw the Twitter.
13	Whatever that was doesn't exist or was suspended
14	and LinkedIn?
15	A I don't know. I'm not a social media
16	and business person. I wouldn't keep track of it
17	anyway.
18	Q Fair enough. But is that information
19	reasonably available through RedLPR?

[1] Barker's 30 (b)(6) deposition page 138

BACKGROUND FACTS

Despite plaintiff unrelenting attempts to construe some inconsistency in the factual background of this action and all satellite actions (In specific the Mississippi action which was the direct result of plaintiff multiplying the proceedings in clear violation of 28 U.S.C 1927), defendants account of the events that lead to this action and the San Diego actions against plaintiff are well established in factual evidence and the record of the Utah action, are supported by emails, truthful declarations, deposition testimony, video clips and images. Defendants account of the events have been consistent throughout all litigations and are supported by all evidence on record. Plaintiff's **frivolous** lies in the "FAC" (ECF 39) can no longer be ignored as just **objectively specious and meritless**. Sugar coating blatant lies still leaves a bitter taste to those impacted by them. Those blatant lies were made public by plaintiffs and their counsels and are concrete proof of sanctionable (under rule 11) **bad faith** action and **improper purpose.** Barker's declaration (Ex. B) will provide a timeline-based analysis of the lies underlying the original complaint and "FAC" (frivolously multiplying the proceedings in violation of **28 U.S.C 1927)**. Amit's declaration (Ex. A) will provide a timeline-based analysis and evidence to support finding of **Bad Faith** and **improper purpose** during this litigation and support for exceeding the "Safe Harbor" requirements of FRCP 11(c)(2).

1. Legal Standard of Review for FRCP 11 and 28 U.S.C 1927

An award of Rule 11 sanctions typically involves two steps. First, the district court must determine whether the pleading , motion or other paper violates Rule 11 . Second , the court must decide the appropriate sanction . Eisenberg v. University of

New Mexico,936 F.2d 1131, 1135-36 (10th Cir. 1991); Adamson v. Bowen,855 F.2d 668, 672 (10th Cir. 1988)

Jenkins v. MTGLQ Investors, L.P., No. 1:03-CV-148 TC, at *5 (D. Utah Mar. 14, 2005)

The standard by which courts in the Tenth Circuit are to evaluate an attorney's conduct is objective reasonableness. *See White v. General Motors Corp*., 908 F.2d 675, 680 (10th Cir. 1990); *Adamson*, 855 F.2d at 673. "A good faith belief in the merit of an argument is not sufficient; the attorney's belief must also be in accord with what a reasonable, competent attorney would believe under the circumstances." *White*, 908 F.2d at 680. Rule 11 gives this Court authority to award sanctions and costs against a party who files a frivolous or capricious complaint. The rule further provides that, after giving notice and a reasonable opportunity to respond, the Court may "impose an appropriate sanction upon the attorneys, law firms, or parties that have violated [Rule 11]."

Beene v. State of Utah, Consolidated No. 2:02CV322 DAK, at *7 (D. Utah Aug. 4, 2004)

"In addition, litigation conduct can make a case exceptional if the nonmoving party engaged in fraud, inequitable conduct, misconduct during litigation, vexatious or unjustified litigation, or conduct that violates Fed. R. Civ. P. 11. *Alcohol Monitoring Sys., Inc. v. Actsoft, Inc.*, Civil Action No. 07-cv-02261-PAB-MJW, at *3-4 (D. Colo. Mar. 30, 2013) citing *iLOR, LLC v. Google, Inc.,* 631 F.3d 1372, 1376 (Fed. Cir. 2011)"

28 U.S.C 1927:

"Any attorney . . . who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct." 28 U.S.C. § 1927.

Sanctions under § 1927 are appropriate when an attorney acts recklessly or with indifference to the law. They may also be awarded when an **attorney is cavalier or bent on misleading the court**; **intentionally acts without a plausible basis; [or] when the entire course of the proceedings was unwarranted**.

Dominion Video Satellite, Inc. v. Echostar Satellite L.L.C., 430 F.3d 1269, 1278 (10th Cir. 2005) (Emphasis added; quotations and citations omitted; alteration in original). An award of attorney's fees under 28 U.S.C. § 1927 must be based on more egregious behavior than a sanctions award under Rule 11. The Tenth Circuit Court of Appeals first set forth the standards to be utilized in this circuit in *Dreiling v. Peugeot Motors of America,*768 F.2d 1159 (10th Cir. 1985). The court must find that (1) the attorney multiplied the proceedings and (2) that the attorney's actions were vexatious and unreasonable. *Id.* at 1165. The attorney's actions are vexatious and unreasonable if the lawyer acted in bad faith. *Id. O'Rourke v. City of Norman*, 640 F. Supp. 1451, 1470 (W.D. Okla. 1986)

A. Frivolousness and Subjective Bad Faith

In unusual cases, an extraordinarily meritless claim may satisfy the "subjective bad faith" requirement. *Sterling Energy, Ltd. v. Friendly Nat'l Bank,* 744 F.2d 1433, 1437 (10th Cir. 1984). A claim that is "**patently frivolous and that, like fraud, is also opprobrious by nature and designed to cause embarrassment and humiliation**" may raise an inference of subjective bad faith. *Id.* at 1437. (Emphasis added).

Barker's declaration and email exhibits, as well as the record of emails, depositions, and motions to dismiss are conclusive that plaintiff complaint speciously created a conspiracy theory that is completely paradoxical to the course of events after "HTS" was acquired in 2018. Plaintiff complaint simply attempts to rewrite history to humiliate and harass the defendants for no valid reason other than **Improper Purposes.** Plaintiff counsel has a demonstrated history of bad faith "trade secret" litigations used to secure settlement agreements, often with minimal investment of time and effort. The records in his other pending cases remarkably prove that an hour after the "April 21st Hearing" in Utah, Mr. Reinitz resigned from every single one of his pending "trade secret" cases (See **Ex. A** - Amit declaration at page 2, See Ex. A32)

Under Fed. R. Evid. 406, a party may present evidence of a person's habit or an organization's routine practice for the purpose of proving that the person or organization acted in conformity with that habit or routine practice. A "habit" is "a regular practice of meeting a particular kind of situation with a certain type of conduct, or a reflex behavior in a specific set of circumstances." To prove that an act is a habit, the Tenth Circuit requires the proponent of the evidence to "offer evidence of numerous, consistent occurrences of the act."

Walls v. Miracorp, Inc., No. 09-2112-JAR, at *17-18 (D. Kan. Aug. 18, 2011).

As such, resigning himself from every single one of his "trade secret" cases on his way to the airport if not conclusive, is at the very least circumstantial in admitting guilt while showing no remorse or an attempt to take responsibility for his actions. Coincidentally in "Existential Philosophy" the term **Bad Faith** is defined as "One's refusal to confront

facts or own decisions and choices".

Defendants find this definition fit for plaintiffs and their counsels in this action.

B. Objective Speciousness and Improper Purpose

Objective speciousness exists where the action superficially appears to have merit but there is a complete lack of evidence to support the claim." FLIR Systems, Inc. v. Parrish, 174 Cal. App. 4th 1270 (2009)

As plaintiff notes in their response to this motion (ECF 266 page 14), in *FLIR* "The employer's CEO testified that he had no evidence of wrongdoing and that the action was initiated to prevent a potential future competitive threat. *Id*." Likewise, Mr. Hofman in his deposition (ECF 220-3) admits that the fact Defendants won a prize at a trade conference was the driving force to litigate, supporting similar **improper purpose and motive as in FLIR.**

Also, in Amit v. HTS, "HTS" as a defendant lodged this Utah action (**ECF 2**) as evidence of some sort, for the improper purpose of attempting to prejudice Amit and Barker, painting them as the villains in the dispute. Using objectively Specious language that is typical and habitual for both HTS and their counsels, was supposed to influence the decisions of the courts, and it almost worked. Nevertheless, both in their interrogatories and in depositions plaintiff fails to show a single instance of disparagement or bad faith on defendants end, despite the abusive and shameful treatment they received from the newly arrived "Teamtronics" team during 2018

Page 85

proof that anybody said anything bad about HTS?

MR. HOFMAN: Ariel?

MR. REINITZ: Mr. Hofman, you can answer if you know.

A: Uh, this was what we heard, uh, from, uh, uh, companies, uh, that we were dealing with. Uh, "Hey, Jeremy left, and he does like this. And then talks about this," and that's what my opinion was, especially it build up this attitude to us. Uh, we heard -- we -- we met a lot of customers. I was in this exhibition in, uh -- in the, uh, NPA. Was it NBA -- NPA? Um, that, uh, was in 2019? Yeah? Was that NPA?

Q: Uh-huh.

A: Yeah. So we heard that from -- from, uh, a customer there.

Q: What did you hear?

A: What I -- what I said is that, uh, "These guys don't know anything. They don't have products. They don't -- can't deliver, work with us." Those kind of things. We had a very hard time at that exhibition where you got first prize.

Q: Who -- who -- who did you hear that from? Can you name --

A: Uh --

Q: -- customers?

A: -- I can't name. I, uh -- we met so many people

Further, Hofman admits to his subjective prejudice while mistaking specious accusations ("FAC" ECF 39) with the facts that are required to support such acusations.

care. He was plotting with you at the time.

Q: Okay. That's your opinion. Do you have any proof?

A: Again, you're asking my opinion. I'm here for my opinion.

Q: No, that's great. Do -- do you have any proof of your opinion?

A: Uh --

MR. REINITZ: Objection.

E-Depositions LLC
730 Sandhill Road Suite 105 Reno, NV 89521

QUEST SOLUTION, ET AL. vs REDLPR, LLC, ET AL.
HOFMAN, YORAM on 02/22/2022

Page 89

A: -- I think we provided --

MR. REINITZ: Calls for legal conclusion. Objection. Argumentative. You can answer.

A: In our lawsuit, we provided a lot of proof, yes.

Q: No. In your lawsuit -- and I have your original Utah complaint. Here you claim that we started conspiring in the beginning of 2018, yet the proof shows that we tried to save the company in 2018.

And I in fact paid with my own personal credit card for every single trade show during 2018, without getting the expenses paid while being owed $150,000 in commission, Mr. Hofman. You want to -- you want to make your own opinion? I will give you facts. So

C. Fraud on The Court and 28 U.S.C 1927 violations

In his opposition to this motion (ECF 266 PageID. 8158) plaintiff claims "sanctions would still be inappropriate because his defense has not been hampered as a result". Nevertheless, defendants recently settled the MS case with Riverland. The settlement discussions revealed that plaintiff "HTS" via counsel withheld material evidence from defendants and from the court and attempted to impose sanctions on defendants (ECF 202) for withholding documents. Plaintiff counsel however failed to reveal that **he was the one withholding those very documents**, received via subpoena of Riverland and the only purpose of the additional motions to compel was to increase the costs of litigation, harass defendant's new counsel and further extend discovery deadlines. Plaintiff counsel withheld all documents received via a total of 4 subpoenas (Hitron, Ohana, Riverland, Jeff Okyle served on Feb 2021) despite repeated requests by defendant Amit to share those documents (See Amit Declaration **Ex. A**, See emails to Reinitz **Ex. A14, Ex. A16**). Shamelessly, Mr. Reinitz for a full month claimed that the rules of evidence allow him 30 days to share discovery documents. When the 30 days elapsed, he served more objections (**Ex. A24** dated February 25th 2022)

"III. *Subpoenas:* Any party serving a subpoena on a nonparty must immediately produce to the other side any documents received by that party pursuant to the subpoena. " *Sure Fit Home Prods. v. Maytex Mills, Inc.*, 21 Civ. 2169 (LGS) (GWG), at *1 (S.D.N.Y. Oct. 8, 2021)

On March 21, 2022, Amit further notified Plaintiff of his bad faith, sanctionable conduct throughout this litigation: "Mr. Reinitz,

In support of Mr. Ong's communication below, I remind you that you have willfully, deliberately and maliciously dragged the response to my requests for production for over 30 days, only to then respond with the objections attached. This has been your strategy throughout the 2.5 years of discovery in this action…" No response was received. (**Ex. A26**, Also **Ex. A** Amit Declaration)

Plaintiff (HTS, Quest and now OMNIQ), counsel and firms, Fisher Broyles, LLP and TraskBritt committed violations of Rule 11 with respect to each claim asserted against Defendants in plaintiffs Complaint and Amended Complaint. They then actively concealed such violations by withholding documents and information and continued to pursue these claims with knowledge of their lack of basis for approximately 3 years in violation of 28 U.S.C. § 1927, which prohibits unreasonable multiplication and prolonging of proceedings. Fisher Broyles violations of Rule 11 and 28 U.S.C. § 1927 include but are not limited to:

- Violating FRCP 11(b)(1) by Filing a complaint and amended complaint for the improper purpose of eliminating competition and retaliating against former employees.
- Violating FRCP 11(b)(1) by taking discovery and depositions for the improper purpose of copying defendants business ideas and products
- Violating FRCP 11(b)(1) by delaying and extending discovery and using abusive discovery tactics for the improper purpose of increasing costs of litigation.
- Violating FRCP 11(b)(2) by speciously asserting non-existing trade secrets, non-existing contracts, non-existing non-Disclosure agreements and breached employment contract.

- Violating FRCP 11(b)(2) by speciously accusing defendants of using improper means to develop their business
- Violating FRCP 11(b)(2) by speciously accusing defendants of "conspiracy" "theft" and further asserting those claims publicly without any supportive evidence
- Violating FRCP 11(b)(3) for having no evidence to support their claims and failing to identify this lack of evidence.
- Violating FRCP 11(b)(3) for failing to support their frivolous claims despite almost 3 years of abusive and expensive discovery
- Violating FRCP 11(b)(4) for failing to identify the lack of evidentiary support and for proceeding to amend and maintain the complaint in spite.
- Violating 28 U.S.C 1927 by multiplying the proceedings and adding Riverland in the FAC vexatiously and without evidentiary support.
- Violating 28 U.S.C 1927 by multiplying the proceedings and defending knowingly false allegations for 3 years and through 3 motions for summary judgement
- Violating 28 U.S.C 1927 by knowingly and unreasonably withholding evidence that supported defendants MSJ's for over a year despite repeated requests to submit such evidence.
- Violating 28 U.S.C 1927 by misleading defendants and the court to believe that NDA's and contracts with employees, customers and vendors exist, despite knowing from day one that no such contracts were ever executed
- Violating 28 U.S.C 1927 by vexatiously and unreasonably filing motions to seal,

motion to compel and motion to extend discovery without any basis and for the improper purpose of increasing costs and delaying the process

- Violating 28 U.S.C 1927 by waiting until the last day of discovery to take depositions and unreasonably and vexatiously attempting to extend discovery even further.
- Violating 28 U.S.C 1927 and FRCP 11(b)(1) by strategically harassing via subpoenas defendant vendor (Hitron) and specific customers who publicly showed support to defendants' business (Ohana Controls and Jeff Okyle)

D. **Rule 11 Safe harbor met and exceeded**

After all of the above, plaintiff via counsel, Mr. Reinitz attempts to escape liability and accountability via technicalities. Despite some scrutiny between some district courts (*Nisenbaum* and *Marix IV* in the 7th circuit holding that warning letter are "substantial compliance"), the language of the 1993 amendment is clear FRCP 11 (c)(2) Motion for Sanctions: A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must **be served under Rule 5**, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets.

As certified in the motion, it was served on plaintiff almost 5 months prior to filing in compliance with FRCP 5(b)(2)(E):sending it by other electronic means that the person consented to in writing. Mr. Reinitz admittedly consented to receiving the email and the attached **motion**. The motion specifically described the conduct that violates FRCP

11(b), was served on all counsels of record, again, a few weeks later, and was even mentioned during a zoom call with the court and is memorialized in the docket in January 2022. Mr. Reinitz attempt to escape liability with technicality is just another cowardly and bad faith act of a toddler who denies any responsibility for his own actions.

CONCLUSION

For the above reasons, defendants respectfully request that the Court impose **Rule 11 sanctions and 28 U.S.C 1927 sanctions** against Plaintiffs, attorneys and their firms as follows:

1- Fisher Broyles/TraskBritt to pay the Defendant's costs/expenses and legal/attorneys' fees incurred in defending this and satellite actions from inception until its conclusion.

2- Plaintiffs to pay additional damages to defendants' making them whole for their loss of business and personal reputation resulting directly from this litigation, **as this court deems appropriate using its inherent power and discretion.**

3- Appropriate sanctions to deter plaintiff and counsels and end their pattern of abusing courts as their own weapon against competitors.

4- Pierce the corporate veil and make the individuals accountable for their bad faith actions over the past five years.

Respectfully submitted, on this day May 25th, 2022

/s/ Sagy Amit Sagy A

Sagy Amit

DEFENDANTS MEMORANDUM LIST OF EXHIBITS FOR FRCP 11 AND 28 U.S.C.1927

EXHIBIT	Description	Date	Source	ECF#
A	Amit Declaration	24-May	AMIT	
A0	Amit Email to Reinitz	Oct-19	AMIT	
A1	Amit Email to Reinitz rule 11 notice	Nov-21	AMIT	
A2	Amit Email to Reinitz refusing to tend	Dec-21	AMIT	
A3	Amit service of "safe harbor"	Dec-21	AMIT	
A4	Amit Email to Reinitz re depositions	Dec-21	AMIT	
A5	Amit Email to Reinitz - Bad Faith notice	Dec-21	AMIT	
A6	Amit 2nd service of "safe harbor" motion	Jan-22	AMIT	
A7	Amit Email to Reinitz - Depositions	Jan-22	AMIT	
A8	Amit 3rd "safe harbor" notice	Jan-22	AMIT	
A9	Amit Email to Reinitz - Bad Faith notice	Jan-22	AMIT	
A10	Amit Email to Reinitz - Bad Faith notice	Jan-22	AMIT	
A11	Amit Email to Reinitz - re depositions	Jan-22	AMIT	
A12	Amit Email to Reinitz - delaying depositions	Jan-22	AMIT	
A13	Amit Email to Reinitz - discovery issues	Jan-22	AMIT	
A14	Amit Email to Reinitz - withholding documents	Jan-22	AMIT	
A15	Amit Email to Reinitz	Jan-22	AMIT	
A16	Amit Email to Reinitz - withholding documents	Jan-22	AMIT	
A17	Amit Email to Reinitz - unclean hands	Jan-22	AMIT	
A18	Amit Email to Reinitz - rule 11 notice	Feb-22	AMIT	
A19	Amit Email to Reinitz - bad faith settlement	Feb-22	AMIT	
A20	Amit Email to Reinitz - settlement offer by defendants	Feb-22	AMIT	
A21	Amit Email to Reinitz - defendant attempt to settle	Feb-22	AMIT	
A22	Amit Email to Reinitz - rule 11 notice	Feb-22	AMIT	
A23	Amit Email to Reinitz	Feb-22	AMIT	
A24	Amit Email to Reinitz- bad faith objections to produce	Feb-22	AMIT	
A25	Amit Email to Reinitz re depositions	Mar-22	AMIT	
A26	Amit Email to Reinitz bad faith litigation notice	Mar-22	AMIT	
A27	Amit Email to Reinitz - perjury in deposition Lustgarten	Mar-22	AMIT	
A28	Amit Email to Reinitz - settlement offer by defendants	Mar-22	AMIT	
A29	Amit Email to Reinitz - settlement offer by defendants	Mar-22	AMIT	
A30	Amit Email to Reinitz - RICO good faith warning	Apr-22	AMIT	
A31	Amit Email to Reinitz- RICO good faith warning	May-22	AMIT	
A32	Reinitz withdraw as counsel in NY case Ari Teman	Apr-22	PACER	
B	Barker Declaration	24-May	BARKER	
B1	Email from Barker to new management	Jan-18	BARKER	
B2	Email from Barker to new management	Mar-18	BARKER	
B3	Email from Barker to new management	Mar-18	BARKER	

B4	Email from Barker to new management	Mar-18	BARKER	
B5	Email from Barker to new management	Apr-18	BARKER	
B6	Email from Barker to new management	Apr-18	BARKER	
B7	Email from Barker to new management	Apr-18	BARKER	
B8	Email from Barker to new management	Jul-18	BARKER	
B9	Email from Barker to new management	Jul-18	BARKER	
B10	Emails from AMIT and payment receipts	various	AMIT	
B11	Email from Barker to new management	Jul-18	BARKER	
B12	Email from Barker to new management	Aug-18	BARKER	
B13	Email from Barker to new management	Aug-18	BARKER	
B14	Email from Barker to new management	Sep-18	BARKER	
B15	Email from Barker Resignation	Oct-18	BARKER	
D	Jeff Okyle Declaration			
E	Ace Parking Declaration			
F	Amir Borochov Declaration			
H1	Email with Hitron - Initial contact by AMIT	Jan-17	AMIT	
H2	Hitron selling to other clients same cameras as HTS		AMIT	
H3	Hitron payment issues	Mar-18	AMIT	
H4	Dual Head Camera request from Hitron	Jul-17	AMIT	
H5	Dual Head camera rendering from Hitron	Nov-17	AMIT	
H6	Amit and Hage tt messages over the years	various	AMIT	
S0	Levi Silver email to plaintiff re Reinitz letter	Oct-19	AMIT	
S1	Levi Silver email to plaintiff re Reinitz letter	Dec-19	AMIT	
S2	Notice of Subpoena Ohana and Jeff Okyle	Feb-21	AMIT	

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

QUEST SOLUTION, INC.; HTS IMAGE PROCESSING, INC.; HTS (USA), INC.,

Plaintiffs,

v.

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Defendants.

Case No. 2:19-cv-00437-PMW

DECLARATION OF SAGY AMIT IN SUPPORT OF SANCTIONS UNDER (FRCP 11) and (28 U.S.C. 1927) and MEMORANDUM IN SUPPORT FILED BY DEFENDANT AMIT

District Judge Clark Waddoups

Magistrate Judge Dustin B. Pead

I, Sagy Amit, declare:

I am a pro se defendant in this action and Co-founder of Defendant REDLPR, LLC. I have personal knowledge of the facts stated herein and if called to testify I would competently do so.

INTRODUCTION

The following is a timeline of events that describes plaintiff's and their counsel Bad Faith, Lies and misrepresentations to Defendants and to this Court throughout this litigation and evidently to other courts as their counsel's modus operandi.

In contrast, this timeline shows defendants' good faith attempts through counsels and individually throughout this litigation, to settle and minimize the public exposure to plaintiff and counsel lies. This declaration is backed by evidence already in record and by additional exhibits. All the email exhibits are true and correct emails related to defendants' employment and to the matters of this litigation. The purpose of this timeline is to further illustrate the paradox that exists between plaintiffs baseless and meritless accusations and claims throughout this litigation and the reality that they ignore.

It is worth noting in this opening statement that "Fisher Broyles, LLP" through Counsel Mr. Ariel Reinitz is plaintiff on record in a number of "trade secret" litigations within the same time period as this action, all of which represent "Ari Teman" through different corporate entities:

1- **Jcorps v. Schusterman** - was dismissed for lack of jurisdiction. The appeal court stated: "We have considered JCorps's remaining arguments and **find them to be without merit**. Accordingly, we **AFFIRM** the district court's judgment dismissing this case for lack of personal jurisdiction." *JCorps Int'l, Inc. v. Charles & Lynn Schusterman Family Found.*, No. 19-3123, at *14 (2d Cir. Sep. 28, 2020)(emphasis added)

2- In **GateGuard, Inc. v. Goldmont** – Mr. Reinitz withdrew as counsel (See **Ex. A32** Page 1)

3- In **GateGuard, Inc. v. MVI et al** – Mr. Reinitz withdrew as counsel (**Ex. A32** Page 3)

4- In **Jcorps v. Schusterman et al** – Mr. Reinitz also withdrew as counsel (**Ex. A32** Page 5)

Shockingly (or not), the courts dockets reveal that Mr. Reinitz filed all three withdrawal notices **within an hour following this court's "April 21st hearing"** (See PDF properties). While I

choose not to speculate on the reasons behind this fact, I will note that in existential philosophy the term "Bad Faith" is defined as "One's refusal to confront facts or choices".

As a reminder "Teman" is the same client for which Mr. Reinitz lied on the witness stand:

> "Particularly in light of these written communications, a jury could reasonably find that Reinitz, to assist his continuing client Teman, had lied on the witness stand when he claimed to have orally advised Teman that drawing checks on customer accounts was "technically legal." Such a finding would draw support from Reinitz' s carriage while testifying. Reinitz visibly projected as ill at ease and nervous. His demeanor was markedly defensive and at points evasive on cross-examination."

United States v. Teman, 465 F. Supp. 3d 277, 309 (S.D.N.Y. 2020) (Reinitz is mentioned 68 times in this opinion & order)

A. SUPPLEMENTING THE RECORD FOLLOWING "APRIL HEARING"

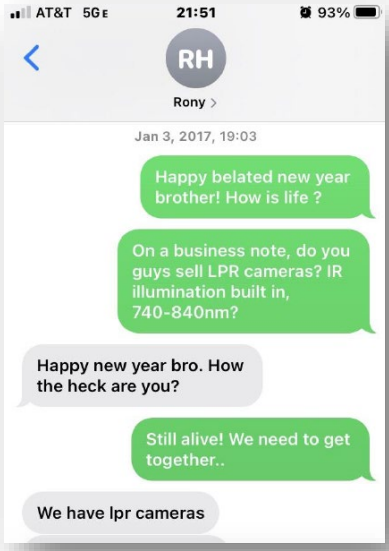
During the "April hearing" I mentioned to the court that I introduced HTS to Hitron and tested the cameras in my own home over the weekends. (**Ex. H1**) Is a true and correct set of emails between me and Mr. Rony Hage dated January/February 2017. The emails support the fact that I received an "off the shelf" sample from "Hitron" along with pricing ($320). Page 5 shows the 4 members of the HTS (USA) team evaluated the product before Mr. Hofman ever received a sample for testing.

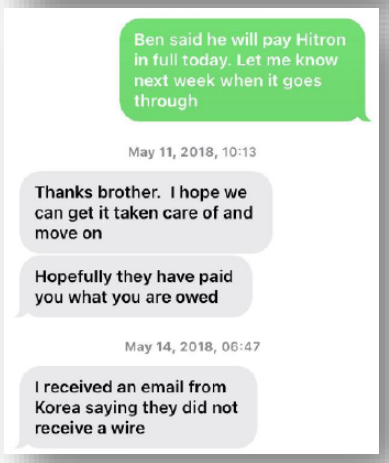
On May 23rd 2018 (**Ex. H2**) Mr. Hage (Hitron) asks defendants for 5 cameras of the same type HTS is using, for another client, proving that the Hitron product was NOT exclusively sold to HTS. In (**Ex. H3**) I reassure Mr. Hage with "my personal word" that Hitron will get paid, unaware of the true motives of the new owners of HTS.

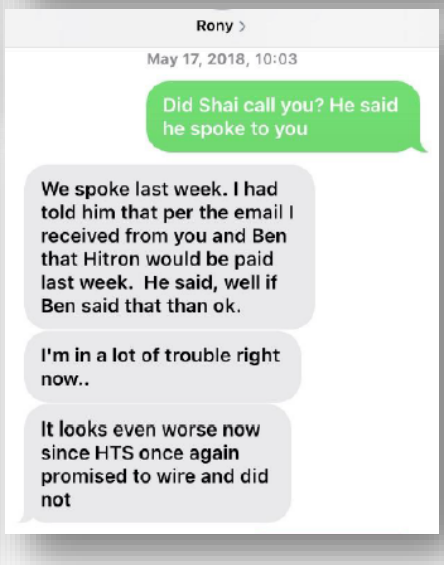
Exhibit H4 shows the first request I made to Mr. Hage to offer a dual headed camera similar to a competitor product (Genetec). I also noted the ideal price for such product. HTS was not involved in any of those requests and never moved ahead with **my idea.**

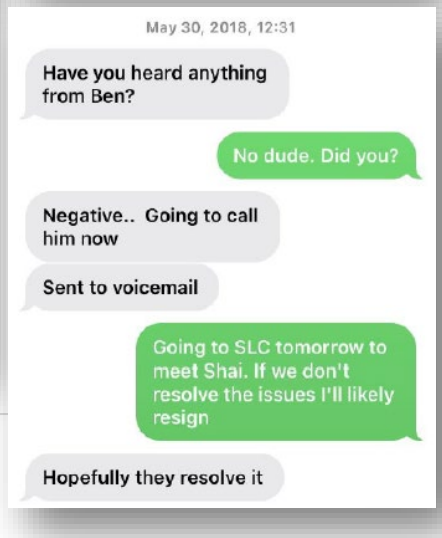
Exhibit H5 is the email sent to me and Mr. Barker which includes the "1st rendering" of a proposed Dual Head Camera from November 2017. This rendering was used by plaintiff to drag "Riverland" into this sham litigation.

Exhibit H6 is a true and correct copy of text messages Mr. Hage and I exchanged over the years highlighting our long-term friendship and the stress we both incurred in 2018 when I was unable to keep my word to my friend that Hitron will get paid. Below are captures of selected few.









B. EMAIL EXHIBITS SHOWING BAD FAITH DURING LITIGATION

1. **On October 22nd and October 27th 2019** Mr. Levi Silver, our former attorney sent two follow up emails to Mr. Reinitz, following the defamatory letter to our industry: "Ariel: As mentioned below, I would appreciate your thoughts on why the letter you recently sent to RED LPR customers does not constitute defamation and/or tortious interference and why you are not personally liable for authoring and sending it." **Both emails were ignored by Mr. Reinitz. (Ex. S0)**
2. **On October 31st, 2019** I sent an email to Mr. Reinitz, in response to his defamatory letter to my customers and friends (**Ex. A0**). That email should have served as a red flag to any reasonable attorney. Mr. Reinitz is not a reasonable attorney, and he did not respond to mine or to Mr. Silver emails related to that letter.
3. **On December 19th 2019** Mr. Silver sent an email to Dickson Burton, the local Utah attorney from "Trask Britt" alerting him of deficiencies in discovery responses and further noting Mr. Reinitz troubling actions (**Ex. S1**):

As you know, I am counsel for Sagy Amit in a litigation pending in California state court against HTS. In that case, Mr. Amit served discovery requests well over a year ago, and he has yet to receive a meaningful response. Those discovery requests were the subject of at least three discovery-related motions, and Mr. Amit has yet to receive a meaningful response. Instead, Mr. Amit has encountered a nearly endless stream of transparent gamesmanship, delay tactics, and refusals to comply with relevant discovery obligations.

Obviously, this is not the same case, you are not the same counsel, etc. However, the parties are largely the same and HTS's transparent gamesmanship in that case warrants at least some skepticism here.

Having said all that, I am happy to provide the requested extension provided you represent that the discovery response served on February 5 will be substantively meaningful—including by containing substantive information beyond the conclusory/boilerplate statements contained in the complaint.

Later in the same email thread, Mr. Silver noted as follows:

> Dickson:
>
> In connection with my email below, I further note that, two months ago, Ariel Reinitz sent the attached letter to REDLPR's customers representing ***as a matter of fact*** that HTS had conducted an "internal investigation" that was sufficiently thorough and reliable for ***counsel*** to conclude that: (i) HTS in fact had legally protectible trade secrets including "technical and business trade secrets" accumulated through "over 20 years of R&D and business development": (ii) defendants "engaged in a wide-ranging campaign of unlawful conduct," including by using these trade secrets as "the foundation upon which RedLPR was built and currently operates"; (iii) and "RedLPR's products unlawfully incorporate HTS' proprietary trade secrets."
>
> Unless the above representations of fact made by ***counsel*** to REDLPR's customers were transparent defamation, Plaintiffs should already have completed, and had counsel analyze, the vast majority of work necessary to respond to Defendants' recent discovery demands.

That email alone should have served as a Red Flag to all counsels of record. Noteworthy, the 7th Circuit in *Nisenbaum v. Milwaukee* considered similar letters as "Substantial Compliance" for the purpose of Rule 11 "Safe Harbor" purposes. "Defendants have complied substantially with Rule 11(c)(1)(A) and are entitled to a decision on the merits of their request for sanctions under Rule 11." *Nisenbaum v. Milwaukee County*, 333 F.3d 804, 808 (7th Cir. 2003). As I will note below, I did not rely on Nisenbaum and further complied with the rule above and beyond this "Warning Shot" from 2 years ago. Dickson resigned from this case a month later.

4. **On February 11th, 2021** Mr. Reinitz served a subpoena on Mr. Jeff Okyle and on Ohana Control Systems (**Ex. S2**). The sole purpose of those subpoenas was to intimidate individuals who were supportive of defendants and their legitimate business. As I note further below, **plaintiff is still withholding those documents.** In further support of defendants' motion for sanctions, see declarations by Mr. Okyle (**Ex. D**) and Mr. Borochov (**Ex. F**), the owner of Ohana Controls.

5. **In November of 2021** I started representing myself in this action and sent Mr. Reinitz my initial "Warning shot" for rule 11 motion. (**Ex. A1**)

Happy Friday Mr. Reinitz,

Thank you for your kind response to my Email!

While I appreciate your genuine concern for our wellbeing moving forward Pro se, we both know this case was filed in bad faith.

After sifting through our Emails for over a year, you can't claim ignorance to the Objective bad faith and subjective lack of legal merits which will be the basis of a rule 11 motion against you personally and your firm for sanctions.

"Objective speciousness exists where the action superficially appears to have merit but there is a complete lack of evidence to support the claim." FLIR Systems, Inc. v. Parrish, 174 Cal. App. 4th 1270 (2009)

6. **On December 8th, 2021,** Mr. Reinitz attempted to once again extend the discovery deadlines by 4 months. I refused to consent to any further delays. (**Ex. A2**).

Good morning Mr. Reinitz,

We have all the facts we need and ready for trial as soon as possible.

We do not consent to any further delays.

7. **On December 14th 2021** I served plaintiff with the first copy of the motion for rule 11 sanctions. Over 4 months before filing it with the court. (**Ex. A3**). I offered counsel to meet and confer in good faith.

8. **On December 20th 2022** I followed up on a November 15th email which received no response, requesting plaintiff to make a number of individuals available for depositions. I also

noted (highlighted in **Ex. A4**) my interest in taking Mr. Reinitz deposition, "specific to the investigation you conducted prior to filing…As required by rule 11" (**Ex. A4**)

9. **On December 24th 2022** I notified Mr. Reinitz of his **Bad Faith use of settlement discussions** and the fact that his client used details from our conversation to try and convince Barker to betray his partner. (**Ex. A5**)

10. **On January 4th 2022** I served all counsels of record with the "safe harbor" copy of the "rule 11 motion". After conducting research, I learned that sanctions can be imposed on all counsels and their firms and wanted to make sure as noted that "[I] don't want this motion to fail on some technicality issues" (**Ex. A6**).

11. **On January 7th 2022** I noted once again to Mr. Reinitz that his delay tactics in scheduling depositions are inappropriate and are not appreciated. (**Ex. A7**)

Happy Friday Mr. Reinitz,

I sent you an outlook calendar invite for the date/time of the Whiteman deposition. Please reply and ACCEPT.

We are now a week away from when you committed to have dates for ALL depositions I requested on November 15th (Almost two months away now!!)

Can you please stop delaying this process and confirm dates for all depositions?

On the same day I also notified plaintiff that they are spoliating the very evidence I included in the "safe harbor" motion I sent to them a month earlier. (**Ex. A8**)

12. **On January 10th** I kindly asked Mr. Reinitz to reach out to me with any discovery requests, noting that his harassment of Mr. Ong is bad faith attempts at increasing our costs and delaying the action for no valid reason (**Ex. A9**)

13. **On January 12th** I asked Reinitz again to confer with me with any valid discovery requests, following an obvious attempt to increase the costs of litigation once again by serving discovery requests from 2 years ago that are clearly abusive and overbroad. I also reminded him to schedule the depositions I requested. (**Ex. A10**)

14. **On January 16th and 19th** I sent Reinitz a 3rd notice to respond to the deposition calendar invites and requesting again that he schedule the requested depositions (**Ex. A11 and A12**)

15. **On January 26th** I asked Mr. Reinitz **again** to produce a copy of the NDA with "Hitron" (**Ex. A13**). Throughout this litigation plaintiff claimed to have such NDA, including in Hofman Declaration in plaintiff identification of their "trade secrets" (ECF 116). on the same day I reminded plaintiff of my right to receive all documents they received via subpoenas and been withholding. (**Ex. A14**)

Mr. Reinitz,

I am asking again and I am entitled to all documents collected by plaintiff in response to the subpoena of:

1- Hitron and Rony Hage
2- Ohana Controls and Amir Borochov
3- Jeff Okyle

Please let me know when I can expect a meaningful response.

16. **On January 26th** I notified plaintiff that all the NDA's they produced with their employees were signed AFTER the resignation of defendants. (**Ex. A15**)

The below looks like a "batch" signup on December 06, 2018 which corresponds with the dates I first filed my complaint (Amit Vs. HTS et al) in CA.

17. **On January 27th** I once again asked Mr. Reinitz to share all documents he received via subpoenas and has been withholding for half a year. (**Ex A16**)

18. **On January 29th** I notified plaintiff of their bad faith using documents they received in discovery to enrich their own company. I also shared again the legal reason behind the request to share subpoena documents with all parties to the litigation. (**Ex. A17**)

19. **On February 3rd** I reminded plaintiff of their rule 11 violation and their bad faith delay in scheduling depositions. (**Ex. A18**)

I also note that a week into the judge's order to cooperate on scheduling depositions, you have not yet made any progress beyond the Whiteman deposition, the only person who has nothing to hide in this case.

20. **On February 4th** Mr. Reinitz explains (**Ex. A19**) that he will not use any emails marked "for settlement only" against defendants. A promise he clearly breaks in his response to this motion.

these items going forward. You can mark this information 'for settlement purposes' and we will not use it for any purpose in the case other than to evaluate a potential settlement.

Ariel Reinitz
Partner

21. **On February 6th** I shared with Mr. Reinitz in good faith what would be defendants' acceptable settlement terms. Those terms have been consistent until this day despite Mr. Reinitz attempt to misrepresent those as "aggressive" in his response to the rule 11 motion. (**Ex. A20 and A21**)

22. **On February 19th** I notified plaintiff by email of the further interfering with the evidence I used in the rule 11 motion. All such emails were completely ignored. (**Ex A22**)

23. **On February 20th** I offered plaintiff once again to settle in a good faith attempt to end the litigation. (**Ex. A23**)

24. **On February 25th** plaintiff served on me its objections to sharing the documents they received via subpoenas. All those documents are still being withheld by plaintiff. (**Ex. A24**)

25. **On March 4th** plaintiff attempted to schedule depositions on March 22nd or 24th despite a March 10th end of discovery deadline. I clearly object and point out the gamesmanship and bad faith in delaying the end of discovery. (**Ex. A25**)

Mr. Reinitz,

I asked you since November of last year, when do you plan to take depositions?

1- Why did you wait for the last minute?
2- Why do you need separate deposition for RED LPR?
3- Why can't you take mine and RED LPR on the same day?

26. **On March 21st** I responded to plaintiff threats of sanctions and intimidation of Mr. Ong to share documents that don't exist while withholding documents they already received via subpoenas. (**Ex. A26**)

Mr. Reinitz,

In support of Mr. Ong's communication below, I remind you that you have willfully, deliberately and maliciously dragged the response to my requests for production for over 30 days, only to then respond with the objections attached.

This has been your strategy throughout the 2.5 years of discovery in this action.

It is also clear from evaluating the dockets in your other client's actions that this is your "Go To" strategy, verified with earlier communications from Mr. Levi Silver, and opposing counsels in other actions in which you are involved.

27. **On March 22nd** I notified Reinitz that a close inspection of the Lustgarten deposition video reveals he was not alone in the room and was receiving non-verbal ques from someone. Mr. Reinitz ignoreed this email as well. (**Ex. A27**)

Mr. Reinitz,

I attach another clip from the deposition of Mr. Lustgarten. As I go through the video it is conclusive beyond reasonable doubt that Mr. Lustgarten has a whole non-verbal sign language established with the person in the room. A scratch of the nose, a scratch of the forehead, and nodding and winking. It is also clear that Mr. Lustgarten has his phone next to him and he is reading messages during the whole process.

28. On the same day defendants made another good faith attempt to resolve this litigation in a settlement, reminding plaintiff that following the 4/20 hearing the action will become more damaging to them. (**Ex. A28**). Believing plaintiff is communicating in good faith, defendants agreed to a mediation. During mediation plaintiff offer did not even cover defendants' costs in this litigation.

29. In a further attempt of good faith, I notified Mr. Reinitz of the Anti-SLAPP I was ready to file in the new San Diego action against me, suggesting they could save money by voluntarily dismissing their newest sham litigation. (**Ex. A29**)

30. **On April 26th** I advised plaintiff of my intention to file a RICO claim against them, in a good faith attempt to settle all actions and end the war. Instead of replying plaintiff used my peace offer in their response to rule 11 motion as "aggressive settlement attempt". I believe that is an oxymoron (**Ex. A30**)

Counsels of record,

Please be advised and advise your clients **in good faith** that I am **in serious consideration** plan to file the attached RICO complaint in the Superior Court of San Diego in advance of our next scheduled court hearing in the Utah action. As you both know the legal merits to these claims are well established within the docket of the Utah underlying action (and the San Diego actions) and in public filings of the companies mentioned in the attached claim, as well as in the video record (and transcripts) of depositions taken in the underlying Utah action.

31. **On May 6th** defendants attempted **again** to appeal to plaintiff's logic and end the war on all fronts. Once again, the attempt was completely ignored by plaintiff, despite claiming for months that they are interested in a settlement, plaintiff have made not a single serious attempt to a reasonable offer. (**Ex. A31**)

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

May 24th 2022

Sagy A

/s/ *Sagy Amit*

Sagy Amit

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

QUEST SOLUTION, INC.; HTS IMAGE PROCESSING, INC.; HTS (USA), INC.,

Plaintiffs,

v.

REDLPR, LLC; SAGY AMIT; JEREMY JAMES MC MICHAEL BARKER.

Defendants.

Case No. 2:19-cv-00437-PMW

DECLARATION OF JEREMY BARKER IN SUPPORT OF SANCTIONS UNDER (FRCP 11) and (28 U.S.C. 1927) and MEMORANDUM IN SUPPORT FILED BY DEFENDANT AMIT

District Judge Clark Waddoups

Magistrate Judge Dustin B. Pead

I, Jeremy James McMichael Barker, declare:

I am a defendant in this action and Co-founder of Defendant REDLPR, LLC. I have personal knowledge of the facts stated herein and if called to testify would competently do so. The following is a timeline of events that describes my personal experience and good faith attempts to work with the new management, backed by email evidence, following the acquisition of HTS by Teamtronics. All the email exhibits are true and correct emails related to the matters of this litigation. The purpose of this timeline is to show the paradox that exists between the plaintiff's baseless and meritless accusations in the Utah Complaint and later the "FAC" compared to the reality of our employment in 2018. I like to first list some of the accusations below. Until this

day I hurt when I read this. **I don't understand the motive behind such lies and deceit, but I now know the legal terms are improper purpose and bad faith!**

FROM ECF 2/ECF 39 PAGE 2

5. In early 2018, two HTS employees – Sagy Amit and Jeremy Barker – conspired to use HTS' confidential trade secrets and other proprietary information to develop a direct competitor to HTS (formed soon thereafter as RedLPR).

6. In addition to misappropriating HTS' trade secrets, Amit and Barker misused their positions as HTS employees to actively sabotage HTS' business interests and tarnish HTS' longstanding and hard-earned reputation as a leading LPR provider.

7. Shockingly, Amit and Barker engaged in this unlawful conduct ***while still employed by HTS***.

8. Despite collecting salaries and presenting themselves as HTS' representatives, Amit and Barker spent months brazenly stealing HTS' trade secrets, building a competing organization, and actively damaging HTS' business and reputation from within.

9. In August 2018, Amit resigned from HTS. Barker, however, remained an HTS employee.

10. Unbeknownst to HTS, ***this conduct was part of a deliberate, calculated plot coordinated by Amit and Barker to conceal their underlying intentions – namely, sabotaging HTS' interests for the benefit of RedLPR***.

(Emphasis in the original text)

The timeline below was the reality of 2018 backed by evidence

1. **in late 2017** following the acquisition of HTS by Teamtronics, we had high hopes and I tried my best to work with new management to introduce them to the company and our customers so we could all hit the ground running. HTS in the US was a small team of 4 people (See ECF 252-1 PageID 7842 line 4) responsible for two-thirds of the company's revenue (See ECF 251-11 PageID 8029). Having worked at the company for several years and in several roles prior to its acquisition by Teamtronics (See ECF 251-13 Page ID 8078-8081), I was very familiar with the challenges facing the company in the market.

1. **On Jan 28, 2018** I sent an email (ECF 50-23 PageID 1327) describing at length some of HTS' strengths in the market vs. market leaders (noting that due to HTS' size "we fly mostly under the radar"), I tried to explain that HTS sold and shipped boxes and lacked long term commitments ("Believe it or not we have absolutely no agreements or contracts with any of our existing customers inside the US,").

2. **On Feb 19th-20th** The US team met the new management for the first time in what is known on the record as the "SLC Meeting" (ECF 251-11, PageID 8028). I was shocked to find out that the PowerPoint presentations the teams created for that meeting is now used against us in this litigation as "trade secrets". As Mr. Amit exhibited during the "April hearing" all those PowerPoints are still available to us and the world on the internet.

3. **On March 7th 2018** When our "Trinet" Contractual payroll and benefits were unceremoniously breached, in the best faith possible I let management know (ECF 80-6 181 PageID 2464-2465) that there were a series of internal items that should be handled

quickly – from compensation plans, to vendor payments, shipping issues, and signing a new contract. "Lustgarten", the new CEO responded dismissively (See Ex. B2)

From: Shai Lustgarten
Sent: Wednesday, March 07, 2018 8:36 AM
To: Jeremy Barker <jeremy.barker@htsol.com>
Cc: Sagy Amit <sagy.amit@htsol.com>; Ben Kemper <ben@teamtronicsinc.com>
Subject: RE: Company plans

Jeremy
Please conclude these issues first with Ben
Thx
Shai

The intent of the March 7th list was to communicate to management everything that was standing in our way to being more successful than ever and to lay the path for a bright future together – starting with keeping the team happy, keeping the vendors happy and keeping the customers happy.

4. **On March 20th, 2018** I learned that paid orders are no longer being shipped. I sent an email to the new COO "Eli Uziel" pleading: "*This is totally unacceptable that on the one hand we're being pressured to sell and on the other hand we can't ship for 10 weeks while at the same time fielding debt collection calls from vendors. This is nuts and the most disorganized I've ever seen the company and trust me that means a lot."* (Ex. B3). HTS' sales quotes stated that "orders would ship in 6-8 weeks", so the above was a genuine concern.
5. **On March 27, 2018**, I alerted "Uziel" again (**ECF 50-24 PageID 1331**) that to "avoid damage to the reputation of the company we needed to improve our shipping and communication timeliness and accuracy". I also noted that management had verbally

confirmed to me that vendor payments were outgoing, and the situation would improve: "I've been told for a few weeks now that the vendor payments should have gone out… nothing in writing of course, all on the phone". I also noted that the company is in an "emergency". Worth noting that the customer referenced in this email exhibit is "Ohana Controls" in Hawaii, a personal friend of defendant Amit, who was served with a subpoena during this litigation to harass him personally for "daring" to support his friend's business. (See **Ex. F** "Declaration of Amir Borochov")

6. **On April 16th** Our new health benefit selection arrived (**ECF 50-33, PageID 1356**) – much worse coverage, much more expensive. At this point there was still no mention of our other benefits like 401k or PTO, commission, bonus, salary, etc. Our expenses reimbursements were now delayed by weeks at a time. I pleaded again to "Lustgarten": **"Is there a reason I'm not aware of that the US employees shouldn't receive the benefits we signed on for?"** [In our breached contract].
7. **Earlier, On April 11th** I warned "Lustgarten" that our shipping has collapsed and literally all of our main customers had outstanding orders awaiting shipment "We can't push for new sales until we figure out how to deliver PO's in hand faster" (**Ex. B6**).
8. **On July 2nd** I was advised that we were about to lose another client who paid more than 10 weeks prior for an installation with a Police Department in Florida (**Ex. B8**). I received the notice from "German Medina", a non-employee who reported to me as Vice President of Sales.
9. **On July 12th** I learned we were out of stock on our main camera product (for a company that sells cameras and computers – exclusively – this is a problem). Our largest customer needed some on short notice and our COO advised them it would be 6 weeks until we

had any (**Ex. B9**). I responded immediately letting the COO, CEO, and CFO know that that was too long to wait, and they had to move their timelines up.

10. **On July 14** I learned that I received misleading information from our management and that reality proved quite different. As soon as I learned we would not live up to our promise I pled with Lustgarten and Kemper to call the customer personally and apologize for our error. I provided the customer's name, cell phone number, office number, and email address (**ECF 50-26 PageID 1338).** Much to my chagrin, no such call was ever made. I also note in the email that "this is the first in a line of incoming nightmares based on based on our inability to procure and deliver product".
11. **On July 23** I followed up with management (COO, CEO, CFO) stating that "my reputation alone can't keep us afloat much longer, and after being yelled at by from people in 3 different states before 8 am this morning I'm making my final plea to you that it's in your hands to make this work or let it collapse in the next several weeks" (**ECF 50-27, PageID 1342**)
12. **On August 7th** my friend and "sounding board" Sagy Amit resigned. **Ex. B10** reflects Amit's own pleadings with the new management to:
    a. Pay Vendors
    b. Pay employees their contractual obligations
    c. Pay attention to our customers issues

Ex. B10 also shows AMIT paid company's debts from his own credit card including for trade show in October 2018 which contradicts the "conspiracy theory" of plaintiff's.

To no avail. Amit's' resignation did not create any change. After resigning Amit went on a road trip to Alaska. We communicated very sparsely during his trip but certainly did not share any

"pipeline data" or "conspire against HTS" as asserted in the Utah Complaint. Amit just needed a break and had zero interest in what happens with HTS at that point. There was no discussion of starting a new company or even working together again at that point.

13. Between the "SLC Meeting" in February 2018 and Amit's resignation, numerous other employees in Israel resigned as well. Others equally voiced their frustration with the new management. One in Specific, our VP of R&D Mr. Rosenberg made a list of issues to communicate with management (**ECF 255, PageID 8096-8103**). As most other attempts in diplomacy, it proved futile.
14. **On August 14** I was told by one of the top 3 customers that they will hold any further payments to HTS due to lack of performance from a project sold a year prior (**Exhibit B12**).
15. On the same day I alerted management that our competitors smell the blood in the water and have been reaching out to our customers aggressively. One of our customers, "Parkonect," stated "I am not sure what's going on at HTS, but its not good. Our clients are pissed" (**ECF 50-31, PageID 1350**).
16. **On September 18** I received an email from a customer that "we are failing at GRF… We cannot continue to tell the customer you are working on it. I need to have an answer today on when we'll have a functioning system" This was related to the MAV cameras. (**Exhibit B13**).
17. **On October 16th** I resigned, unable to continue working with the folks that purchased the company (**Exhibit B15**).

18. After I resigned Amit and I started a discussion with Riverland, convinced that HTS is going "belly-up". We felt obligated to our customers. Around December 2018 we created REDLPR, initiated hardware and software development.
19. **In January 2019** we installed our first system, a beta site for development purposes in New Orleans
20. **In March 2019** RED LPR attended its first trade show. We reintroduced ourselves and our new company to the industry. This trade show is where we reacquired industry contacts and made our initial sales efforts. We also won a prize for the "Best new company". Mr. Hofman and Mr. Mayer from HTS were the only attendants from HTS to this event. Based on Hofman's testimony, their visit to our booth and us winning a prize is what sparked this litigation.
21. **By June of 2019** when the initial complaint was filed, RED LPR shipped a total of 15 lanes worth of equipment to paying customers, equal to about $45,000 in sales.

Reading the initial complaint filed by Plaintiff was one of the most surreal experiences of my life. Beginning on page 2 of the initial complaint – "Sagy Amit and Jeremy Barker – conspired to use HTS' confidential trade secrets," and "actively sabotage HTS' business interests and tarnish HTS' longstanding and hard-earned reputation" .. "***while still employed by HTS***" (emphasis not added – that's how they framed it). "Despite collecting salaries and presenting themselves as HTS' representatives, Amit and Barker spent months brazenly stealing HTS' trade secrets, building a competing organization, and actively damaging HTS' business and reputation from within." (FAC page 2).

The evidence cited herein and already in the record show an entirely different series of events occurring in 2018 than what is presented in the complaint. In fact, the totality of

> the evidence provided by Plaintiff that I've seen come nowhere near the allegations laid against me and Amit.

Further, the letter sent by Mr. Reinitz with "Fisher Broyles" letterhead, (cc'd Lustgarten and Mayer) publicly shaming me to an unknown number of friends, customers, and folks I've never even met, stating in no uncertain terms that "HTS conducted an internal investigation and discovered that these employees [Amit and Barker] engaged in a wide-ranging campaign of unlawful conduct" and that "These stolen trade secrets are the foundation upon which REDLPR was built and currently operates" (**ECF 80-2**). In no uncertain terms Mr. Reinitz commits to stating "**REDLPR's products unlawfully incorporate HTS' proprietary trade secrets**" (emphasis in the original).

> Yet, to this day – hopefully nearing the end of this saga, I've seen no such evidence. I've seen no documents or communications that would remotely support plaintiffs' position or put their counsel in a position to write such a letter – let alone file a suit, then amend the complaint on the last day possible (because obviously he had lots of evidence for filing the FAC… right?), then settle separately with Riverland. Riverland settled out 11 months or so ago – and we still haven't spoken. Mr. Reinitz suggests that this is a coincidence, but with his track record with truth and his notion of justice, I'm afraid I can't believe him – I think its more likely he's misrepresenting the facts as he seemed to do so often.

This case has impacted my life in various ways – a day after I received a copy of Mr. Reinitz letter my jaw locked open. I later learned that stress can cause lockjaw, and my particular type of TMJ disorder could lead my jaw to lock open instead of closed. My marriage has fallen apart, and my wife and I have split ways. My job and ability to earn a living has all but disappeared due to Mr. Reinitz' threats to the industry (See **Ex. D** Okyle Declaration), the separation from

our technology partners, and the constant financial drain of motion-play for the past 3 years. Our customers and friends call me on a weekly basis letting me know that someone from HTS during trade shows and in conversations mentioned that RED LPR is gone, and we can no longer compete – I've heard stories from Amsterdam, Reno, Chicago, and Florida about the rumors being spread about me.

Finally, to this day, I do not know what I could have done differently to avoid any of this while staying true to myself and my work ethics. I also can't imagine how we would defend ourselves in this litigation if we did not work from our homes and had copies of all the emails we used as exhibits in this litigation

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

May 24th , 2022

Irvine, CA

/s/ *Jeremy Barker*

Jeremy Barker