

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

ARRIVALSTAR S.A. and MELVINO
TECHNOLOGIES LIMITED,

Plaintiffs,

v.

SHIPMATRIX, INC., UNITED PARCEL
SERVICE, INC. and FEDEX
CORPORATION,

Defendants.

CASE NO. 07-0415-JFC

Honorable Joy Flowers Conti

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' JOINT MOTION TO COMPEL**

In the Proposed Order attached to their Joint Motion to Compel of July 2, 2008, Defenants, UPS and FedEx, seek several items of relief under the three broader categories of requested documents, responses to interrogatories, and continued deposition testimony.

Plaintiffs respond to each individual request for relief as follows:

1. Requested Documents

a. The "Missing" TKHR Filing Cabinet Documents

During his deposition, Plaintiffs' Rule 30(b)(6) designee (and the inventor of the patents-in-suit), Martin Kelly Jones, recalled that a file cabinet containing certain of his early conception and reduction to practice materials had been misplaced during an office move of Mr. Jones' patent prosecution counsel, the Atlanta law firm of Thomas, Kayden, Horstemeyer & Ridley, L.L.P. At a subsequent deposition, Scott Horstemeyer, Mr. Jones' patent prosecution counsel,

recalled having shipped the contents of the “file cabinet” to trial counsel for Plaintiffs’ predecessor-in-interest, attorney Steven Hill.

Plaintiffs’ counsel has received from Mr. Hill what Mr. Hill believes to be the last set of not-yet-produced documents in his possession relating to Plaintiffs’ predecessor-in-interest. Plaintiffs have already produced to Defendants approximately 50% of the responsive, non-privileged/non-work product materials received from Mr. Hill, and will produced the remaining 50% of such documents by July 18, 2008.

b. Complete Copies of All Patent Sale and Assignment Documents

Plaintiffs have already voluntarily produced copies of patent sale and assignment documents, and are still searching for the additional pages of a “Schedule” of patents and patent applications that was attached as an exhibit to one such document. Plaintiffs will complete their search for the additional pages of such Schedule by July 18, 2008.

c. Complete Copies of Any Promissory Notes and All Records of Payment Thereunder

The “Promissory Notes” to which Defendants refer do not exist. Plaintiffs’ Rule 30(b)(6) designee will testify to this issue during the continuation of Defendants’ Rule 30(b)(6) deposition of Plaintiffs’.

d. All Documents Concerning the Creation and Operation of Any Trusts Holding an Ownership Interest in either Plaintiff Entity

Plaintiffs respectfully request that the Court enter a Protective Order preventing Defendants from delving into the highly-confidential aspects of any trusts holding an ownership interest in either Plaintiff Entity, including the identity of beneficiaries of any such trust other than those of individuals who Plaintiffs’ have identified as having knowledge of facts relevant to this litigation. If the Court is inclined to grant Defendants’ request with respect to this highly-

confidential and irrelevant information, Plaintiffs' respectfully request the opportunity to be heard on the issue during oral argument.

e. All Attachments Referred to in the Corporate Meeting Minutes Produced by Plaintiffs

Plaintiffs are completing their search for all such "attachments," to the extent such materials exist and can be located, will produce them promptly.

2. Supplemental Interrogatory Responses

a. Identify Any Licensee Obligated Under Its License With ArrivalStar to Mark Its Licensed Products ...

In response to Defendants' interrogatories, Plaintiffs have identified a single license agreement under which the licensee was obligated to mark the licensed patent numbers on its licensed product. In response to Defendants' request, Plaintiffs will identify the licensee under such license. Plaintiffs further state that they are unaware of whether such licensee performed the marking required under such license agreement, and that Plaintiffs are unaware of any evidence of such marking.

b. Identify When and to Whom Plaintiffs Have Previously Produced Copies of ArrivalStar License Agreements

Plaintiffs will provide the requested information to Defendants promptly.

3. Continuing Depositions of Mr. Jones and Plaintiffs' Rule 30(b)(6) Designee

Plaintiffs will produce Mr. Jones and another witness knowledgeable concerning the management, structure, and operation of ArrivalStar S.A. and Melvino Technologies Limited.

Respectfully submitted,

/s/Matthew G. McAndrews

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**Attorneys for Arrivalstar S.A. and
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of **PLAINTIFFS' RESPONSE TO DEFENDANTS' JOINT MOTION TO COMPEL** was served upon all counsel of record via electronic filing or U.S. Mail, first-class postage prepaid, on July 14, 2008.

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/s/Matthew G. McAndrews