

Unsealed Portion of Exhibit F

# Hall Sealed Declaration Exhibit F

HIGHLY CONFIDENTIAL -- -- ATTORNEYS' EYES ONLY

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ROBERT JACOBSEN, an individual, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MATTHEW KATZER, an individual, )  
and KAMIND ASSOCIATES, INC., an )  
Oregon corporation dba KAM )  
Industries, )  
 )  
Defendants. )  
\_\_\_\_\_ )

No. C-06-1905-JSW

**ORIGINAL**

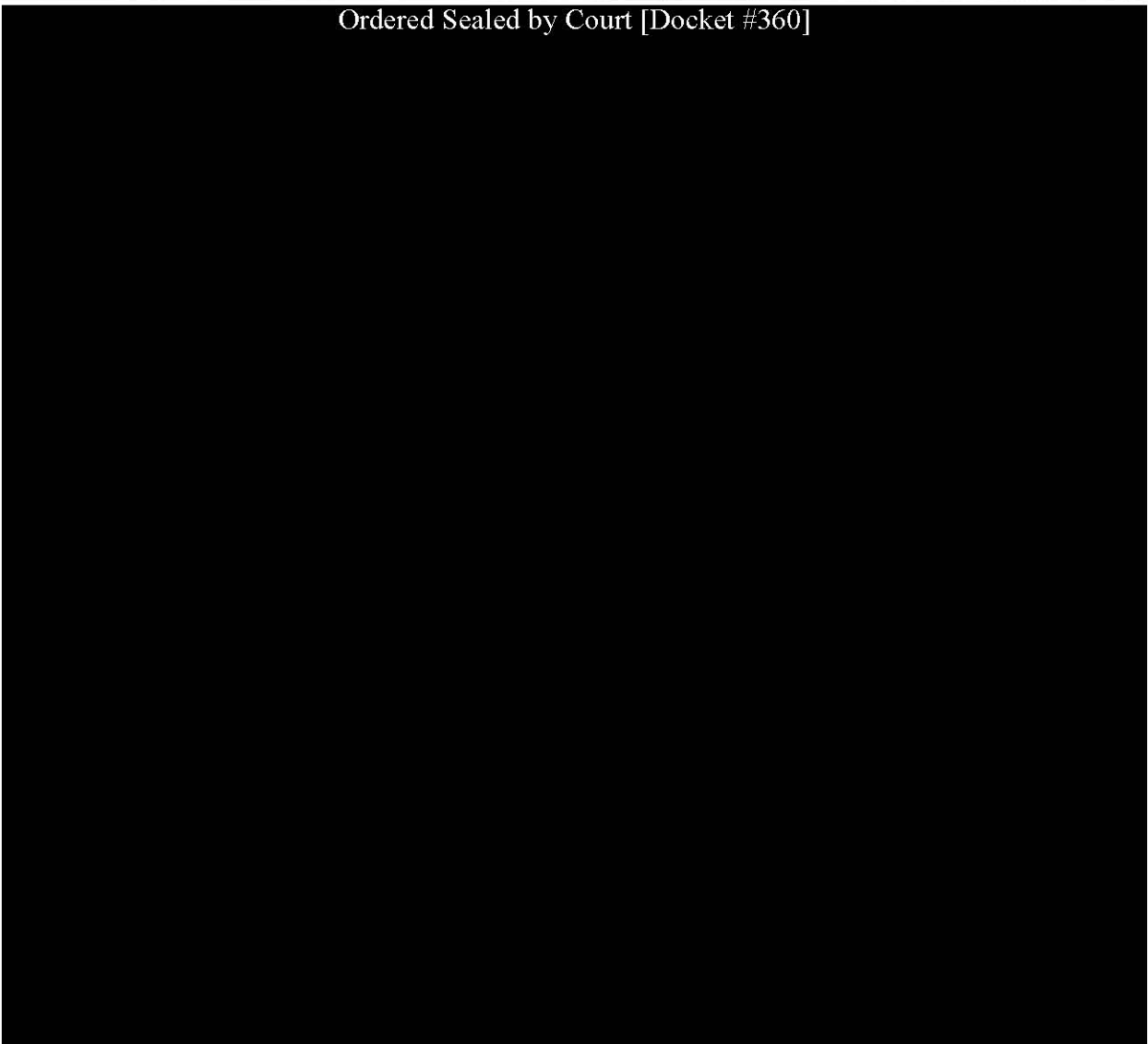
ATTORNEYS' EYES ONLY EXCERPTS  
OF  
VIDEO DEPOSITION OF MATTHEW KATZER  
Taken in behalf of the Plaintiff

September 16, 2009  
Portland, Oregon

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Ordered Sealed by Court [Docket #360]

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BY MS. HALL:

Q. Okay. Decoder Pro. You registered decoderpro.com. Tell me, why did you do it?

A. I had two decisions to make in 2004. One decision was, do I spend the money to basically develop a programming application, or do I basically say let's figure out what Decoder Pro is and figure out how to actually commercialize it and conform to whatever license

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1 and everything else associated with it. That was the  
2 purpose of buying it at that time.

3 Q. That you were planning on commercializing  
4 Decoder Pro?

5 A. Per whatever the license for the open source or  
6 the JMRI stuff, whatever the license was associated with  
7 it.

8 Q. Okay. Do you have any claim of right to own  
9 Decoder Pro?

10 A. I mean, it was always -- I mean, I don't  
11 understand the question.

12 Q. Do you have any claim to Decoder Pro?

13 A. At this time, no.

14 Q. Did you have it then?

15 A. That's a legal question. I don't know -- I  
16 don't know the answer to that one.

17 Q. Okay. Well, did you make any contributions to  
18 Decoder Pro?

19 A. No.

20 Q. Okay. Did you contribute any money to the JMRI  
21 development group?

22 A. No.

23 Q. Okay. Have you done anything to earn any rights  
24 in Decoder Pro?

25 A. No.

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1 Q. Okay. But at the time you knew that JMRI used  
2 Decoder Pro as the name of its program; correct?

3 A. Yes.

4 Q. Okay. And you knew that other model railroaders  
5 associated Decoder Pro with JMRI; right?

6 A. I knew that Decoder Pro was associated with  
7 Decoder Pro.

8 Q. Okay.

9 A. I mean, it's -- I mean, I knew that, yes.

10 Q. Okay. With JMRI, you mean?

11 A. JMRI -- to me JMRI and Decoder Pro are the same  
12 thing.

13 Q. Okay. And you knew that Bob Jacobsen was the  
14 manager or, in your words, the administrator at JMRI;  
15 right?

16 A. I viewed him as an administrator.

17 Q. Okay.

18 A. I think manager is probably a stronger term than  
19 what I viewed him as --

20 Q. Okay.

21 A. -- his role.

22 Q. A point of contact? Would that be fair to  
23 describe Mr. Jacobsen's role?

24 A. I don't know. Could be yes or no. I don't  
25 know.

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1 Q. Okay. Did you intend to deny JMRI of the use of  
2 decoderpro.com?

3 A. No.

4 Q. You know that when you registered  
5 decoderpro.com, Bob Jacobsen and JMRI would never be able  
6 to register decoder -- another decoderpro.com as --  
7 decoderpro as a dot com domain name; right?

8 A. I don't understand the question.

9 Q. Okay. When you registered decoderpro.com, you  
10 know that Bob Jacobsen and JMRI would not be able to  
11 register Decoder Pro as a dot com domain name; right?

12 A. What are -- what is the -- if --

13 Q. Let me -- I think you're confused by this  
14 question, so let me withdraw it.

15 A. I mean, can you clarify the question of what  
16 exactly you're asking me? Is that -- I don't understand  
17 the question.

18 Q. All right. Okay. You registered  
19 decoderpro.com?

20 A. Yes.

21 Q. Once you have registered it, is there any way  
22 for Bob Jacobsen to also register decoderpro.com?

23 A. Yes, there is. What you can do is actually go  
24 and register a -- register the purchase -- register a wait  
25 list on a domain. I don't exactly know the exact thing.

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1 But when the domain comes free, then automatically it goes  
2 to the person on the wait list.

3 Q. Okay.

4 A. Wait list is probably a bad term. But you can  
5 actually do -- you can actually look in -- look at domains  
6 and see if they become available.

7 Q. Okay. So -- but that's a wait list. That's not  
8 actually the domain name itself; right?

9 A. No. You can't -- there's -- can only be one  
10 register or owner register of a domain name at a time.

11 Q. Okay. And at the time in 2004, from  
12 February 2004 to I guess it was April of 2005, whatever  
13 the date is, you were that owner?

14 A. Yes.

15 Q. Okay. So there was no other way for Bob  
16 Jacobsen to obtain that domain name, except if you  
17 abandoned it or except if he had to buy it from you?

18 A. Well, he could have responded to my  
19 October 16<sup>th</sup> e-mail and said, "This is my domain. Can  
20 you transfer it to me?" And I would have complied.

21 MS. HALL: Okay. Just a moment here while I  
22 get a document out. I'd like Ms. Edwards to mark  
23 RGJ.00003348 as Katzer Deposition Exhibit No. 17, and if  
24 you would please hand this to the witness.

25 (Katzer Exhibit No. 17 marked

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1 for identification.)

2 BY MS. HALL:

3 Q. Mr. Katzer, if you would please read this  
4 document.

5 A. (Reviewing document.)

6 Q. Mr. Katzer, please let me know when you're  
7 finished.

8 A. I finished.

9 Q. Okay. Now, you acknowledge in your response to  
10 Plaintiff's Request for Admissions, Admission No. 22, that  
11 you received this letter from Mr. Jacobsen?

12 A. That's correct.

13 Q. Okay. And in this letter he asks -- he offers  
14 to reimburse you for your registration costs and he asks  
15 that you transfer it to him?

16 A. That's correct.

17 Q. Okay. So he did write you back?

18 A. He didn't respond to my October 16, 2004  
19 e-mail.

20 Q. He did write you and try to resolve the dispute,  
21 didn't he?

22 A. I don't view -- I mean, this is a response. I  
23 mean, it is what it is. What else do you want me to say?

24 Q. Okay. He says, I offer to reimburse your  
25 registration costs and reasonable DNS costs for the domain



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1 since you registered in on February 22, 2004, in return  
2 for you transferring the decoderpro.com domain name to me,  
3 and he provides his registrant ID information at easyDNS  
4 Technologies. So he made an offer to you in this letter,  
5 and you received this letter?

6 A. That's correct.

7 Q. And you did not respond to this e-mail or to  
8 this letter?

9 A. That is correct.

10 Q. Okay. You said at one point that you registered  
11 domain names for business reasons. Do you remember that?

12 A. That's correct.

13 Q. You also have several domain names with open  
14 source MRR in the name?

15 A. That's correct.

16 Q. Okay. What did you -- what was going to be the  
17 source of your open source model railroad I guess software  
18 for those domain names?

19 A. I haven't decided.

20 MS. HALL: Let's take a short break at this  
21 time.

22 THE VIDEOGRAPHER: Going off record at  
23 3:47 p.m.

24 (End of excerpt.)

25 **END OF EXCERPTS**