

Hall Declaration Exhibit H

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Attorneys for Defendants
Matthew Katzer and Kamind Associates, Inc.

UNITED STATES DISTRICT COURT
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.

Case Number C06-1905-JSW

Hon. Jeffrey S. White

**DEFENDANTS MATTHEW
KATZER AND KAMIND
ASSOCIATES, INC.'S RESPONSE
TO PLAINTIFF'S FIRST
REQUEST FOR ADMISSIONS**

TO: Bob Jacobsen, through his attorneys Victoria Hall and David McGowan:

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendants Matthew Katzer and Kamind Associates, Inc. ("Defendants") object and respond to Plaintiff's First Request for Admissions, as follows:

GENERAL OBJECTIONS

1
2 1. Defendants object to any production request or instruction attempting to impose
3 requirements beyond those provided by the Federal Rules of Civil Procedure.

4 2. Defendants object to the definition of the term "you" as overbroad.

5 3. Defendants object to these Requests for Admissions to the extent that they request
6 information protected by the attorney-client privilege, the attorney work-product doctrine, the
7 joint-defense privilege, the accountant-client privilege, the consulting expert privilege, the self-
8 critical analysis privilege, or any other applicable privilege or immunity from discovery.

9 4. Subject to and without waiver of the foregoing general objections, Defendants
10 specifically object and/or otherwise respond to the Requests for Admissions as follows below.

ADMISSION NO. 1:

11
12 Prior to the KAMIND-QSI transaction (counterclaim ¶17), you had no rights in the QSI
13 manual.

RESPONSE:

14
15 Defendants object to the term "rights" as vague and ambiguous. Without waiving any
16 objections, Defendants admit that they did not own the copyright to the QSI manual prior to the
17 assignment from QS Industries.

ADMISSION NO. 2:

18
19 You obtained rights in the QSI manual for the purpose of asserting those rights in this
20 lawsuit and not for the purpose of asserting them in any market.

RESPONSE:

21
22 Deny.

ADMISSION NO. 3:

23
24 The QSI manual is available for free (zero-price) download from the QSI website.
25
26

1 **RESPONSE:**

2 Defendants object to the term "free (zero-price)" as vague and ambiguous. Without
3 waiving any objections, Defendants admit that the QSI manual is available on the Internet.

4 **ADMISSION NO. 4:**

5 You did not write the QSI manual or any updates to it.

6 **RESPONSE:**

7 Admit.

8 **ADMISSION NO. 5:**

9 When you registered the domain decoderpro.com, you knew the term "DecoderPro" had
10 been used by JMRI to refer to JMRI software.

11 **RESPONSE:**

12 Admit.

13 **ADMISSION NO. 6:**

14 When you registered traincontroller.com and trainprogrammer.com, you knew "Train
15 Controller" and "Train Programmer" had been used by Freiwald Software to refer to its products.

16 **RESPONSE:**

17 Admit.

18 **ADMISSION NO. 7:**

19 When you registered the domain decoderpro.com you intended to prevent JMRI from
20 using that domain in connection with JMRI software.

21 **RESPONSE:**

22 Deny.

23 **ADMISSION NO. 8:**

24 You conceded Plaintiff's ownership of JMRI materials while you were assignee of the
25 QSI manual.

1 RESPONSE:

2 Defendants object to the terms "KAM software" and "recall notices" as vague and
3 ambiguous. Without waiving any objections, Defendants admit that not all people who merely
4 downloaded KAM software have received a formal recall notice. Without waiving any
5 objections, Defendants aver that all dealers of Decoder Commander were sent replacement CD
6 ROMs and instructed to either return or destroy the recalled version of Decoder Commander.
7 Defendants further aver that all customers who had activated Decoder Commander were sent
8 updated, replacement CD ROMs.

9 ADMISSION NO. 22:

10 Plaintiff Robert Jacobsen wrote you a letter asking you to relinquish the decoderpro.com
11 domain.

12 RESPONSE:

13 Defendants object to the term "relinquish" as vague and ambiguous. Without waiving
14 any objections, Defendants admit that Jacobsen wrote a letter to KAM asking KAM to transfer
15 decoderpro.com to Jacobsen.

16 ADMISSION NO. 23:

17 You did not reply to Plaintiff Robert Jacobsen's letter asking for the decoderpro.com
18 domain name.

19 RESPONSE:

20 Defendants object to Plaintiff's characterization of Jacobsen's letter. Without waiving
21 any objections, admit that KAM did not respond to Jacobsen's letter.

22 ADMISSION NO. 24:

23 Before developing Decoder Commander, you were aware that JMRI code was made
24 available subject to a license.

25 RESPONSE:

26 Deny.

1 **RESPONSE:**

2 Deny.

3 **ADMISSION NO. 38:**

4 You have never sold any QSI manuals.

5 **RESPONSE:**

6 Admit.

7
8 **VERIFICATION**

9 STATE OF OREGON)
10 COUNTY OF MULTNOMAH) ss

11 I, Matthew A. Katzer, being first duly sworn upon oath depose and say:

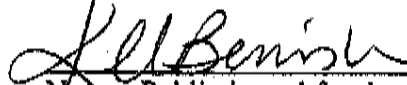
12 That I am a defendant in the above-name cause of action and the president of Kamind
13 Associates, Inc., that I have read the foregoing requests for admissions and that answers and
14 responses thereto, know the contents thereof, and believe the same to be true to the best of my
15 knowledge and information.

16 ANSWERS AND RESPONSES dated this 1st day of July 2009.

17 SIGNED AND SWORN to me before this 1st day of July 2009.

18 
19 Matthew A. Katzer



20 
21 Notary Public in and for the State of Oregon
22 Commission Expires: 2/13/2013