

22-7014
No. _____

IN THE
SUPREME COURT OF THE
UNITED STATES

IN RE JORDAN THOMAS TAYLOR POWELL,
Petitioner

JORDAN THOMAS TAYLOR POWELL,
Petitioner

v.

UNITED STATES PRESIDENT JOSEPH R.
BIDEN JR.; AND THE UNITED STATES SMALL
BUSINESS ADMINISTRATION,
Respondents

PETITION FOR WRIT OF MANDAMUS

JORDAN THOMAS TAYLOR POWELL
PETITIONER (PRICECHECK INC. PRESIDENT), PRO SE
1263 1ST STREET, SE, #523, WASHINGTON, D.C. 20003
PHONES: (202) 503-5284 (PERSONAL) | (302) 446-3857 (WORK)
EMAILS: JTTP@PM.ME (P) | JORDAN@PRICECHECKPAY.COM (W)

March 7, 2023

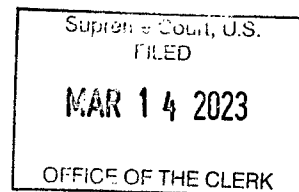


TABLE of CONTENTS

I.	INTRODUCTION.....	1
II.	QUESTIONS PRESENTED.....	1
III.	JURISDICTION.....	2
V.	FACTS.....	4
	A. Background.....	4
	B. Income Alternatives and Antitrust Litigation.....	11
	C. Detrimental Reliance on EIDL Increase.....	14
VI.	ASSESSMENT of INTELLECTUAL PROPERTY (IP).....	23
	A. The Comparative Patent Law Context.....	23
	B. Assessment of Priority.....	23
	1. Misleading activities.....	25
	C. Antitrust Considerations in the Comparative Patent Law Context.....	26
	D. The Litigation Landscape.....	27
VII.	FINANCIAL ANALYSIS.....	29
VIII.	STATEMENT of THE CONTROVERSY.....	33
	A. Brief Recitation of The Law and Pertinent Facts.....	33
	B. Three Increase Applications: the Debacle, the Denial, and the Deficit.....	35
	1. The First Increase Application and Debacle.....	35
	2. The Second Increase Application and Denial.....	35
	3. The Final Increase Application and Deficit.....	36
	C. Discussion.....	36
	D. Working Capital Considerations of Potential Options in Light of Clear and Unclear Restrictions.....	37
IX.	NATURE of RELIEF SOUGHT.....	39
X.	CONCLUSION.....	40

INTRODUCTION

This petition for writ of mandamus¹ concerns the questions presented below, involving absolute rights in an extraordinary antitrust and administrative law controversy of national importance. The Petitioner is a Fordham Law School and Harvard Business School educated entrepreneur who taught himself to code. He is also the majority owner of Pricecheck Inc. (“the Company.”) The petition regards his invention in 2016-17 and the absolute rights related thereto.

This matter is of national importance because it also concerns the economic interest of the United States where, without a writ from the Court, the Petitioner and Company's first to file patent priority status concerning blockchain supply chain tracing and QR code brick-and-mortar retail mobile payments would be further capitalized upon and constructively succeeded in priority by Chinese conglomerates Alibaba and Tencent, thereby leaving the United States, commercially speaking, to exclusively rely on the integrity of, what may be considered sole source first-priority-successor systems for the next two decades.

Moreover, it involves the review of a United States district court antitrust lawsuit where the Petitioner was constructively denied the opportunity to file an amended complaint or appeal in 2019. Ultimately, this matter concerns an urgent absolute right involving administrative law, where such a denial to anyone is a threat to everyone.

QUESTIONS PRESENTED

1. Under the 5th Amendment Due Process clause, does the Small Business Administration (SBA) have the authority to apply an earlier loan calculation methodology to a longstanding increase request where the appropriation available at the time of that request was later rescinded and reallocated, after such loan reapplication was made, with a disaster loan calculation methodology that results in a substantial reduction in the applicable loan amount?
2. Were the actions of the SBA arbitrary and capricious when denying an economic injury disaster loan (EIDL) increase request to Petitioner's business, Pricecheck Inc. (“the Company”), where the reason for the denial was “your maximum eligibility of 24 months of working capital has been reached,”² when the Company had in fact only received at most, six months of working capital, and while six months of expenses was the appropriate loan amount calculation methodology at the time the increase request was made and when the loan agreement was signed?³
3. Does the Office of Management and Budget's (OMB) August 11, 2021, Covid EIDL Supporting Statement A⁴ where “SBA will publish loan data, including recipient name, address, and amount received. ... on the USASpending.gov website pursuant to the requirements on the Data Act” and the subsequent failure to publish the loan information regarding Pricecheck Inc. rise to the level of obstruction of justice by the President where a letter request for assistance was sent to the President regarding the increase request March 12, 2021⁵, the President was sued by Petitioner July 13, 2021, the President failed to respond to the Court's August 16, 2021 response deadline, the President then delivered a letter to Petitioner

¹ 5 STEVEN H. GIFIS, BARRON'S DICTIONARY OF LEGAL TERMS (5th ed. 2016). (“Lat.: *we command*. An extraordinary writ, issued from a court to an official, compelling performance of an act that the law recognizes as an absolute duty, as distinct from acts that may be at the official's discretion”).

² EXHIBIT 1

³ EXHIBIT 2

⁴ EXHIBIT 3

⁵ EXHIBIT 8

December 15, 2021⁶, and the SBA apparently arbitrarily and capriciously denied Petitioner's December 30, 2021 increase request March 18, 2022, after midnight?

4. Where failure to publish “EIDL loan information under the Data Act” exacerbated the unfair competition injury to Petitioner (involving Alibaba Group Holdings Ltd.'s subsidiary Ant Group) where pursuant to the Patent Cooperation Treaty (PCT) and the Stockholm Act “an act of competition contrary to honest practices in industrial or commercial matters ... of such a nature as to create confusion by any means [whatsoever] with the establishment, the goods, or the industrial or commercial activities of a competitor” persists even now after the loss of opportunity to discover information with the potential for joinder or third-party claim(s) in a meritorious 2019 antitrust lawsuit⁷ regarding Petitioner's first to file provisional patent applications⁸ that are a part of the same useful invention regarding the non-obvious invention “Mobile Computing Device-Based Checkout System And Method” that includes a blockchain supply chain tracing system, that may be remedied under the American Inventors's Act (AIA) and the Antitrust laws of the United States where now the statute of limitations may fully run also for the Company, in April 2023⁹, and furthermore has begun to run related to the most recently discovered anticompetitive parties (Alibaba Group Holdings Ltd., et al.)—does the emergency nature of this controversy involving both administrative and antitrust law review reach the jurisdiction of this Court in order to command the delivery of an absolute right to the Company in the substantial majority ownership interest of the Petitioner?
5. Considering the gravity of the situation and the federal statutory nature of antitrust enforcement, may the Court order executive departments and agencies to further investigate the antitrust concerns here under 28 U.S. Code § 517 or any other provision to provide a findings report to the company for litigation purposes, in order to attend to an interest of the United States?¹⁰

JURISDICTION

Extraordinary writ jurisdiction under 28 U.S.C. § 1651(a) is sought here by Petitioner because the granting of such a writ would be “in aid of the Court's appellate jurisdiction, [where] exceptional circumstances warrant the exercise of the Court's discretionary powers, and [while] adequate relief cannot be obtained in any other form or from any other court.”¹¹

As to the aid of the Court's appellate jurisdiction, the controversy includes what appears to have been a procedurally improper dismissal on July 18, 2019¹² of an antitrust claim made by Petitioner then Plaintiff in the United States District Court for the District of Maryland where mail service of a motion to dismiss by opposing counsel was mailed July 10, 2019¹³ and, not consenting to electronic service, received by Petitioner then Plaintiff on July 15, 2019, after Defendant's counsel certified by affidavit to the court that service

6 EXHIBIT 7

7 EXHIBIT 4

8 EXHIBIT 5

9 8 Antitrust Laws and Trade Regulation, 2nd Edition § 162 (“Section 4B of the Clayton Act provides that civil damages actions must be commenced within four years after the cause of action accrues. *See* § 162.02 below. The claim accrues when the plaintiff is first injured in its business or property by the antitrust misconduct. *See* § 162.02[1] below. If the defendant’s conduct constitutes a continuing antitrust violation, a new cause of action arises whenever the defendant commits an act that inflicts new antitrust injury.”).

10 28 U.S.C. § 517 (1966). (“The Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.”).

11 U.S. R. 20.

12 EXHIBIT 4.11

13 EXHIBIT 6

of the motion was made on June 26, 2019.¹⁴

As to the exceptional circumstances, the Court's discretion here is warranted due to the emergency nature of the Petition involving two arbitrary economic injury disaster loan increase denials from the SBA during a national emergency, where in the second instance a complete misstatement of fact was used as the basis for denying the disaster loan upon which Petitioner has and continues to detrimentally rely for now over 900 days.

As to why adequate relief cannot be obtained otherwise or elsewhere, the controversy here involves antitrust law concerns and administrative law questions involving SBA loan denials where the funds are an only-source necessity to the Company's survival; and the pursuit of antitrust claims that may soon be extinguished by statutory limitation in a matter of months in one instance (April 2023)¹⁵ and compounding injury from a second antitrust claim that requires a binocular review alongside the administrative law claim in order to clearly see the controversy.

“The judicial Power shall extend ... to Controversies to which the United States shall be a Party... .”¹⁶ Here, economic injury disaster loan assistance and access to private antitrust law enforcement avenues are individual rights of the Company, and the zealous pursuit of those rights are the fiduciary duties of the Petitioner, and furthermore, the pursuit of these rights are distinctly also the individual rights of the Petitioner as majority owner of the Company. It appears no other court has the ability to review this appellate-level antitrust question and this administrative law matter simultaneously in an urgent emergency where each claim conditions the other.

Justice John MARSHALL writing for the majority in *Marbury v. Madison* held:

“When the heads of the departments of the Government are the political or confidential officers of the Executive, merely to execute the will of the President, or rather to act in cases in which the Executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured has a right to resort to the laws of his country for a remedy.”¹⁷

Here, Petitioner has standing to file pro se because the controversy arises from an individual right of himself including his interests as the majority owner of the Company.

While the Company is incorporated in Delaware, the Company headquarters is in Washington, D.C., because its principal place of business is here, because its where the “corporation's officers direct, control, and coordinate the corporation's activities.”¹⁸

The Petition presents the interests of the Company here in order to examine the Petitioner's distinct individual rights as the substantial majority owner. Accordingly, this Petition represents the interests of the Petitioner himself. Meanwhile, any legal advice provided to the company in any respect meets the local rules on unauthorized practice of law under D.C. App. Rule 49(c): 'Activities That Persons Who Are Not D.C. Bar Members May Perform':

“(6) In-House Counsel. A person who is not a D.C. Bar Member may provide legal advice to the person’s employer or its

¹⁴ EXHIBIT 4.09

¹⁵ 8 Antitrust Laws and Trade Regulation, 2nd Edition § 169.01 (Tolling of the statute of limitations may apply due to ongoing govt. action).

¹⁶ U.S. CONST. Art. III § 2.

¹⁷ *Marbury v. Madison*, 5 U.S. 137 (1803).

¹⁸ *Hertz Corp. v. Friend*, 559 U.S. 77, 130 S. Ct. 1181, 1184 (2010).

organizational affiliates, and may hold out as authorized to provide that advice, if the employer understands that the person is not a D.C. Bar Member. This Rule 49(c)(6) does not authorize a person to appear in any court, or in any department, agency, or office of the United States or the District of Columbia”¹⁹

Affirmatively, no legal advice provided to the Company by Petitioner resulted in its directive to Petitioner to file or appear in any court, department, agency, or office anywhere on its behalf. Accordingly, Petitioner does not represent the Company in this Petition; rather himself including, a substantial majority interest in the Company, and related absolute rights, where: “The Supreme Court shall have power to issue ... writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed under the authority of the United States, or to persons holding office under the authority of the United States”²⁰ including the President of the United States.

FACTS

A. Background

Alipay China founded on December 8, 2004, introduced an escrow service to Alibaba's e-commerce transactions.²¹ Zhejiang Alibaba E-Commerce Co., Ltd, took control of Alipay in 2011 and was renamed Ant Financial in 2014, and later in 2020, Ant Group.²² However, Alipay Hangzhou with the principal business activity of “operations of mobile applications and internet related businesses”²³ was not formed in the People's Republic of China (PRC) until July 7, 2016, the day before the company entered into a non-disclosure agreement with its first non-founder representative, on location in South Korea.²⁴

On January 31, 2016, Petitioner found himself in a crowded convenience store in the course of an urgent post-externship writing assignment for the United States Court of International Trade while in law school. At that moment he discovered the possibility of mobile self-checkout while glancing over at a QR code on a product adjacent to the checkout line and wondering if he could create an application that would allow him to scan the barcodes of products and checkout from his phone. That same evening he downloaded the “Top 250 Global Retailers, 2014” list from the National Retail Federation's website and became inspired by the tremendous wealth creation opportunity that would commence if he were able to secure partnerships with major retailers.²⁵

That April 2016, Petitioner planned to travel to South Korea to study internet and computer programming law at Sungkyunkwan University Law School in Seoul because he had discovered an opportunity to network with a top 100 retailer, E-Mart, by making a connection to a board member there who was also an engineering professor at the same university he was planning to study internet law at that summer. He also knew he needed to recruit a business partner there and figured this was an opportune way to do so. Fordham law school had a visiting student program there and, he applied and was accepted.

The program included an opportunity to study international and comparative internet law with Professor Anne Bartow, then work as an international maritime law summer associate intern at the Korean law firm Suh & Co.

¹⁹ D.C. App. R. 49.

²⁰ 28 U.S.C. § 1651 (“(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” See also, HISTORICAL AND REVISION NOTES, 1948 ACT, Based on title 28, U.S.C., 1940 ed., §§342, 376, 377 (Mar. 3, 1911, ch. 231, §§ 234, 261, 262, 36 Stat. 1156, 1162)).

²¹ Ant Group Prospectus at 135, 137, 157 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

²² *Id.* at 135, 137.

²³ *Id.* at 166.

²⁴ EXHIBIT 9

²⁵ EXHIBIT 10

One program requirement was to submit a “Campus Wireless Internet Application Form” form for access to the SKKU wireless network while on campus. It required Petitioner's network adapter type and MAC address.²⁶

The form was required to be submitted by June 1, 2016.²⁷ Petitioner provided the form to the program director on May 16, 2016 for transmission to SKKU.²⁸

On May 26, 2016, Petitioner created a separate Gmail address for the Company. Petitioner also continued privately working on the Company. On June 5, 2016, Petitioner revisited the NRF's “Global 250” list where he highlighted several other retail businesses including E-Mart.²⁹

Petitioner arrived in Seoul on June 15, 2016, and settled in for the summer's work at Hyundai Residence Inn in the Chungmuro neighborhood.³⁰

That same June of 2016, Ant Financial recruited Douglas Faegan to become President of International Business located in New York, NY after he spent over 21 years as Head of the Financial Institutions Group, Americas at Goldman Sachs.

Ant Financial subsidiary Advanced New Technologies Co. Ltd. asserted its patent application priority date as June 21, 2016, for PAYMENT INFORMATION AND PROCESSING METHOD, APPARATUS, AND USER DEVICE).³¹

On June 25, 2016, Petitioner recorded a video log about his experiences thus far in developing the Company. He expressed initial considerations about barcode scanning, excitement for knowledge of object-oriented programming obtained from a recent online course taught by Simon Alardice; then setting what were unrealistic and perhaps naive goals at the time, followed by concerns about intellectual property theft based on a prior experience, and closing with a passion to build the foundation of Pricecheck by learning the computer programming trade himself first this time.³²

Alipay (Hangzhou) Information Technology Co., Ltd. (“Alipay Hangzhou”) was formed on July 7, 2016, for the “[o]perations of mobile applications and [i]nternet related businesses” as the latest subsidiary of Ant Financial.³³

Petitioner sought to recruit a Korean native business partner (in later June and early July 2016) and brought him on as a business partner and prospective co-founder for a time after ensuring he signed a non-disclosure agreement, on July 8, 2016.³⁴

26 *MAC Addresses Explained with Examples*, COMPUTER NETWORKING NOTES (Sept. 7, 2019)

<https://www.computernetworkingnotes.com/ccna-study-guide/mac-addresses-explained-with-examples.html> (Media Access Control (MAC) addresses are globally unique device specific identifiers designated at the time of manufacturing and are permanently encoded in the device's networking components. This allows computers and other devices to be identified individually for information exchange between two or more devices in the same closed network, or between any number of devices over open networks of any size).

27 EXHIBIT 11

28 EXHIBIT 12

29 EXHIBIT 13

30 EXHIBIT 14

31 U.S. Patent No. 11,176,537 (issued Nov. 16, 2021).

32 iMac Videos: Movie on 6-25-16 at 9:09 PM (Jordan Powell recording June 25, 2016 at 8:09AM EST) (on file with author & incl. DVD+R).

33 Ant Group Prospectus at 158 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

34 EXHIBIT 9

Petitioner registered the Company as a C-corporation in the State of Delaware on July 18, 2016.³⁵ That same day, an announcement was made by Fordham Law School that Fordham Law Alum and First Data Vice President Phillip Philliou had donated \$100,000 to the law school.³⁶

Petitioner then established a connection with Jae Boong Choi, E-Mart Director, and Sungkyunkwan University Engineering Professor beginning July 26, 2016.³⁷

On August 4, 2016, Petitioner and the Company entered a non-disclosure agreement with E-Mart, following an in-person meeting with Director Choi.³⁸ The evening before Petitioner prepared a PowerPoint presentation that included plans for an app feature that could allow customers to get directions to specific products with an augmented reality (AR) feature to locate and view product information after scanning a barcode. The version shared with E-Mart however did not include this because the reference to this licensable offering was intended for an entirely different purpose and we planned to refine a version of the feature of our own design and share it at a more appropriate time.³⁹

E-Mart doing business with Samsung and Samsung doing business with Alipay extended our agreement's disclosure requirements, including reverse engineering and copy restrictions, to Ant Group as follows:

“In consideration of the disclosure of Proprietary Information by the Disclosing Party, the Receiving Party hereby agrees: (i) to hold the Proprietary Information in strict confidence and to take all reasonable precautions to protect such Proprietary Information (including, without limitation, all precautions the Receiving Party employs with respect to its own confidential materials), (ii) not to disclose any such Proprietary Information or any information derived therefrom to any third person, (iii) not to make any use whatsoever at any time of such Proprietary Information except to evaluate internally its relationship with the Disclosing Party, and (iv) not to copy or reverse engineer any such Proprietary Information. The Receiving Party shall procure that its employees, agents and sub-contractors to whom Proprietary Information is disclosed or who have access to Proprietary Information sign a nondisclosure or similar agreement in content substantially similar to this Agreement.”⁴⁰

An agreement substantially similar to the original would cover E-Mart then Samsung and Shenseagae including organizational affiliates of any organizations or institutions privy to the Company's proprietary information, also including non-mainland Chinese operating companies, such as Alibaba Group. For instance, “Alibaba’s listing on the New York Stock Exchange is actually that of Alibaba Group Holding Ltd., a corporate entity incorporated in the Cayman Islands; in this more complex case, there are five main mainland Chinese operating companies, all of which were owned by founder Jack Ma and his partner Simon Xie until they relinquished control to a broader (and largely undisclosed) group of Chinese shareholders in 2018.”⁴¹ Meanwhile, Alibaba Group is the ultimate parent company of Ant Financial's Alipay, and any disclosure of the information would subject them to the provisions of the Company's NDA, governed under the laws of the State of New York.

On September 20, 2016, after returning to New York, Petitioner met with Fordham Law Professor Steven Thel about an independent

35 EXHIBIT 15

36 EXHIBIT 16

37 EXHIBIT 17

38 EXHIBIT 18

39 EXHIBIT 19

40 EXHIBIT 18

41 Tianlei Huang & Nicolas Véron, assisted by David Xu, *The Private Sector Advances in China: The Evolving Ownership Structures of the Largest Companies in the Xi Jinping Era* (Peterson Inst. for Int'l Econ., Working Paper No. 22-3, 2022) at 15, <https://www.piie.com/publications/working-papers/private-sector-advances-china-evolving-ownership-structures-largest>.

study course⁴² after withdrawing from a course instructed by Professor Thomas Halket days earlier, who had considered representing the Company.

In the course of Petitioner's conversation with Thel, Petitioner revealed the reasoning for requesting an independent study registration and a writing requirement pertaining to 'startup securities' and that he had withdrawn from Professor Halket's course as a preliminary step towards engaging an attorney-client relationship between Halket and the Company. Thel agreed to Petitioner's independent study course request. He also mentioned a former student of his (Phillip Philliou) was in the merchant services business, that had recently reacquainted with him at a law school fundraiser, and thought we might benefit from being introduced.

On August 4, 2016, Petitioner's prospective co-founder at the time, Yihan Yoon (now renamed by law, Jason Bennett)⁴³, met with the E-Mart director Choi and provided a voicemail report to Petitioner concerning the meeting and recommendations to meet with heads at Shinsegae and Samsung.⁴⁴ The most important takeaway from this recording is the present sense impression of Mr. Yoon at the time, one of great interest and excitement from powerful Asian businesses. Apparently, the interests of Samsung and Shensaegae were aroused enough to provide feedback through Choi and plan joining our next meeting.

Discernibly, it is very unlikely that the heads of these companies (two of the most powerful and resourceful in the world) would have any interest in Pricecheck's barcode/QR code-based checkout system if Ant Financial's Alipay or Tencent's WeChat Pay had already created such a similar system and method. In fact, Professor Choi shared our disclosures with internal director Kim Hae Sung, as we agreed on August 4, 2016, who we also agreed would then later share the information with Chung Yong-jin Vice Chairman of Shensagae (the grandson of Lee Byung-Chul the founder of Samsung)⁴⁵ and the nephew of Samsung Chairman Lee Kun-Hee. Executives from Samsung also showed up at our next in-person meeting with members of the E-Mart board in September.⁴⁶

Petitioner ultimately retained Pryor Cashman LLP on behalf of the Company, and on September 30, 2016, Petitioner expressed concerns about the Professor's mention of the Company to his former student, Phillip Philliou, a Vice President at First Data who had sold his merchant services company to First Data earlier that year.⁴⁷

On October 3, 2016, Petitioner went to visit Thel, and expressed a willingness to make the connection with Philliou and immediately followed up by email including the following note below the email signature: "Note, this e-mail is in no way a waiver or redemption from any aspect of confidentiality and/or privileged proprietary information."⁴⁸ While Petitioner and Philliou never met in person, communication was made by phone with plans to do so⁴⁹, in addition to occasional status updates and investment seeking emails sent

42 EXHIBIT 20

43 Voicemail Record (on file with author & incl. DVD+R).

44 *Id.*

45 Lee Byung-Chul started Samsung in 1933 with \$27 (See, <https://www.lifewire.com/history-of-samsung-818809>) and built a family run business that has and continues to strengthen and support the South Korean economy with tax revenue like few others. This also reflects an opportunity for Pricecheck to strengthen the United States economy through the 21st century and into the 22nd.

46 The mobile device confirming this information is available (Voicemail Record). The liquid crystal display (LCD) screen is smashed but the drive is intact and appears undamaged, and while Petitioner lack the tools and software to recover the data at this time, it very likely may be made available as well.

47 EXHIBIT 22

48 EXHIBIT 23

49 The mobile device used is available. The liquid crystal display (LCD) screen is smashed but the drive is intact and appears undamaged, and while Petitioner lack the tools and software to recover the data at this time, it very likely may be made available as well.

by Petitioner from first contact through early 2018,⁵⁰ including a copy of the provisional patent application on December 8, 2017.⁵¹

Ant Financial subsidiary Advanced New Technologies Co. Ltd. asserted its patent application priority date to October 13, 2016, in application number US-20180121727 (OFFLINE SERVICE MULTI-USER INTERACTION BASED ON AUGMENTED REALITY⁵²), after our work on this in August 2016.⁵³

On October 18, 2016, Petitioner completed a draft letter of intent to E-Mart for review by Company counsel. Petitioner and counsel met on the evening of the 24th of October by phone to discuss revisions.⁵⁴

However, on October 23, 2016, Archive.org captured its first recordation of a press release by Samsung announcing a partnership with Alipay to introduce Samsung Pay to the Chinese market dated, purportedly, May 20, 2016.⁵⁵ However, for comparison, Petitioner checked a Samsung press release from around the same time (April 2016) and its first capture by Archive.org was only a few days later,⁵⁶ implying Samsung may have known about Ant Financial's plan to partner with First Data and made what may have been a private partnership (between Samsung and Alipay) public immediately, perhaps following knowledge of Ant's plan to break global competition laws once announcing its partnership with First Data.

Accordingly, on October 24, 2016, Tech Crunch reported “Ant Financial partners with First Data and Verifone as part of its global expansion.” The article goes on to say:

“As hundreds of newly minted Chinese millionaires and billionaires continue their global shopping spree, Ant Financial Services is expanding its reach to make sure they can buy whatever they want, wherever they want, and however they want. ... the countries and regions seeing the largest number of Alipay transactions are, in order, Korea, Thailand, Hong Kong, Japan and Germany. ... “The US market is vital for Alipay, not only [is it] a popular destination of Chinese visitors and tourists,” said Douglas Feagin, Senior Vice President of Ant Financial and Head of Alipay International in a statement. “We aim to have at least one million merchants outside the Chinese Mainland to accept Alipay worldwide in three years.””⁵⁷

Petitioner applied to the angel investment group 1000 Angels on November 19, 2016.⁵⁸ The early-stage investment group reviews potential investments and states in its application instructions that “all information is kept 100% private.” Within this application, we describe our plans for AR as well as our core product.⁵⁹

On the morning of December 5, 2016, the Company's attorney emailed Petitioner with the subject line “Amazon’s New Seattle Store Will Let People Pay Without Checking Out.”⁶⁰ However, the reveal was conceptual and would not come to fruition for years, January 22, 2018, in fact.⁶¹

50 EXHIBIT 24

51 EXHIBIT 25

52 EXHIBIT 26

53 EXHIBIT 19

54 EXHIBIT 27

55 EXHIBIT 28

56 EXHIBIT 29

57 Jonathan Shieber, *Ant Financial Partners With First Data and Verifone As Part of Its Global Expansion*, Tech Crunch (October 24, 2016 8:32 PM), <https://techcrunch.com/2016/10/24/ant-financial-partners-with-first-data-and-verifone-as-part-of-its-global-expansion/>.

58 EXHIBIT 30: Email from Erica Duignan Minnihan, Managing Partner, 1000 Angels, to Jordan T.T. Powell, Founder, Pricecheck Inc. (Nov. 19, 2016).

59 EXHIBIT 31

60 EXHIBIT 32

61 The Guardian, Retail Industry: *Amazon's first checkout-free grocery store opens on Monday*, January 22, 2018.

At the Goldman Sachs Technology Conference on February 14, 2017, Diane Greene, Senior Vice President of Google Cloud and member of the Alphabet Board at the time expressed excitement surrounding FinTech as well. Notably:

“Unidentified Audience Member: “Could you talk a little more in detail about why FinTech has you so excited?”

Greene: “Oh, why does FinTech have me so excited? Well, it’s a huge segment of the IT market, and we are like, there is a lot of data in FinTech, there’s a lot of things just ripe for machine learning. And security is paramount there, it just seems so suited to our strengths and that’s what we are seeing. And also we’re working with all the banks on projects and we can see how much there is to do.””⁶²

On February 16, 2017, the Company's counsel completed its trademark filings.

Ant Financial subsidiary Advanced New Technologies Co. Ltd. asserted its patent application priority date to March 7, 2017, in application number CN107103502-A (A KIND OF SEQUENCE INFORMATION DETERMINES METHOD AND APPARATUS⁶³).

Throughout 2017 the Company hired engineers to develop its merchant services offering, participated in a public startup competition on May 30, 2017⁶⁴, and filed our first provisional patent application on July 17, 2017⁶⁵.

On September 25, 2017, Inside Retail reported on E-Mart's ongoing planned exit from China by the end of the year, 20 years after its introduction to the Chinese market in 1997.⁶⁶

On November 13, 2017, a few days after submission, the Pricecheck mobile payment application status on the Apple App Store was updated to approved and “Ready for Sale.”⁶⁷

Ant Financial subsidiary Advanced New Technologies Co. Ltd. asserted its patent application priority date to November 22, 2017, in application number CN-108154211-A (A QUICK RESPONSE CODE GENERATION, METHOD FOR PROCESSING BUSINESS, DEVICE AND EQUIPMENT QUICK RESPONSE CODE⁶⁸).

On December 7, 2017, Petitioner contacted Sequoia Capital, a well-known venture capital firm, and began an email conversation with Sequoia partner Mike Vernal. In the course of approximately ten email exchanges leading up until March 6, 2018, Petitioner would go on to describe the invention, its application, and business model.⁶⁹

On December 8, 2017, Petitioner also notified his industry contact, Phil Philliou, who he had called an “unofficial advisor” in offering documents, and felt led for any number of reasons to share our provisional patent filed earlier that year, along with some investor materials⁷⁰ (while completely unaware of First Data's partnership with Ant Financial).

62 EXHIBIT 33: In Re Alphabet Inc. Securities Litigation, 4:18-cv-06245-JSW at 7-8.

63 EXHIBIT 34

64 EXHIBIT 35

65 EXHIBITS 5.01-5.05

66 Korea Bizwire, E-Mart China Exit Confirmed, Inside Retail, September 25, 2017, <https://insideretail.asia/2017/09/25/e-mart-china-exit-confirmed/>.

67 EXHIBIT 36

68 EXHIBIT 37

69 EXHIBIT 38

70 EXHIBIT 25

On December 14, 2017, the Company's trademark "PRICECHECK" was approved for publication in the Principal Register by the United States Patent and Trademark Office.⁷¹

The following week, the People's Bank of China (PBOC) set out rules and regulations for barcode payments:

"According to the Rules for the Barcode Payment Business Standard (Provisional) ... (the "Barcode Rules"), which were issued by the PBOC on December 25, 2017, and came into effect on April 1, 2018, barcode/QR code payment business refers to payment services offered by banking financial institutions or non-bank payment institutions in reliance on barcode/QR code technologies, which enables money transfers through scanning barcode/QR code, such as payment code or receipt code. The Barcode Rules [provide] that non-bank payment institutions engaging in barcode/QR code payment business should be licensed and comply with rules and regulations related to payment business. All barcode/QR code transactions will be settled via a clearing system supervised by the PBOC. The Notice by the General Administration Department of PBOC for Enhancing the Security Management of QR Payment ..., together with the Technical Specifications for Barcode Payment Security (Provisional) ... and the Technical Specifications for Barcode Payment Terminals (Provisional) ... included therein, which were promulgated by the PBOC with immediate effect on December 22, 2017, set out the operational standards and technical specifications for barcode/QR code payment services."⁷²

On December 27, 2017, Ant International Co. Limited "Ant International" was formed in the Cayman Islands with the principal purpose of: "Overseas equity financing and employee incentive program."⁷³

On January 2, 2018, the USPTO withdrew our approved trademark application.⁷⁴ On February 21, 2018, the week prior to the Company's planned and advertised launch in a bookstore in New York, the USPTO's approval for publication was withdrawn despite no opposition being made by any third party, arguing the mark is merely descriptive and citing newly discovered "captions taken from a search of www.google.com on February 21, 2018."⁷⁵ This is rare.⁷⁶

Nevertheless, the Company officially launched February 26, 2018,⁷⁷ and continued processing payments through its Barcode/QR code mobile self checkout application and thereby establishing the barcode/QR code mobile self-checkout market with the first to file rights and privileges of Petitioner's provisional patent application, refiled annually since first filing July 2017, with certain protections relating back to 2016.⁷⁸

Months later, Ant Financial raised the largest early-stage startup funding round of any company in history from Sequoia Capital,⁷⁹ and other investors including Fidelity, Warburg Pincus, T. Rowe Price, BlackRock, and Credit Suisse. The "[i]nternational investors in the \$10.3 billion U.S. dollar tranche of the [May 16,] 2018 fundraising invested in offshore unit Ant International and received Class C shares that do not carry voting rights, according to Ant's IPO prospectus. None were granted a seat on Ant's board, the prospectus

71 EXHIBIT 39

72 Ant Group Prospectus at Appendix IV – 12 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

73 *Id.* at Appendix I-22.

74 EXHIBIT 40

75 EXHIBIT 41

76 ("Can the USPTO withdraw the approval during publication? It is extremely rare, but the USPTO does have the authority to withdraw any approval before the trademark is registered, including during the publication period. Withdraw of approval occurs in less than .1% of applications.") <https://www.gerbenlaw.com/blog/my-application-was-approved-for-publication-whats-next/>.

77 EXHIBIT 42

78 Our NDA with E-Mart and Samsung reaches Ant Group because of their partnership with Samsung through Alipay.

79 "The funding round also brought in private equity firm Carlyle Group LP and venture capital firm Sequoia Capital, which typically invests in early-stage start-ups, three of the people said." <https://www.cnbc.com/2018/05/29/chinas-ant-financial-raises-10-billion-at-150-billion-valuation.html>, see also, Ant Group Prospectus at 147-150 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

showed.”⁸⁰

B. Income Alternatives and Antitrust Litigation

For the next year, the Petitioner experienced difficulties raising capital and sought alternative means of capital generation.⁸¹ Petitioner later started an algorithmic cryptocurrency trade signal company first as a general partnership where its success brought several investors, one of which lost approximately \$92,000 after the system crashed locally, leaving safety measures like stop-loss from protecting the value of the open trade.⁸² Towards the end of 2018, Petitioner began an endeavor with a family member to turn days of film from a leadership conference into a theatrical length documentary film.⁸³

The film trailer was removed from YouTube in April 2019 and on April 29, 2019, Petitioner filed suit against Alphabet, Google, and YouTube under antitrust law considering he intended to use income from the project to personally fund Pricecheck.⁸⁴ The following day, April 30, 2019 shares fell by 7% and Alphabet announced Diane Greene and Eric Schmidt would not be seeking board re-election.⁸⁵

On May 13, 2019, a work zone speed monitoring violation citation was mailed concerning the Petitioner's operation of a motor vehicle on the day the case was filed. The location of the violation was southbound on I-495 at Suitland Parkway Bridge at 12:54 pm.⁸⁶ However, Petitioner having also held residence in Dunkirk, MD (Southern Maryland, USA) traveled northbound on I-495 in a motor vehicle registered to a family member of Petitioner's household, and filed the suit in the United States District Court for the Southern District of Maryland in Greenbelt, before transfer to Baltimore, and received a timestamp at 1:07 pm, making a citation for traveling southbound on I-495 at 12:54 pm, completely impossible.⁸⁷

Considering the power of the defendant and its technical capacity, Petitioner did not consent to service by electronic filing.⁸⁸ On May 31, 2019, the Northern District of Maryland granted jurisdiction over the matter and the Department of Justice announced an antitrust investigation into Google (Alphabet) later the same day.⁸⁹

Ant Financial subsidiary Advanced New Technologies Co. Ltd. asserted its patent application priority date as June 3, 2019, in application numbers CN-110335036-A and US-202200293749-A1 (PROCESSING, GENERATION METHOD AND THE DEVICE OF OFFLINE GRAPHICAL CODE⁹⁰) and number WO-2020244235-A1 (OFFLINE GRAPHIC CODE PROCESSING AND GENERATING METHODS AND APPARATUSES⁹¹.)

⁸⁰ Julie Zhu, Kane Wu, Exclusive: Investors value China's Ant Group at over \$200 billion after IPO halt – sources, Reuters, March 16, 2021, <https://www.reuters.com/article/us-china-ant-group-investors-exclusive/exclusive-investors-value-chinas-ant-group-at-over-200-billion-after-ipo-halt-sources-idUSKBN2B80JS>.

⁸¹ EXHIBIT 43

⁸² EXHIBIT 44

⁸³ EXHIBIT 45

⁸⁴ *Id.*

⁸⁵ Kate Fazzini, *Former CEO Eric Schmidt and former Google Cloud leader Diane Greene will leave Alphabet board*, CNBC, Apr. 30, 2019, <https://www.cnbc.com/2019/04/30/eric-schmidt-diane-greene-to-leave-alphabet-board.html>.

⁸⁶ EXHIBIT 46

⁸⁷ EXHIBIT 4

⁸⁸ *Id.*

⁸⁹ Jordan Novet, Jennifer Elias, *Justice Department is reportedly preparing antitrust probe of Google*, , CNBC, May 31, 2019 <https://www.cnbc.com/2019/05/31/doj-preparing-antitrust-probe-of-google---dow-jones.html>.

⁹⁰ EXHIBIT 47

⁹¹ EXHIBIT 48

On June 26, 2019 defendant's counsel filed a reply with a certificate of service certifying mailing to Petitioner on that day.⁹² However, the mailing envelope is postmarked July 10, 2019⁹³, and to Petitioner's best recollection, the motion was not received by postal mail until July 15, 2019. Defendant's motion to dismiss was granted Thursday, July 18, 2019, and Petitioner's Monday, July 22, 2019, motion for reconsideration (entered July 23, 2019) was summarily denied July 24, 2019.⁹⁴

The reasoning for the dismissal relied in part on a written declaration under penalty of perjury by Pierce Stacy, Manager of the Scaled Abuse team at YouTube, LLC, a wholly-owned subsidiary of Google Inc., who declared in paragraph seven that: "Exhibit 2 is a true and correct copy of the YouTube Community Guidelines (the "Guidelines"), effective as of May 25, 2018...."⁹⁵ The Guidelines are updated periodically to reflect changes in YouTube's policies, but they have been the same since May 25, 2018, and were not altered in any way in response to Plaintiff's complaint or this litigation." However, Petitioner, then Plaintiff included a copy of the YouTube Guidelines that do reflect changes which make this a false declaration.⁹⁶ Although, this may have taken place outside the YouTube scaled abuse team and Mr. Stacy may have believed his declaration was true. Those changes are attached here, along with a video recording of archive.org that clearly reflects changes to the Guidelines made after May 25, 2018, and prior to Mr. Stacy's declaration.⁹⁷

In the course of this litigation, the House Judiciary Committee held a hearing entitled "Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship" where Google representative Adam Cohen appeared before the committee with nine others from other organizations.⁹⁸ Each panelist signed a Truth in Testimony Disclosure Form, and each included the proper hearing date of July 16, 2019, except for one, Google representative Adam Cohen whose false statements certification is incorrectly dated as June 26, 2019.⁹⁹

With concern for the dangerous likelihood of being unable to achieve fair play and substantial justice in an appeal and the complexity of the access to justice in this regard since having depleted savings, experienced a marital separation during the window of opportunity to file an appeal, and did not qualify for in forma pauperis filing due to jointly filed tax records with my spouse at the time, Petitioner maintained the Company's private right of action and urgently made requests to State Attorneys General by fax and email on September 9, 2019.¹⁰⁰ Many of whom assembled and announced a co-working investigation into Google on the steps of this Court earlier that same day.¹⁰¹

Petitioner however hurriedly completed those documents and sent out copies before midnight in order to ensure the record reflects the fact that this announcement was not the inspiration for Petitioner's strategy to seek the assistance of the States. In addition, a \$17 billion dollar settlement offer, previewed to State Attorneys General, was made by email to Google Counsel Wilson, Sonsini,

92 EXHIBIT 4.09

93 EXHIBIT 49

94 EXHIBIT 4.13

95 EXHIBIT 4.09

96 EXHIBIT 4.12

97 Video Archive (on file with author & incl. DVD+R).

98 Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship 116th Congress (2019-2020), House Event 109793, <https://www.congress.gov/event/116th-congress/house-event/109793>.

99 EXHIBIT 50

100 EXHIBIT 51

101 Tony Romm, *50 U.S. states and territories announce broad antitrust investigation of Google*, Washington Post, September 9, 2019, <https://www.washingtonpost.com/technology/2019/09/09/states-us-territories-announce-broad-antitrust-investigation-google/>.

Goodrich, and Rosati LLP (WSGR) the following day,¹⁰² which included compensation to the States.¹⁰³ The October 1, 2019 offer expiration date passed with no response from WSGR.

Petitioner contacted over a dozen law firms with antitrust litigation practices.¹⁰⁴ Petitioner also spoke with representatives from two litigation finance firms where one merely required a legal opinion from an attorney willing to take the case, with the likelihood of success expressed as a percentage.¹⁰⁵ Very few law firms followed up. In one instance, cellular connectivity was lost repeatedly during an intake inquiry with a paralegal from Cohen Milstein. Ultimately, the decision not to take the case was later transmitted by email.¹⁰⁶

On October 15, 2019 patent application CN-110335036 was granted by the Chinese patent authority.¹⁰⁷

The following month, on November 28, 2019, Bloomberg reported “Alibaba's fintech arm Ant Financial was in the process of forming a \$1 billion investment fund”¹⁰⁸ where “Ant Financial is setting its sights abroad ... for a piece of the mobile payments pie.”¹⁰⁹

As a result of personal hardship, also not having even heard of Ant Financial and would not know the context of this until preparing this petition, Petitioner worked as a tutor, then full-time solar panel installation through the winter and studied for the February 2020 bar exam in D.C., preparing to take the Company's case to court upon admission to the bar. Petitioner then transitioned to a full-time position with the Prince George's County Council as a legislative aide and began preparing a grant application early mornings, late nights, and weekends while getting the company SAM (System for Award Management) registered.¹¹⁰

On May 5, 2020, the Company submitted a grant application to the Centers for Disease Control (CDC), in order to reduce Covid transmission by enabling social distancing with mobile self-checkout beyond our immediate focus on Washington, D.C.¹¹¹ and enhancing food safety with blockchain-based supply chain tracing. The application included the following opening project narrative and background:

“On January 31, 2020, [the] United States (U.S.) Health and Human Services (HHS) Secretary Alex M. Azar II determined that a public health emergency existed nationwide, since January 27, 2020. On March 4, 2020 the Centers for Disease Control and Prevention (CDC) established the Notice of Funding Opportunity (NOFO) entitled *Strengthening Regional Field Epidemiology Training Program (FETP) Networks* to which this application is responsive. By joining the FETP network, Pricecheck Inc. would stand to support the strengthening of many new levels of growth towards global health security by contributing to a fast moving network driven collective response to the threat of infectious disease.

The vision of the U.S. Government (USG) through Global Health Security (GHS) includes an interconnected global network that can effectively respond to naturally occurring outbreaks and intentional or accidental releases of dangerous pathogens to preemptively limit the spread of infectious disease outbreaks in humans, minimize related suffering in and loss of life, and reduce economic impact. We duly recognize the critical necessity for rapid [and] international exchange of information in response to infectious diseases such as COVID-19 (caused by Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2.)) Reducing infectious disease transmission and workforce mobilization are the two key areas where we seek funding

102 EXHIBIT 52

103 EXHIBIT 51.3

104 EXHIBIT 53

105 EXHIBIT 54

106 EXHIBIT 55

107 EXHIBIT 56

108 Aparajita Saxena, *Ant Financial to Set up \$1 billion Investment Fund-Reports*, Entrepreneur, November 28, 2019, <https://www.entrepreneur.com/en-au/news-and-trends/ant-financial-to-set-up-1-billion-investment-fund-reports/343184>.

109 *Id.*

110 EXHIBIT 57

111 EXHIBIT 58

to support these objectives of the CDC, HHS, and USG.”

The application included a statement that speaks to the value of the intellectual property of central concern here. “Accordingly, our 10-Year U.S. Mobile Checkout Market value estimation 2021-2030 is: **\$225.7 Billion** (\$225,650,370,716.70).” There also included the following understanding:

“Mr. Powell is a U.S. Person and Pricecheck Inc. is a U.S. company which means worldwide income tax for the United States on him and it (according to various international tax treaties and agreements with most nations,) and thereby standing for the United States to sue for enforcement due to loss of taxable income revenue which fully legitimizes its enforcement of such patent rights on this technology[,] especially in major Asian market areas ... such as China”¹¹²

In conjunction with the preparation of the grant application, the Company prepared an updated set of financial projections¹¹³ based on independent third-party market research conducted in April 2018 by YouGov,¹¹⁴ an industry-leading market research and polling company, in order to determine the U.S. Consumer demand for our proprietary product and service offering which informed our financial modeling.

C. Detrimental Reliance on EIDL Increase

On May 13, 2020, the Company applied for and later received (June 16, 2020) an EIDL loan offer reflecting six months of 2018 costs of goods sold.¹¹⁵

The same day we applied: “The Federal Bureau of Investigation (FBI) and Cybersecurity and Infrastructure Security Agency (CISA) issued an announcement to raise awareness of the threat to COVID-19-related research” entitled “People's Republic of China (PRC) Targeting of COVID-19 Research Organizations.”¹¹⁶

On July 7, 2020, CNBC reported “FBI Chief slams cyberattacks on U.S., calls it 'one of the largest transfers of wealth in human history'.”¹¹⁷

““The stakes could not be higher, and the potential economic harm to American businesses and the economy as a whole almost defies calculation,” [Director] Wray said of the Chinese government during an address at the Hudson Institute. “To achieve its goals and surpass America, China recognizes it needs to make leaps in cutting edge technology, but the sad fact is that instead of engaging in the hard slog of innovation, China often steals American intellectual property and then uses it to compete against the very American companies it victimizes, in effect, cheating twice,” he said When asked if the United States had an estimate on the financial damage the Chinese government has caused on the American economy, Wray said he didn't know of an exact number, but added that “every figure I've seen is breathtaking.””¹¹⁸

Meanwhile, Ant Group celebrated its “7.17 shopping festival”¹¹⁹ on July 17, 2020. Notably, this is the anniversary of the day Petitioner filed the provisional application that retains the first priority right in patent law to the invention and intellectual property of concern

¹¹² EXHIBIT 60

¹¹³ *Id.* at 35.

¹¹⁴ See Market Research Tab of the “Pricecheck Financials” document included in the CD-R media inclusion of this filing.

¹¹⁵ EXHIBIT 2.1

¹¹⁶ People's Republic of China (PRC) Targeting of COVID-19 Research Organizations, FBI National Press Office, May 13, 2020, <https://www.fbi.gov/news/press-releases/peoples-republic-of-china-prc-targeting-of-covid-19-research-organizations>.

¹¹⁷ Amanda Macias, *FBI chief slams Chinese cyberattacks on U.S., calls it 'one of the largest transfers of wealth in human history'*, CNBC, July 7, 2020, <https://www.cnbc.com/2020/07/07/fbi-chief-slams-chinese-cyberattacks-against-us-hudson-institute.html>.

¹¹⁸ *Id.*

¹¹⁹ Ant Group Prospectus at 188 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

here.

On July 23, 2020, CNBC reported: “The State Department on Wednesday ordered China to close its consulate in Houston, calling it a hub for espionage and intellectual property theft.”¹²⁰ Then-Secretary of State Mike Pompeo stated “If we don't act now, ultimately, the CCP will erode our freedoms and subvert the rules-based order free societies have built.”¹²¹

On July 31, 2020, Global Competition Review (GCR) reported “China mulls probe into WeChat and Alipay: China's antitrust enforcer is reportedly preparing an investigation in the country's most widely used mobile payments platforms, following a complaint by the central bank.”¹²²

According to Archive.org, WeChat Pay appears to have relaunched its webpage with the first recorded capture of the site on the internet dated August 4, 2020.¹²³ The earlier URL is not currently known to the Petitioner at this time, neither is the first time the page appeared on the web and that follows for any site prior to its first capture.

On August 7, 2020, Foreign Policy Magazine reported “Some 83 percent of recorded Chinese transactions go through mobile payment systems, either WeChat Pay or its competitor Alipay.”¹²⁴

Ledger Insights also went to print on August 7th reporting: “Tencent owned WeChat is China’s largest social network with more than a billion users and WeChat Pay is China’s second largest mobile payments network. On average, a billion payment transactions are processed daily by Tencent’s FinTech division.”¹²⁵ The article goes on to speak to blockchain developments there as well:

“Tencent is a founding member of a consortium developing the open source blockchain protocol FISCO BCOS, which it described as China’s answer to enterprise blockchain Hyperledger Fabric. Tencent affiliate, online bank WeBank is a critical participant in FISCO BCOS and the Blockchain Service Network (BSN). Tencent was the founder of WeBank, but as it currently owns just 30% for the purposes of Trump’s ban, it would not be classified as a subsidiary.”¹²⁶

Meanwhile, the leading Chinese mobile payments firm, Ant Financial, who was in business with Samsung via their Alipay subsidiary, was in a direct line of network connection to Petitioner vis-a-vis the August 4, 2016, NDA with Emart and our meeting with Samsung executives thereafter, followed by an attempted introduction by a law professor to First Data Vice President Phillip Philliou on October 3, 2016, whose company, First Data, partnered with Ant Financial's Alipay business three weeks later, October 24, 2016. Additionally, “[w]hile Alipay has not been included [in the 2020 Executive Order], in 2018, the Trump administration prevented parent Ant from acquiring Moneygram over national security concerns.”¹²⁷

120 Paul Shinkman, *Pompeo Announces Shift in U.S. Policy of Engaging with Chinese*, U.S. News and World Report, July 23, 2020, <https://www.usnews.com/news/national-news/articles/2020-07-23/pompeo-announces-shift-in-us-policy-of-engaging-with-chinese-communist-party>.

121 *Id.*

122 Email from gcr-briefing@info.globalcompetitionreview.com, GCR News subscriber email alert to Jordan T.T. Powell via jordan@laser.tl (July 31, 2020).

123 https://pay.weixin.qq.com/index.php/public/wechatpay_en (the first appearance date is November 4, 2019 when re-checking on 3/7/23).

124 James Palmer, *Why is the United States Effectively Banning WeChat and TikTok?*, Foreign Policy Magazine, August 7, 2020, <https://foreignpolicy.com/2020/08/07/trump-ban-tiktok-wechat-china-apps/>.

125 Ledger Insights, *How Trump's WeChat ban may impact China's Blockchain Service Network global plans*, Ledger Insights, August 7, 2020, <https://www.ledgerinsights.com/how-trumps-wechat-ban-may-impact-chinas-blockchain-service-network-global-plans/>.

126 *Id.*

127 *Id.*

After discovering the need and a financial basis for an EIDL increase, while awaiting a final decision from CDC on our grant application, on August 27, 2020, the Company made an increase request consistent with the provisions of the original agreement where “[b]orrower will make any request for a loan increase for additional disaster-related damages as soon as possible after the need for a loan increase is discovered.”¹²⁸

On September 20, 2020, Wired Magazine reports in an article entitled “Trump Squeezes China, Alipay's Star Rises” that: “Western companies are following Ant's lead. Apple Pay, Google Pay, PayPal, and others provide smartphone payments via near-field communications and QR codes.”¹²⁹ “Li Xian, who works at a publishing company in Shanghai, says the Chinese mobile payments app Alipay is indispensable. “It's my lifeline,” Li says. “I can't remember the last time I used cash.””

Accordingly, Ant Group moved forward with a plan to launch an initial public offering (IPO) to raise \$37 billion with some valuations as high as \$320 billion.¹³⁰

With the offering commencing October 27, 2020, the last day for IPO investors to complete their electronic applications and payments was October 30, 2020,¹³¹ where: “Retail investors bid for a record \$3 trillion worth of shares in Ant's dual listing, the equivalent of Britain's gross domestic product, as they bet on demand for Ant's financial technology services in China.”¹³² The offering required “payments” be made by 12 noon October 30, 2020 by “internet banking transfer(s) or PPS payment transfer(s).”¹³³

However, on October 31, 2020, the day after \$3 trillion in oversubscription cash was deposited into escrow, China's Financial Stability and Development Committee flagged “risks associated with the rapid development of fintech” and “[f]our of China's top financial regulators” held talks with Ant on November 2, 2020.¹³⁴ The following day, November 3, 2020, “[t]he Shanghai stock exchange [suspended] Ant's IPO ... citing the regulatory talks as a “material event” and prompting “Ant to also freeze the Hong Kong leg of its dual listing.”¹³⁵

It appears the \$3 trillion remains tied up in escrow held by Computershare,¹³⁶ a company with a history of having been fined by the central bank of Ireland for breaches of client asset requirements.¹³⁷

128 SBA Form 1391 (5-00), DocuSign Envelope ID: D1F07C68-CA98-4266-A376-DCE21575AD9D, Doc # L-01-5044411-01, SBA Loan #6360447902, Application #3000191838, at 3.

129 Will Knight, *Trump Squeezes China, Alipay's Star Rises*, Wired Magazine, September 20, 2020, <https://www.wired.com/story/trump-squeezes-china-alipay-star-rises/>.

130 Lulu Yilun Chen, *Ant Valuation Seen Falling to \$29 Billion in Worst-Case Scenario*, Bloomberg, April 29, 2021, <https://www.bloomberg.com/news/articles/2021-04-27/ant-valuation-seen-falling-to-29-billion-in-worst-case-scenario>.

131 Ant Group Prospectus at iii (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

132 Reporting by Anshuman Daga; Editing by Raju Gopalakrishnan, *TIMELINE-Key events behind China's investigation into Alibaba Group*, Yahoo Finance, December 23, 2020, https://finance.yahoo.com/news/timeline-key-events-behind-chinas-024218547.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2x1LmNvbS8&guce_.

133 Ant Group Prospectus at iii (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

134 Reporting by Anshuman Daga; Editing by Raju Gopalakrishnan, *TIMELINE-Key events behind China's investigation into Alibaba Group*, Yahoo Finance, December 23, 2020, https://finance.yahoo.com/news/timeline-key-events-behind-chinas-024218547.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2x1LmNvbS8&guce_.

135 *Id.*

136 Computershare Investor Services PTY Limited: Yarra Falls, 452 Johnston Street, ABBOTTFORD, VIC, AUSTRALIA, 3067.

137 Computershare settlement agreement with the Irish Central bank December 15, 2015 involving the misappropriation of assets. [https://www.centralbank.ie/docs/default-source/news-and-media/computershareinvestorservices\(jrl\)ltd.pdf?sfvrsn=83bed51d_10](https://www.centralbank.ie/docs/default-source/news-and-media/computershareinvestorservices(jrl)ltd.pdf?sfvrsn=83bed51d_10).

Meanwhile, in the course of requesting an SBA EIDL increase that same Fall (2020), a copy of the Company's tax record¹³⁸ was requested by the SBA to determine the reconsideration amount. In prior years, the Company elected to rely on the research and development (R&D) related provisions of the Internal Revenue Code (IRC) [Form] 8832 which provides later-in-time filing flexibility for R&D upstarts. As such, in order to meet the tax statement request from the SBA, the Company proceeded with the “election to take disaster loss deduction for [the] preceding year” under IRC § 1.165—11, where: “The due date for making the section 165(i) election is six months after the due date for filing the taxpayer’s federal income tax return for the disaster year.”¹³⁹

Accordingly, the Company filed its return on November 16, 2020, by postal mail with IRS' Ogden, Utah office, as required due to assets in excess of \$10 million, followed by each additional SBA reconsideration request, in addition to several letters restating the urgency of the Company's interest in obtaining an EIDL increase.¹⁴⁰

Economic Times reported that on December 14, 2020, “China warned its Internet giants it would not tolerate monopolistic practices and to brace for increased scrutiny, as it slapped fines and announced probes into deals involving Alibaba Group and Tencent Holdings.”¹⁴¹ Reporting further that on December 24, 2020: “Chinese regulators [say] they [have] launched an antitrust investigation into Alibaba and will summon Ant executives, with the ruling Communist Party mouthpiece warning against monopoly and expansion “in a disorderly and barbarian manner.””¹⁴²

On January 6, 2021, at 5:09 am EST, Petitioner received a notification (albeit unread until recently) that “President Donald Trump banned eight Chinese-owned apps, including the payment services WeChat Pay, Alipay and QQ Wallet” from a Law 360 Technology Intellectual Property law email newsletter subscription alert. This notification was recently verified as accurate according to former President Trump's January 5, 2021 executive order.¹⁴³

On January 28, 2021, shortly after Biden was sworn into office, a reconsideration request denial letter was received and dated January 14, 2021, due to a proclaimed inability to obtain a copy of the Company's tax return from the IRS.¹⁴⁴ As such, it appears as though the decision was made during the previous administration, however the date the letter was sent indicates this decision was made under the Biden Administration as evidenced by the Jan. 21, 2021 discussions with an SBA loan specialist by phone and email who offered instructive assistance to Petitioner for obtaining a copy of the Company's tax record for the purpose of completing the loan review.¹⁴⁵

Surprised by the apparent inconsistency, the Company followed up with a letter on February 2, 2021¹⁴⁶ respectfully refuting the legitimacy of the Jan. 14, 2021 denial letter (transmitted Jan. 28, 2021), and redressing “the litany of longstanding correspondence through nineteen sent emails (originating August 13, 2020), including five formal letters¹⁴⁷, copies of our 2019 tax records, numerous

138 EXHIBIT 60

139 EXHIBIT 61

140 EXHIBIT 62

141 Scott Murdoch, *Timeline: Events leading up to China's \$2.75 billion fine on Alibaba*, Economic Times, April, 12 2021, <https://economictimes.indiatimes.com/tech/tech-bytes/timeline-events-leading-up-to-chinas-2-75-billion-fine-on-alibaba/articleshow/82028925.cms?from=mdr>.

142 *Id.*

143 EXHIBIT 63

144 EXHIBIT 64

145 EXHIBIT 65

146 EXHIBIT 62.4

147 EXHIBIT 62

resubmissions of Form 4506-T, and a schedule of liabilities¹⁴⁸ associated with the original and still outstanding such original increase request. [Writing further, p]lease note also, that it is our understanding that any change in [the] law since our original request date is without retroactive effect, especially considering the possibility of changes in loan amount calculation methodology and the resultant impact on our ongoing reliance here.”¹⁴⁹

On February 11, 2021, Petitioner received a Law 360 alert with the headline “BREAKING: Biden Admin. Looks to Pause WeChat Shutdown Bid.” Reporting further: “The Biden administration on Thursday said it is pausing federal efforts to remove the WeChat app from U.S. Networks.”¹⁵⁰

On March 6, 2021, according to Archive.org, WeChat Pay appears to have launched a supply chain commerce and customs feature webpage where the first recorded capture of the site on the internet is dated March 6, 2021.¹⁵¹ Any earlier URL is not currently known to the Petitioner at this time.

On March 12, 2021, Petitioner wrote a letter to President Biden seeking guidance concerning the EIDL increase, unresolved antitrust litigation, and the 2020 CDC grant application including our proprietary system and method for blockchain-based supply chain data storage for products, produce, and raw materials.¹⁵² (Notably: The supply chain tracing system was added to our provisional application update that was finalized in July 2020 and relates back to the first public (not under NDA) revelation of our plans here in November 2017 during capital raising activities.)¹⁵³ However, our most recent review of that email data from a G-Mail data download indicates the email was transmitted internally from one internal Company address to another internal Company address. Nevertheless, it appears to be an unlikely oversight considering the document was also shared with company counsel Jeffrey Snow per his request after a telephone conversation regarding whether we made any public disclosures and to the best of my recollection the email was addressed and sent in follow up reply to Rob May where the recipient address was to him during my reviews both at the time the email was sent and also when transmitting the email to our patent attorney Mr. Snow and receiving a confirmation of receipt of that information prior to filing our July 2020 provisional application as a part of the same useful invention.

Also, on March 12, 2021, Economic Times reports: “Ant CEO Simon Hu unexpectedly resigns, the first top management exit since the scuppered \$37 billion IPO.”¹⁵⁴ Reporting further that on March 18, 2021: “Chinese regulators say they have Alibaba, Tencent, TikTok owner ByteDance and nine other technology companies for talks on use of “deepfake” technologies on their content platforms, stepping up scrutiny of the sector.”¹⁵⁵

On March 19, 2021, Petitioner wrote to the SBA EIDL reconsideration office at PDCRecons@sba.gov:

“This URGENT matter remains unresolved. It is our understanding that failure to acknowledge this request will result in a breach of contract on March 31, 2021. For the avoidance of any doubt and the assurance of preventing any further

148 EXHIBIT 66

149 EXHIBIT 62.4

150 EXHIBIT 67

151 EXHIBIT 68

152 EXHIBIT 59

153 EXHIBIT 69

154 Scott Murdoch, *Timeline: Events leading up to China's \$2.75 billion fine on Alibaba*, Economic Times, April, 12 2021, <https://economictimes.indiatimes.com/tech/tech-bytes/timeline-events-leading-up-to-chinas-2-75-billion-fine-on-alibaba/articleshow/82028925.cms?from=mdr>.

155 *Id.*

complications, we believe good faith and fair dealing would require a number of days, not less than 10, to initiate credit analysis, review the agreement, ensure timely processing, and complete transfer. Anything less would, in our view, constitute inexcusable neglect and breach of contract.”¹⁵⁶

On March 29, 2021, Petitioner reached out to counsel at Pryor Cashman LLP and included:

“Including amortization, the loan amount is appx. \$2.5 billion. No one has been able to provide any reason that says this isn't exactly right If in fact[,] the federal government seeks to take the property, market value according to law is required. ... the information provided about the Chinese using the IP and that the U.S. has standing on behalf of a U.S. business and last summer President Trump making that claim concerning WeChat Pay, which is nearly a carbon copy of Pricecheck. Since then, the Ant Financial IPO was discounted by \$100bn. If something happens to me, you have [the] right to take possession of the property on behalf of my estate and don't give my family a penny less.”¹⁵⁷

Economic Times reported that on April 10, 2021, Chinese regulators “fined Alibaba \$2.75 billion for violating anti-monopoly rules and abusing its dominant market position, China's highest antitrust fine ever.”¹⁵⁸

On April 11, 2020, in response to a program sponsored by the United Arab Emirates, Ministry of Industry & Advanced Technology (MOIAT), called Make it in the Emirates, Petitioner reached out to apply.¹⁵⁹

Two days later, on April 13, 2021, Petitioner missed a phone call from the White House switchboard number (202) 395-0000 followed immediately by a “No Service” signal status during three failed return call attempts.¹⁶⁰

On April 18, 2021, the MOIAT replied to Petitioner's email about interest in the program requesting the completion of a questionnaire and included a note that they can connect the Company “with several entities focused on financing.”¹⁶¹

On April 19, 2021, Petitioner returned the questionnaire and thanked the MOIAT for their consideration.¹⁶²

On Friday, April 23, 2021, Petitioner replied again writing: “We have first to file international patent rights on the supply chain and mobile self checkout technologies. We are being squeezed to give them up. We need your help immediately! See proof attached.”¹⁶³

That following Monday afternoon April 26, 2021, Petitioner opened a new business bank account with M&T Bank.¹⁶⁴ Later that evening, “Bloomberg reported Ant Group Co.’s valuation could plummet to as low as \$29 billion to \$110 billion... [from] \$320 billion previously The Fintech company is facing curbs on all fronts” Reflecting as much as a \$210 to \$291 billion dollar reduction in value since Ant's 2020 planned IPO. Meanwhile, Petitioner did not discover the proximity of these occurrences in 2021, nor the 2nd-degree network connection to Alipay via Samsung's 2016 mobile payments partnership beginning as early as May 20, 2016, until preparing this Petition—beginning October 2022.

¹⁵⁶ EXHIBIT 70

¹⁵⁷ EXHIBIT 71

¹⁵⁸ Scott Murdoch, *Timeline: Events leading up to China's \$2.75 billion fine on Alibaba*, Economic Times, April, 12 2021, <https://economictimes.indiatimes.com/tech/tech-bytes/timeline-events-leading-up-to-chinas-2-75-billion-fine-on-alibaba/articleshow/82028925.cms?from=mdr>.

¹⁵⁹ EXHIBIT 72

¹⁶⁰ EXHIBIT 73

¹⁶¹ EXHIBIT 72

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ EXHIBIT 74

In April 2021, in the days leading up to the plea for assistance to MOIAT, Petitioner began experiencing severe physical discomfort. On April 29, 2021, Petitioner submitted a motion to this Court seeking to file a petition for writ of mandamus concerning Petitioner's intellectual property in the form of a provisional patent and Company trade secrets regarding mobile payments and supply chain blockchain services, and concerns about the physical discomfort Petitioner recently began experiencing. Notice of the planned submission was sent to the Supreme Court press office email address on April 28, 2021.

Reuters reported on April 30, 2021 (following CNN's reporting on the same story on April 29th): "The Democratic and Republican leaders of the U.S. Senate Intelligence Committee said on Friday incidents similar to suspected "directed" radio frequency attacks ... appear ... and the committee was investigating. ... White House spokeswoman said various departments of President Joe Biden's administration were working on the issue and still evaluating the situation."¹⁶⁵ Meanwhile, Regulatory filings by Fidelity Investment Trust would soon (June 28, 2021) reflect a \$137 billion dollar reduction in Ant Group's International Class C Shares for the period ending April 30, 2021.

On June 7, 2021, Petitioner replied to an email from Pryor Cashman LLP patent law partner Jeffrey Snow, who sent a reminder about the upcoming non-provisional application filing deadline and seeking instructions on how to proceed, where Petitioner directed counsel to refile the provisional application in order to retain first-to-file priority.

On June 10, 2021, at 4:07 am EST Reuters reported:

"President Joe Biden on Wednesday withdrew a series of Trump-era executive orders that sought to ban ... WeChat ... and others. "This is a positive step in the right direction," said Gao Feng, spokesperson at the Chinese commerce ministry ... The January Trump order directed officials to ban transactions with eight Chinese apps including Ant Group's, Alipay and Tencent Holdings Ltd's, QQ Wallet, and WeChat pay. ... Republican Senator Josh Hawley said on Twitter the withdrawal of the Trump orders are "a major mistake - shows alarming complacency regarding China's access to Americans' personal information, as well as China's growing corporate influence.""

On July 13, 2021, Petitioner filed a petition for writ of mandamus naming President Biden and the SBA. In an August 11, 2021 report, the Office of Management and Budget (OMB) declared all EIDL loan data "will" be published on USASpending.gov.¹⁶⁶ Although, President Biden then failed to meet an August 16, 2021 response due date set by this Court.¹⁶⁷ Instead, on September 8, 2021, the Administration via SBA published a final rule to offer 24 months of working capital, and extend all EIDL repayment grace periods¹⁶⁸ which nullified the *takings* question there. Petitioner's severe physical discomforts also subsided around this time, resulting in both physical and financial relief and thereby a close of that controversy, on October 4, 2021.

Petitioner yet again planned to first finance the business with personal income by humbly registering for unemployment despite clear knowledge of billions in illiquid assets (having been refused this kind of liquidity since available in 2020). Petitioner would complete over 100 job applications over six months and be invited to two interviews from one employer but no real offers.

¹⁶⁵ Patricia Zengerle, Reuters, *U.S. Senate intelligence leaders say mystery illness attacks increasing*, April 30, 2021, <https://www.reuters.com/business/media-telecom/us-senate-intelligence-leaders-say-mystery-illness-attacks-increasing-2021-04-30/>.

¹⁶⁶ EXHIBIT 3

¹⁶⁷ *In Re Jordan Powell*, U.S. No. 21-5116, July 15, 2021.

¹⁶⁸ EXHIBIT 75

President Biden sent a personal letter¹⁶⁹ to Petitioner on December 15, 2021, presumably in response to Petitioner's March 12, 2021 letter,¹⁷⁰ albeit without addressing Petitioner's 2019 antitrust litigation, unanswered EIDL increase loan application, or IP-related concerns.

On December 30, 2021, Petitioner submitted a second EIDL loan increase application, including a letter addressed to the Houston-based disaster recovery director "Garland" (according to a profile discovered on LinkedIn) for a warm personal address with a willingness to compromise concerning the loan amount.¹⁷¹ Leading up to and after this, as a backup liquidity assurance, Petitioner also prepared the Company for investment by contacting over 170 angel investors and seed stage venture capital firms and secured a meeting with one.

On January 28, 2022, Silicon Road Ventures, an Atlanta-based venture capital firm that specializes in retail tech, FinTech & payments, multi-channel commerce, and supply chain and logistics met with Petitioner, expressed interest in investment, and later invited the Company to a retail technology conference planned in September of 2022.¹⁷² At this time (to the best of my recollection), Silicon VC wanted to see \$4,500 monthly recurring revenue (MRR) before investing around \$500,000 in a one to two million dollar seed round. Petitioner considered this a feasible task (granted an anticipated EIDL loan for \$2 million, notwithstanding review by the Administrator in consideration of economic indicators provided) or even the much lesser 18 additional months of working capital (\$87,000 based on 2018 financial records, or \$289,000 based on 2019 tax records) as opposed to the much greater amount based on six months of expenses according to 2019 tax records and the Cares Act as it stood Summer and Fall 2020 (\$2.4 billion).

On February 10, 2022, Petitioner began seeking a partnership with Genetec: for the later iteration of the invention involving computer vision and existing retail surveillance networks.¹⁷³ "In the Americas, Genetec retained its leading position for the 11th consecutive year and recorded the greatest market share gain over the last three years. In EMEA [Europe, Middle East, and Africa], Genetec maintained its market position and in the Asia Pacific region (excluding China) the company posted significant year-on-year growth, and advanced to the #2 position in this diverse market."

Petitioner also sought to rebuild the Company management team by engaging in in-person and virtual meetings with top industry talent, primarily Amazon Web Services' Lead Autonomous Vehicle Specialist Bryan Berezdivin through February and March 2022.¹⁷⁴

On March 17, 2022 (St. Patrick's Day) the SBA notified Petitioner that the Company's EIDL reconsideration was under review and could take several weeks to complete but the Company's loan repayment date had been extended by six-months, however, a decline letter was received at 12:08 am EST, then March 18, 2022, relying only on an apparent falsehood, namely, falsely stating that the Company had already received an EIDL loan for the maximum amount of 24 months of working capital when the Company had in

169 EXHIBIT 7

170 EXHIBIT 8

171 EXHIBIT 76

172 EXHIBIT 77

173 "Genetec Inc. is a global technology company that has been transforming the physical security industry for over 25 years. Today, the company develops solutions designed to improve security, intelligence, and operations for enterprises, governments, and the communities in which we live. Its flagship product, Security Center, is an open-architecture platform that unifies IP-based video surveillance, access control, automatic license plate recognition (ALPR), communications, and analytics. Founded in 1997, and headquartered in Montreal, Canada, Genetec serves its customers via an extensive network of certified channel partners and consultants in over 159 countries." Genetec Press Center, <https://www.genetec.com/press-center/press-releases/2022/12/genetec-predicts-physical-security-industry-trends-for-2023>.

174 EXHIBIT 78

fact only received at most, six months.¹⁷⁵ In addition, when the initial request was made the calculation was based on six months of expenses which would include intangible asset amortization as an expense, whereas 24 months of working capital would not.

On March 30, 2022, Genetec approved Pricecheck's Development Acceleration Program request and Security Center SDK (Software Development Kit) license. However, having already waited 567 days only to receive an arbitrary economic injury disaster loan increase request denial, Petitioner sought other means of acquiring capital with yet another longer-term view of rebuilding the Company.¹⁷⁶

Initially, Petitioner then spent months building a non-fungible token collection¹⁷⁷ but did not capitalize due to an inability to raise funds for image vector licenses and marketing.¹⁷⁸ The collection, created to raise capital for Pricecheck, remains without a privacy policy and terms and conditions necessary for sale. Only one sale was made and paid for by Petitioner to live test the platform.

Furthermore, Petitioner faced obstacles obtaining income in every respect until doing handyman work where immediate income from same or next day jobs doing hard manual labor became his only source of income.¹⁷⁹ In August 2022, after some success (earning around \$12,000 part-time through contracts at indoor and outdoor job-sites that summer), one client offered to partner with Petitioner to flip a house by investing up to \$500,000. After a considerable amount of work, determining an ability to get a contractor's license, and making an offer on a home¹⁸⁰ with plans for a six-figure income by year's end to finance the Company (based on this opportunity), the deal was canceled in part due to a sudden change in market conditions, the relationship was then tarnished as a result of incorrect replacement parts from a Chinese retractable awning manufacturer (ALEKO) shipped directly from China where delayed completion and increased costs for the client leading him to believe he was being cheated by the Petitioner, despite offering to and completing the job for free as a matter of integrity, and further led to a loss in another follow on job opportunity.¹⁸¹

Upon realizing the lengths of tortious interference anticompetitive parties were willing to go to keep the company from financing, Petitioner returned focus to the core controversy since recognizing the absolute necessity here for legal recourse in addition to developing another phase of entrepreneurial grit.

On September 15, 2022, within the six-month timeframe outlined in the second decline letter Petitioner contacted SBA's disaster recovery office including in part: “[w]hile this meets the 6-month deadline ... I waited this long because.... It appeared to be the result of some kind of unlawful retaliation” Petitioner also asked the SBA to consider the following statements from the September 8, 2021 updates to the EIDL loan program.¹⁸²

“The intent of the statutory COVID financial assistance programs, including the COVID EIDL program, is that SBA provide

175 EXHIBIT 2

176 EXHIBIT 79

177 See <https://opensea.io/NFTyYachtClub/created>, see also

<https://polygonscan.com/token/0x789b729e0992077690e7e8eebf5eb58f9ced24cb#code>.

178 EXHIBIT 80 (NOTE: Despite a plausible transformative work argument for the listing Petitioner sought funds from friends in order to purchase unlimited global image vector licenses for the 137 images (some of which were as little as \$14) that made up the algorithmic compilation of the 10,000 unique NFT collection for moral reasons since believing in the importance of paying people for their work even if a legal workaround appeared plausible since none of the 10,000 NFTs were valuable in this regard without the other 9,999 due to programmed variations in rarity).

179 EXHIBIT 81

180 EXHIBIT 82

181 EXHIBIT 83

182 EXHIBIT 84

relief to America’s small businesses **expeditiously**. ... [Further delay will continue to] "result in **significant avoidable economic losses**— precisely the result that Congress was trying to avoid in passing and amending the COVID EIDL program. ...”

Despite concern for making an EIDL increase request a third time, granted especially the timing and reasoning provided for the second decline, this request was made for the record in order for Petitioner to meet a fiduciary duty to the Company. Moreover, in that respect, this petition follows since the earlier petition (concerning the Company's collateral, as securitized by the original June 16, 2020 loan agreement) was lawfully closed on October 4, 2021, the Biden Administration's actions and/or omissions since that time, outlined here, have further degraded the Petitioner and the Company and provide cause for a second Petition now regarding the questions presented here.

ASSESSMENT *of*

INTELLECTUAL PROPERTY (IP)

A. The Comparative Patent Law Context

Under Article 8 of the Patent Cooperation Treaty, “Article 4 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property”¹⁸³ would apply in a matter where a U.S. inventor claims priority to a patentable invention granted to a Chinese company.

The agreement provides for inventors from both countries to file a national and international application where the first to file nationally obtains priority provisions that serve to protect their priority right against later-in-time applications made by inventors from other countries.¹⁸⁴ Multiple national priority filings can be assembled into one international application where the earliest date is used for first to file purposes, even where such filings exist across borders and claim disparate embodiments amongst them, “provided that, in both cases, there is unity of invention within the meaning of the law of the country”¹⁸⁵ to which the international application is made.

B. Assessment of Priority

PCT Article 8(2)(b) provides that the “conditions for” and “effect of” international application priority claims are governed by the laws of the member State designated or where the application is filed.¹⁸⁶ In this case, the United States.¹⁸⁷

The Ant Group family of intellectual property includes several hundred patent applications and grants. However, a number of them are succeeded in priority by the Petitioner's application regarding one or more embodiments of the same useful invention, and others are

¹⁸³ Article 8(2)(a) Patent Cooperation Treaty.

¹⁸⁴ Article 4 of the Stockholm Act of the Paris Convention for the Protection of Industrial Property.

¹⁸⁵ Article 4 Section F of the Stockholm Act of the Paris Convention for the Protection of Industrial Property, at 4.

¹⁸⁶ Patent Cooperation Treaty (PCT): Article 8, Claiming Priority https://www.wipo.int/pct/en/texts/articles/a8.html#_8.

¹⁸⁷ 35 U.S.C. 100 (note) “AIA First inventor to file provisions. The first inventor to file provisions of the Leahy-Smith America Invents Act (AIA) apply to any application for patent, and to any patent issuing thereon, that contains or contained at any time— (A) a claim to a claimed invention that has an effective filing date on or after March 16, 2013 wherein the effective filing date is: (i) if subparagraph (ii) does not apply, the actual filing date of the patent or the application for the patent containing a claim to the invention; or (ii) the filing date of the earliest application for which the patent or application is entitled, as to such invention, to a right of priority under section 119, 365(a), 365(b), 386(a), or 386(b) or to the benefit of an earlier filing date under section 120 , 121, 365(c), or 386(c); or (B) a specific reference under section 120 , 121, 365(c), or 386(c) of title 35, United States Code, to any patent or application that contains or contained at any time such a claim.”

covered under the NDA, before filing, which includes Ant Group by extension under the terms of the agreement with E-Mart as extended to Samsung,¹⁸⁸ and as extended to Alipay—by partnership association with Samsung during the term of Pricecheck's NDA that includes unique reengineering restrictions and a New York, USA choice of law provision.

As to patent priority, patent publication US-20190180067-A1 with priority from Chinese Patent Application No. CN-201711171809-A with a priority date of November 22, 2017, is succeeded by Petitioner's July 17, 2017, provisional application as evidenced by the following specification excerpts:

Petitioner (07/17/2017):

(1) “The present invention may implement machine vision (MV) to provide imaging-based automatic inspection and analysis of data matrix codes and barcodes” (2) “A first step in a scanning sequence of operation may be the acquisition of an image, such as through [the] use of [the] smartphone camera” (3) “The identifier may be “a QR Code” (4) “Corresponding software may employ distinct digital image processing techniques to extract the required information” (5) “[P]rocess an image of a checkout identifier obtained by the scanner” (6) “After an image is acquired, the image is processed, such as through the use of MV 2D visible light imaging” (7) “The SDK may be loaded onto devices enabled by the present invention to decode data matrix code and product barcode image information in identifying corresponding code contained in merchant inventory data, which resides in the relational database”¹⁸⁹

Ant Group (11/27/2017):

“The 2 D code information structural generation Quick Response [QR] Code or obtain the two dimension from server that POS machine is provided according to the application Code; And show the Quick Response Code; User mobile phone scans the two-dimensional code to obtain image, and be identified and be converted into character string, according to 2 D code information structure[;] Character string is parsed, obtains corresponding data element□ User mobile phone is sent to server and is carried out business processing based on the data element obtained in Quick Response Code; Server process finishes backward user mobile phone and returns to handling result.”¹⁹⁰

As to non-disclosure, there are some other patent applications that have been granted to Ant Group's subsidiaries where Petitioner is likely to retain priority such as US-20200293749-A1 and US-20190370816-A1. Petitioner's international application would likely initiate an interference by the U.S. Patent Office under 37 CFR § 41.202 in these and any other instances where Petitioner has clear priority.

However, several others may be a better subject for validity review by a United States district court under business law doctrine by considering the non-disclosure agreement and the series of events leading to the grants of US-20170364904-A1, US-20180121727-

¹⁸⁸ “Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See *Sticker Indus. Supply Corp. v. Blaw-Knox Co.*, 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and *Hovlid v. Asari*, 305 F.2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. See MPEP § 211.02 for guidance regarding properly referencing prior applications. There is no limit to the number of prior applications through which a chain of copendency may be traced to obtain the benefit of the filing date of the earliest of a chain of prior copending applications. See *In re Henriksen*, 399 F.2d 253, 158 USPQ 224 (CCPA 1968).”
https://www.uspto.gov/web/offices/pac/mpep/s211.html#ch200_d1ff71_20a5c_149.

¹⁸⁹ EXHIBIT 5: U.S. PROVISIONAL APPLICATION FOR MOBILE COMPUTING DEVICE-BASED CHECKOUT SYSTEM AND METHOD, Dkt. No. 21925.00001, July 17, 2017.

¹⁹⁰ <https://portal.unifiedpatents.com/patents/patent/CN-108154211-A>; See also, US-20190180067-A1.

A1, and US-20180260877-A1. Essentially, “[t]he validity of a patent is a question of law, not a matter within the primary jurisdiction of the Patent Office.”¹⁹¹ Accordingly, “[a] federal district court, after a trial on the merits, has the power to invalidate the patent.”¹⁹²

i. Misleading activities

Interestingly, in October 2020, Ant Group Executive Chairman Eric Jing said in his initial public offering letter: “Three years ago, we made popular the Alipay’s QR merchant code, so that nearly every street vendor across all corners of China could enjoy the convenience of mobile payments.”¹⁹³ Looking back to 2017, the year Petitioner first filed a provisional application for the invention, on July 17, 2017,¹⁹⁴ the day before, Alipay posted a photo of a physical QR merchant code on their Facebook page for the first time on July 16, 2017.¹⁹⁵ Considering our disclosure to E-Mart which disclosed to Samsung who was in partnership with Alipay, it appears Alipay’s post may have been a tactic to claim priority as first to file patent priority relates back to the first public disclosure, when connected to an earlier application or grant that is a part of the same useful invention.¹⁹⁶ The display appears to be last minute because this first ever appearance of a physical merchant QR code by Alipay on its Facebook page, seen in the photo of a table placard that is partly covered in tape. They may not have been aware of Pricecheck’s unveiling of its non-obvious useful invention of scanning physically displayed QR codes for mobile application users to interact with brick-and-mortar retail operations in a startup competition involving startups with teams in Haarlem, Netherlands and Harlem, New York called Haarlem 2 Harlem on May 30, 2017. Clips from the event including an interview with Petitioner that aired locally on the television series “What’s Eating Harlem.”¹⁹⁷ While available on YouTube that summer, the series would not become distributed nationally and word-wide until 2021.¹⁹⁸

Ant Group goes even so far as to celebrate the day Petitioner filed the provisional application as if they lawfully obtained Petitioner’s priority to the invention:

“In July 2020, together with Alibaba, we launched the 7.17 Shopping Festival ..., a nationwide marketing campaign for offline merchants of all sizes to distribute e-coupons. From July 1 to July 17, 2020, we distributed e-coupons to consumers daily via our Alipay app, and consumers were able to redeem the coupons when paying with Alipay at millions of merchants across the country. Approximately seven million merchants signed up for this marketing event. Using our merchant services, many offline merchants were able to access our massive customer base in a targeted way to achieve increased sales.”¹⁹⁹

Moreover, the appearance of several misleading articles results from an internet search for the origin of offline or physical retail mobile payments. For instance, a Tech-In-Asia opinion article seems to describe an individual’s experience using Alipay and WeChat Pay at various physical retail locations in 2015.²⁰⁰ However, Petitioner worked as a Global Youth Leadership Conference (GYLC) faculty advisor for Envision, working through crisis resolution simulations in Shanghai, Beijing, and Hangzhou in 2015 and never once saw the availability of QR code based offline/physical retail store payments. Alipay (Hangzhou) was also not formed until July 8, 2016, and released its first-ever newsletter in August of 2016.²⁰¹ This inspired a closer look at the recently discovered article featuring

191 *Brunswick Corp. v. Riegel Textile Corp.*, 752 F.2d 261, 269–70 (7th Cir. 1984).

192 *Johnson Johnson v. Wallace A. Erickson Co.*, 627 F.2d 57, 61 (7th Cir. 1980). See also, *Nader v. Allegheny Airlines, Inc.*, 426 U.S. 290, 304, 96 S.Ct. 1978, 1987, 48 L.Ed.2d 643 (1976).

193 Ant Group Prospectus at 1-2 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

194 EXHIBIT 5.05

195 EXHIBIT 85

196 See USPTO Rules for what qualifies as part of the same useful invention with respect to the Stockholm Act, in the United States.

197 <https://www.youtube.com/watch?v=PpBmEyxFX6A&t=75s>

198 https://www.imdb.com/title/tt13560522/companycredits?ref_=tt_dt_co see also, <https://www.imdb.com/title/tt13560522/>.

199 Ant Group Prospectus at 188 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

200 EXHIBIT 85

201 EXHIBIT 87

a photograph of a QR display for payments facilitated by Alipay or WeChat Pay. However, the image visible in the same frame includes the FamilyMart trademark.²⁰² Upon reviewing FamilyMart's financial statements as a publicly traded company, it is abundantly clear that Alipay and WeChat Pay were not accepted forms for payment until 2018.²⁰³ Other examples include a blog post in 2015 featuring a photo of the WeChat Pay mobile payment application being used in Starbucks.²⁰⁴ However, Starbucks' financial statements at this time describe the first introduction of mobile payments in gift card form for takeout style pre-ordering.²⁰⁵ These financials detail the limitations of their financial accounting practices and why this introductory method must be used for accounting purchases of Starbucks cash in relation to the purchase of items for sale, and more importantly the location of the sale, in contrast with the location of the Starbucks-Cash purchase, and their plans to manage this accounting challenge.²⁰⁶ Harvard Business Review features the company's developments in the area as well and considers them revolutionary going so far as to say Starbucks is a pioneer in creating its own mobile currency.²⁰⁷ This of course, makes the recent discovery of an opinion article depicting an image that Starbucks was already processing WeChat Pay payments in 2015, entirely absurd. Nevertheless, at first glance from an internet search, these third-party articles mislead the public into believing these companies invented the useful invention at issue here when the facts prove they did not.

C. Antitrust Considerations in the Comparative Patent Law Context

Article 10^{bis} of the Stockholm Act speaks to unfair competition and sets out certain rules that parties from member countries must abide by:

“(1) The countries of the Union are bound to assure to nationals of such countries effective protection against unfair competition. (2) Any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition. (3) The following in particular shall be prohibited: 1. all acts of such a nature as to create confusion by any means [whatsoever] with the establishment, the goods, or the industrial or commercial activities, of a competitor; 2. false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor; 3. indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”

Article 10^{ter} there also establishes an enforcement mechanism by requiring member countries “undertake to assure to nationals of the other countries of the Union appropriate legal remedies effectively to repress all the acts referred to in Articles 9, 10, and 10^{bis}.”²⁰⁸

Petitioner's disclosure to E-Mart who disclosed to Samsung who represents the existence of a partnership with Alipay at the time of disclosure led to anticompetitive injury to Petitioner's intellectual property as a matter of patent application priority in one area, as a result of injury to the Company in several other areas including its ability to raise capital and serve merchants and consumers in the same market due to acts that created confusion and indications that mislead the public contrary to honest practices and resulted in unfair competition and business injury beyond patent priority.²⁰⁹

²⁰²https://web.archive.org/web/20190420175609im_/https://d1h69ey09xglxv.cloudfront.net/wp-content/uploads/2015/10/Using-WeChat-for-in-store-payments-in-China-photo-05.jpg (Indicating this photo was added to this post on April 20, 2019, not in 2015 as purported).

²⁰³ EXHIBIT 88

²⁰⁴ EXHIBIT 89

²⁰⁵ See, Starbucks' Fiscal 2015 Annual Report, 10-K, Sept. 27, 2015 https://s22.q4cdn.com/869488222/files/doc_financials/annual/2015/Starbucks-Fiscal-2015-Form-10-K.pdf.

²⁰⁶ Id. at 57.

²⁰⁷ EXHIBIT 90

²⁰⁸ Article 10^{bis} of the Stockholm Act of the Paris Convention for the Protection of Industrial Property, at 11.

²⁰⁹ 35 U.S.C. 211 Relationship to antitrust laws. “Nothing in this chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.”

Assuredly, the company was either preparing to enter, had entered, or was prepared to re-enter the mobile payments market when the injuries occurred.²¹⁰ Whereas, persons “who shall be injured in [their] business or property by reason of anything forbidden in the antitrust laws”²¹¹ may sue for damages. Moreover, “[u]nder Section 16 [of the Clayton Act], a person may seek injunctive relief against both actual and threatened loss or damage....[and] need only[,] show only[,] threatened, not actual, injury.”²¹²

The Petitioner and Company's nexus of disclosure from Samsung to Alipay resulted in a breach of the third-party “reverse engineering” restrictions of the agreement and led to numerous impacts substantial enough to have been attempts by Ant Group to squelch a nascent competitor by using the intellectual property obtained to achieve market dominance and prevent competition by the Company. Accordingly, the Petitioner and the Company may sue for damages from injuries sustained and may also seek injunctive relief for threatened loss.

D. The Litigation Landscape

The legal outlook for Petitioner and Company presents a litigation landscape that could extend several years and cost millions of dollars. Moreover, the district court claims are likely to be filed separately or become severed due to complexity. “In large measure due to the complexity of antitrust cases, courts have often severed trial of antitrust claims from trial of non-antitrust claims.”²¹³ In addition, because the patent validity claim will inform both the antitrust claim and the Patent Office interference suggestion, that trial will likely take place first and, presents its own set of costs and complications that run into considerations around the statute of limitations and/or tolling in the antitrust claim.

“For example, the Third Circuit overturned a verdict in a non-antitrust action involving claims of misappropriation of trade secrets and fraud in obtaining a patent, where the trial, which consumed only thirty-two days of court trial, occurred over three months with several recesses lasting from one day to three weeks. The Third Circuit questioned the ability of the jury to remember facts and adequately weigh the testimony offered by each side.”²¹⁴

However, we must resolve the patent invalidity questions first, whether by trials in succession or while tolling the antitrust claim during the patent invalidation trial because “[i]t is not a purpose of antitrust law to confer patents or to resolve disputes between rival applicants for a patent.”²¹⁵

Moreover, if we suggest an intervention through the Patent Office, we not only run the risk of not having our patent granted because the invalidity of Ant Group's patent(s) has not been determined by law, but the court in the antitrust claim may use that determination to inform its consideration of the antitrust case. Therefore, hypothetically speaking, if today we were to file the international application, we could risk Ant Group making another application claiming a priority date from an earlier application or grant derived from our disclosure during the NDA coverage period; and the interference could fail purely on a filing priority basis, and that result would likely inform the antitrust trial if the patent invalidity trial is not won first.

Fortunately, the “Antitrust Guidelines for the Licensing of Intellectual Property” (IP Guidelines) issued by the U.S. Department of

²¹⁰ *Central Telecommunications, Inc. v. TCI Cablevision, Inc.*, 800 F.2d 711, 727–29 (8th Cir. 1986); *Parks v. Watson*, 716 F.2d 646, 659–60 (9th Cir. 1983).

²¹¹ 15 U.S.C. § 15.

²¹² See, 8 Antitrust Laws and Trade Regulation, 2nd Edition § 160.02; See also, *Cargill, Inc. v. Monfort of Colorado, Inc.*, 479 U.S. 104, 111, 107 S. Ct. 484, 93 L. Ed. 2d 427 (1986).

²¹³ 8 Antitrust Laws and Trade Regulation, 2nd Edition § 170.04

²¹⁴ 8 Antitrust Laws and Trade Regulation, 2nd Edition § 170.01

²¹⁵ *Brunswick Corp. v. Riegel Textile Corp.*, 752 F.2d 261, 267 (7th Cir. 1984).

Justice (DOJ) and the Federal Trade Commission (FTC) inform the basis for enforcement there:

“The Agencies may challenge the enforcement of invalid intellectual property rights as antitrust violations. Enforcement or attempted enforcement of a patent obtained by fraud on the Patent and Trademark Office may violate section 2 of the Sherman Act or section 5 of the Federal Trade Commission Act if all the elements otherwise necessary to establish a charge are proved.²¹⁶ Inequitable conduct before the Patent and Trademark Office will not be the basis of a section 2 claim unless the conduct also involves knowing and willful fraud and the other elements of a section 2 claim are present.”²¹⁷

Nevertheless, the time considerations here overall, beyond just the antitrust claims, are also essential. While the AIA has led to more robust IP protections, any misstep could cost us a decade or more while our competitor, from a comparative view, accounts for 10 years in the useful life of its patents. The *Brunswick* example below reveals that our present entanglements may have been strategic, where knowledge of the landscape makes Petitioner's next steps crucial to the life of the Company. See *Brunswick* for example.²¹⁸

Insofar as it appears, Petitioner's Company must make claims in three separate venues, two courts and the Patent Office. All of which stand to be costly and time-consuming.

As to the burden, to add another administrative law claim before the SBA's review board with no financial resources, seeking funds already appropriated by statute, in the context of an emergency where three reconsideration requests have been exhausted now over two years, potentially leading to D.C. Circuit and/or Federal Circuit appellate review, and perhaps certiorari for argument before the Court here on the merits. While unlikely, this alone could span a decade, and the useful life of the invention will have been exhausted by our competitor before we ever file the first trial court lawsuit.

Extraordinarily, the Supreme Court of the United States is the only court where we may first find economic injury disaster relief as afforded by statute, fairly urgently, so that we may lawfully mitigate some damages by seeking a preliminary injunction allowing us to use our own intellectual property to quickly re-enter the mobile payments market and, with the resources for a decade or more of complex litigation, the financial capacity to do so alone is more likely to lead to fair settlement(s) in the antitrust case(s).

216 “Antitrust Guidelines for the Licensing of Intellectual Property” (2017) at 35, see also, *Walker Process Equip., Inc. v. Food Mach. & Chem. Corp.*, 382 U.S. 172, 176-77 (1965); *Am. Cyanamid Co.*, 72 F.T.C. 623, 684-85 (1967), *aff'd sub. nom. Charles Pfizer & Co. v. FTC*, 401 F.2d 574 (6th Cir. 1968); see also *Michael Anthony Jewelers, Inc. v. Peacock Jewelry, Inc.*, 795 F. Supp. 639, 647 (S.D.N.Y. 1992) (holding that the enforcement of copyrights obtained by fraud on the Copyright Office could similarly violate antitrust law).

217 *Id.* See also, *Argus Chem. Corp. v. Fibre Glass-Evercoat, Inc.*, 812 F.2d 1381, 1384-85 (Fed. Cir. 1987); see also *Transweb, LLC v. 3M Innovative Prods. Co.*, 812 F.3d 1295, 1307 (Fed. Cir. 2016) (stating that “[a]fter *Therasense*, the showing required for proving inequitable conduct and the showing required for proving the fraud component of *Walker Process* liability may be nearly identical”); *Therasense, Inc. v. Becton, Dickinson & Co.*, 649 F.3d 1276, 1290-92 (Fed. Cir. 2011) (en banc) (raising the standard of proof for inequitable conduct to require “but for” materiality and specific intent to deceive except in cases of affirmative egregious conduct).

218 *Brunswick Corp. v. Riegel Textile Corp.*, 752 F.2d 261, 264, 270 (7th Cir. 1984). (“In April 1970 Brunswick applied for a patent on the new process and in August Riegel did likewise — in breach of its [non-disclosure] agreement with Brunswick. ... Without considering Brunswick's application the Patent Office issued a patent to Riegel in 1972. The Patent Office discovered the Brunswick application in 1973, and in 1975 instituted a patent-interference proceeding to determine priority of invention between Riegel and Brunswick. See 35 U.S.C. § 135; 1 Rosenberg, *Patent Law Fundamentals* § 10.02 (2d ed. 1984). That proceeding was still pending before the Patent Office when Brunswick brought this lawsuit in 1982, but since then the Patent Office has held that although Brunswick indeed invented the process first, its patent application was invalid. Brunswick has challenged this ruling in another lawsuit in the Northern District of Illinois, and it has also sued Riegel in an Illinois state court for unfair competition. ... But all this assumes that priority is the only issue in a patent-interference proceeding, and we know from the fact that the Patent Office found that Brunswick's patent application was invalid that it is not. The Board of Patent Interferences is allowed to review a broad range of issues “ancillary” to priority. See 1 Rosenberg, *supra*, § 10.02[5][c], at p. 10-47. And the validity of Brunswick's patent is as Brunswick has framed its antitrust suit, a potentially dispositive issue in the antitrust suit, since that whole suit is bottomed on the claim that Riegel took from Brunswick a patent opportunity that rightfully belonged to it. However, this court has held recently that patent validity is not within the Patent Office's primary jurisdiction. See *Johnson Johnson, Inc. v. Wallace A. Erickson Co.*, 627 F.2d 57, 61-62 (7th Cir. 1980). The validity of a patent is a question of law, which a court decides with some but not great deference to decisions of the Patent Office.”)

FINANCIAL ANALYSIS

As to the relevant evidence, the analysis includes Ant Group's 2020 IPO Prospectus ("the Prospectus"), Fidelity Investment Trust's (FIT) March 17, 2021, and June 28, 2021, regulatory filing forms NPORT-P regarding the May 16, 2018 acquisition of Ant International Co LTD's Class C shares, and the Company's and Ant Group's relevant patent applications with the USPTO and patent grants concerning the same useful invention beginning with the Company's July 17, 2017, provisional application filing and present priority.

The October 2020 Ant Group Prospectus defines intangible assets (other than goodwill) as follows:

"Intangible assets acquired separately are measured on initial recognition at cost. The cost of intangible assets acquired in a business combination is the fair value at the date of acquisition. The useful lives of intangible assets are assessed to be either finite or indefinite. Intangible assets with finite lives are subsequently [amortized] over the useful economic life and assessed for impairment whenever there is an indication that the intangible asset may be impaired. The [amortization] period and the [amortization] method for an intangible asset with a finite useful life are reviewed at least at the end of each of the Relevant Periods. Intangible asset[s] [are] [amortized] on [a] straight-line basis over the following useful life. Software, technology and patents[:] 3 to 10 years... ." ²¹⁹

The Prospectus also presents a table in its historical financial information notes ²²⁰ describing three levels of fair value ²²¹ categorization where level three consists of "fair values measured based on valuation techniques for which any inputs which have a significant effect on the recorded fair value are not based on observable market data (unobservable inputs)." ²²²

In FIT's "NPORT-P: Part C: Schedule of Portfolio Investments" regarding Ant International Co. LTD., item C.8: "Indicate the level within the fair value hierarchy in which the fair value measurements fall pursuant to U.S. Generally Accepted Accounting Principles" was reported as level 3. ²²³

As of December 31, 2017, the increase in other comprehensive income without considering income tax was 106,999,000 RMB or \$15,393,545.95. As of December 31, 2018, the same figure was 3,330,788,000 RMB or \$479,188,012.41. The figure remained relatively unchanged as of December 31, 2019, and June 30, 2020. ²²⁴

It may be inferred that Ant International Co., Limited, having been formed in the Cayman Islands on December 27, 2017, was acquired by Ant Group in 2018 from the original applicant "Alibaba Group Holdings Inc." by Ant Group's Singapore-based subsidiary "Advanced New Technologies Inc." This entity is listed as one of the group's twenty principal subsidiaries. ²²⁵ However, there are

219 Ant Group Prospectus at Appendix I-39—I-40 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

220 *Id.* at Appendix I-143.

221 "The International Accounting Standards Board recognizes the fair value of certain assets and liabilities as the price at which an asset can be sold or a liability settled. Fair value accounting, or mark-to-market accounting, is the practice of calculating the value of a company's assets and liabilities based on the current market value. ... Fair value is also used in a consolidation when a subsidiary company's financial statements are combined or consolidated with those of a parent company. The parent company buys an interest in a subsidiary, and the subsidiary's assets and liabilities are presented at fair market value for each account." <https://www.investopedia.com/terms/f/fairvalue.asp>

222 Ant Group Prospectus at Appendix I-143 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

223 Fidelity Investment Trust's Regulatory Filing, N-PORT P, March 17, 2021, https://www.sec.gov/Archives/edgar/data/744822/000175272421055768/xslFormNPORT-P_X01/primary_doc.xml.

224 Ant Group Prospectus at I-143 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

225 Ant Group Prospectus at Appendix I-22 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

many more non-principal subsidiaries.²²⁶ One in particular, Advanced New Technologies Inc., which acquired the patent grant or application priority after Alibaba Group originated the application for the same useful invention as the Company on November 22, 2017. The most essential aspect of the useful invention allows “merchant[s] to receive payments from consumers via ... a merchant QR code that allows consumers to pay by scanning ... across offline payment scenarios, via QR or Bar codes in the Alipay app or in printed versions.”²²⁷

As described in the financial information section of the Prospectus Ant Group designates value to assets by allocating:

“revenue to each performance obligation based on its relative standalone selling price. We generally determine standalone selling prices based on the prices charged to customers. If the standalone selling price is not directly observable, it is estimated using expected cost plus a margin or adjusted market assessment approach, depending on the availability of observable information.”²²⁸

Accordingly, a fair value acquisition of Ant International Co. Ltd. shortly after formation, or any other of the Group's 168 wholly owned subsidiaries according to some corporate strategy in 2018, appears to have acquired the fair value associated with Advanced New Technologies' presumed ownership of the invention and their associated patent application because the fair value increase in 2018 is the greatest increase in any year included in the Prospectus where “[t]he cost of intangible assets acquired in a business combination is the fair value at the date of acquisition”²²⁹ according to the market assessment of the estimated selling price of the offline merchant services allowable by the useful invention,²³⁰ in contrast with the substantial majority of global consumer purchasing happening offline at physical locations and the scalability of a convenient zero merchant hardware product solution; reflecting the only asset based on market assessment reasonably attributable to the fair value of the acquisition at a value as high as \$463,794,466.46 depending on the value of any number of other substantially lesser acquisitions in 2018.²³¹

Several international applications were filed in November 2018 after the patent application was published by the Chinese authority earlier that year, and some international applications were granted in 2019 including in the U.S. with the publication number US-20190180067-A1 on June 13, 2019.²³²

The value of the patent becomes apparent once it's published internationally because the value is recognizably sizable, appears numerically in the intangible assets table of the Prospectus in 2019, and is the only asset by market assessment estimation that could be amortizable at the level seen in the additions during the international patent publication year. 2017 additions are 44,084,000 RMB or \$6,342,474, 2018 are 40,696,000 RMB or \$5,855,034, 2019 additions are 1,768,134,000 RMB or \$254,385,806, and 2020 additions are 45,432,000 RMB or \$6,342,474 for the period ending June 30th. Moreover, the Prospectus speaks specifically to this: “Our other intangible assets increased significantly from December 31, 2018, to December 31, 2019, primarily due to certain intellectual property

226 “As of June 30, 2020, we had 70 subsidiaries incorporated in mainland China (including the 14 major subsidiaries detailed below) and 98 subsidiaries incorporated in other countries or regions (including the six major subsidiaries detailed below).” *Id.* at 165.

227 *Id.* at 186, 251.

228 *Id.* at 367.

229 *Id.* at Appendix I-39. See also: “Business combinations are accounted for using the acquisition method. The consideration transferred is measured at the acquisition date fair value which is the sum of the acquisition date fair values of assets transferred by the Group, liabilities assumed by the Group to the former owners of the acquiree and the equity interests issued by the Group in exchange for control of the acquiree.” at Appendix I-25.

230 (Ant Group's business model also consists of fees based on percentages of transaction values. “We recognize revenues by charging transaction fees based on a percentage of the total transaction amount for payments made through us.”) *Id.* at 368.

231 *Id.* at I-143.

232 EXHIBIT 91

rights and assets (primarily certain patents related to our business ...).”²³³

In order to identify the significance of the 2019 amortization addition in isolation from other activities to some degree, the average of 2017 and 2018 additions, \$6,098,754.01, subtracted from 2019 additions presents a reasonable value determination of the international patent publications by multiplying the result, \$248,287,051.86, over 10 years, by the straight-line patent amortization schedule noted in the Prospectus, resulting in \$2,482,870,518.60. The approximately \$2.5 billion dollar value appears to be the best publicly determinable market value of this embodiment of the useful invention dissectible from Ant Group based on these publicly available audited financial statements becomes clearly ascertainable (having been sold for value) as surrogate financial information concerning this particular embodiment of the useful invention.

As to the market value, a significantly less determinable measure may be derived from the value of Ant Group. The value was \$43 billion in 2015, \$60 billion in 2016, and the May 16, 2018 sale of Class C shares valued the business at \$150 billion.²³⁴ The 51.7% “[d]iscount to the H Share Offer Price” for C shares purchasers in the 2020 planned IPO would have valued the business at \$227.55 billion. However, the offering was suspended by Chinese government regulators reportedly concerning Ant Group's lending business, a number of other factors also affected the valuation including Covid-19 restrictions that reduced the volume of offline mobile payments and also affected their lending business. Therefore it may be reasonable to determine that the FIT's March 17, 2021, regulatory filing for the period ending January 31, 2021, priced in the effects on the business resulting in the \$205 billion²³⁵ valuation at this time. However, the June 28, 2021, regulatory filing for the period ending April 30, 2021 values the business at \$69 billion²³⁶ dollars. The “Information Rights”²³⁷ associated with the 2018 financing likely included non-disclosure requirements and may be the reason several Class C share purchasers declined to comment on inquiries from financial news outlets.²³⁸ The only real-world indicator appears to be the Company's April 23, 2021 report of feeling pressure to abandon its patent priority and a request for assistance towards the end of an email exchange with MOIAT.²³⁹

While this value cannot be reasonably applied to the Company entirely for a number of reasons, the immediacy is significant, the market appears to have reduced the company's valuation by approximately \$137 billion dollars by FIT's reporting the following week, with Bloomberg reporting the valuation of Ant Group could be as low as \$29 billion the Monday (April 26, 2021) following the Company's request for assistance that Friday (April 23, 2021). This can reasonably be recognized as the market understanding the likelihood of a trial court claim followed by an interference suggestion to the Patent Office by the Company which would very likely invalidate Ant Group's patent of the same useful invention due to the Petitioner's first to file status and present priority. It is also notable that throughout the next year the valuation has not changed much and is currently \$70 billion, meaning the company's

²³³ Ant Group Prospectus at 353 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

²³⁴ (In June 2018, Ant International issued an aggregate of 1,838,517,798 non-voting shares (the “Ant International Class C shares”) to the Offshore Pre-IPO Investors (the “2018 Offshore Equity Financing”). These Ant International Class C shares will be redeemed by Ant International and H Shares (in the same number as the Ant International Class C shares) will be subscribed for by and issued to holders of the Ant International Class C shares upon completion of the H Share IPO) *Id.* at 141, 138.

²³⁵ FIT valued its 6,359,848 shares at \$54,694,692.80 resulting in a share price of \$8.60. The total outstanding number of shares ((23,778,629,496) See Prospectus at 150) values Ant Group at \$204,496,213,665.60, https://www.sec.gov/Archives/edgar/data/744822/000175272421055768/xslFormNPORT-P_X01/primary_doc.xml.

²³⁶ FIT valued its 6,359,848 shares at \$18,316,362.24 resulting in a share price of \$2.88. The total outstanding number of shares ((23,778,629,496) See Prospectus at 150) values Ant Group at \$68,482,452,948.48, https://www.sec.gov/Archives/edgar/data/744822/000175272421140593/xslFormNPORT-P_X01/primary_doc.xml.

²³⁷ Ant Group Prospectus at 142 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

²³⁸ “Ant declined to comment in an emailed statement. BlackRock and T. Rowe Price also declined to comment. Fidelity and Ballie Gifford & Co. didn't immediately respond to a request for comment.” https://economictimes.indiatimes.com/tech/technology/fidelity-blackrock-cut-fintech-giant-ants-valuation-further/articleshow/93593907.cms?utm_source=contentofin

²³⁹ EXHIBIT 72

valuation volatility is relatively mild and makes the Company's disclosure highly significant and reasonably attributable.

While the value of our intellectual property to Ant Group (\$137 billion) may not simply be transferred to the value of our business today, it certainly speaks to the value of the business we set out to build and have continued building since its founding. The Company's February 2018 commercial introduction, where it first transacted offline mobile payments via QR code in a physical retail location in the U.S. market, its November 13, 2017, mobile application approval and release to the Apple App Store, and the July 17, 2017, provisional patent application, followed by refiling every year with product enhancements like RFID middleware for interoperability with the existing hardware and software systems of large retail merchants, and a supply chain blockchain for produce and raw materials speak to its market-defining and industry refining innovation. Ant Group has followed the same path in each respect despite making some filings sooner for developments like Ant Chain. For instance, they say “[i]n 2018, we launched the AntChain cross-border remittance services leveraging blockchain technology and the Blockchain-as-a-Service (BaaS) open platform which supports diverse commercial applications.”²⁴⁰ Furthermore, “[i]n September [2020], CCN.com reported that the Wuchang municipal government in the northeastern Heilongjiang province of China entered a similar blockchain partnership with Ant Financial and Alipay with a view to curbing food fraud and restoring consumer trust in the region’s high-quality rice following a series of counterfeiting incidents. In the same month, it was revealed that Alibaba is at work on an anti-food fraud blockchain partnership with global consultancy firm PwC in Australia.”²⁴¹ However, the Company's first *public* disclosure of its plan in November 2017 was in a letter stating in part:

“[W]e imagine a world where products from garden to grocery pass along a blockchain, so that any mom out there can trace an item to origination, learning of every step of production and exchange from any reach of the world to the dinner table where she feeds her children.

We see a lot of corners being cut in this world. We believe we can make products everywhere better, in a way that benefits consumers, retailers, and producers all in good measure. We believe that we can apply logistical scales of truth and characteristics of diligence to the global economy. We know this is a journey that will take decades. We know that it’s hard now and the battle is [uphill.] We also know that this is a small beginning, like all great things, and we hope that this—is a seed of trust.”²⁴²

The Company intends to have its provisional patent application updates (July 2020) tied to the earlier priority date of July 17, 2017, because its all a part of the same useful invention, and here is why:

Pricecheck's product was designed to empower consumers with information and convenience regarding their purchases, and because our product is designed to eventually balance information asymmetry at the point of sale and not only tell people how much the merchant is selling the product for, but all that went into it, we believe that our patent will be granted not because it's in the best interest of consumers, even though it is, but because we retain priority. We would also be happy to serve the ongoing efforts in the logistics community in their blockchain efforts by creating an open and transparent hub of information, connectable at no expense in many respects for everyone, even Ant Group, with certain data quality standards we will require in order to make assurances about the information to our application users, at or above any data quality standards and protocols likely to be established by U.S. regulators this decade.

Meanwhile, the Ant IPO remains suspended, the prospectus includes capital usage for “financial assistance” defined in a nearly 240 Ant Group Prospectus at 136 (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

241 David Hundeyin, *Australian Insurer Announces Blockchain Trial For Beef Export Supply Chain*, CCN, March 4, 2021, <https://www.ccn.com/australian-insurer-announces-blockchain-trial-for-beef-export-supply-chain/>.

242 EXHIBIT 69

impossibly ascertainable way,²⁴³ and where a power to “dispose of certain assets of our company or any subsidiary” includes “interest of certain assets”²⁴⁴ potentially meaning the interest related to the \$3 trillion in escrow held by Computershare²⁴⁵ can be disposed of similar to plants and equipment like fully depreciated vehicles for example, meaning around \$100 billion a year in cash from interest generated in larger amounts from higher inflation appears to be able to disappear from all GAAP accounting measures.

STATEMENT
of
THE CONTROVERSY

The economic emergency response to the coronavirus pandemic involved a series of legislative and regulatory developments throughout this national emergency. Economic injury disaster loans (EIDL) are of central consideration in this controversy.

Petitioner contends denial of an absolute right to a final decision from the SBA following a lending denial reconsideration request that the SBA follow terms consistent with the Cares Act and condition review consistent with the Small Business Act, and perform a legal duty consistent with the Data Act to publish the Company's original loan from the SBA on USASpending.gov with every other EIDL loan recipient so that the public may clearly legitimize the origin of this meritorious claim to an absolute right.

A. Brief recitation of the law and pertinent facts

On March 27, 2020, the Cares Act appropriated \$349 billion dollars in direct appropriations to the SBA for “the cost of guaranteed loans” to small businesses.²⁴⁶ Once the funds were dispersed²⁴⁷ additional resources were quickly made available through an addition to the small business programs on April 24, 2020, with an additional \$321 billion for the loan programs in particular.²⁴⁸

These additional appropriations also spoke specifically to the eligibility of agricultural and agricultural-related businesses.²⁴⁹ “With

²⁴³ Ant Group IPO at Appendix VI (October 27, 2020), <https://www1.hkexnews.hk/listedco/listconews/sehk/2020/1026/2020102600165.pdf>.

²⁴⁴ *Id.* at Appendix VI-17.

²⁴⁵ (Settlement agreement with the Irish Central bank December 15, 2015 involving the misappropriation of assets,)

[https://www.centralbank.ie/docs/default-source/news-and-media/computershareinvestorservices\(irl\)ltd.pdf?sfvrsn=83bed51d_10](https://www.centralbank.ie/docs/default-source/news-and-media/computershareinvestorservices(irl)ltd.pdf?sfvrsn=83bed51d_10).

²⁴⁶ Under Sec. 1107 of the Cares Act, concerning Direct Appropriations—“There is appropriated, out of amounts in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, to remain available until September 30, 2021, for additional amounts—(1) \$349,000,000,000 under the heading “Small Business Administration—Business Loans Program Account, CARES Act” for the cost of guaranteed loans as authorized under paragraph (36) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added by section 1102(a) of this Act... .” CARES ACT, SEC. 1107. DIRECT APPROPRIATIONS.

²⁴⁷ SBA closed its application portal and stopped accepting new EIDL applications on April 15, 2020 The next day the agency announced that the lending authority for EIDLs and the funding for EIDL advances had been exhausted.

²⁴⁸ 134 STAT. 620 PUBLIC LAW 116–139—APR. 24, 2020 DIVISION A—SMALL BUSINESS PROGRAMS SEC. 101. AMENDMENTS TO THE PAYCHECK PROTECTION PROGRAM, ECONOMIC INJURY DISASTER LOANS, AND EMERGENCY GRANTS. (a) INCREASED AUTHORITY FOR COMMITMENTS AND APPROPRIATIONS FOR PAYCHECK PROTECTION PROGRAM. Title I of division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) is amended—(2) in section 1107(a)(1), by striking “\$349,000,000,000” and inserting “\$670,335,000,000”.

²⁴⁹ DIVISION B—ADDITIONAL EMERGENCY APPROPRIATIONS FOR CORONAVIRUS RESPONSE The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, and for other purposes, namely: (c) ELIGIBILITY OF AGRICULTURAL ENTERPRISES FOR ECONOMIC INJURY DISASTER LOANS AND EMERGENCY GRANTS.—Section 1110(a)(2) of division A of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) is amended—(1) in subparagraph (D), by striking “or” at the end; (2) in subparagraph (E), by striking the period at the end and inserting “; or”; and (3) by adding at the end the following: “(F) an agricultural enterprise (as defined in section 18(b) of the Small Business Act (15 U.S.C. 647(b)) with not more than 500 employees.”. See also, [[Page 132 STAT. 1497]] (b) Technical Amendment.—Section 18(b) of the Small Business Act (15 U.S.C.

this additional funding, on May 4, 2020, SBA resumed processing previous applications and accepting new applications from agricultural enterprises only.²⁵⁰

As to the loan, the Company applied for an EIDL loan on May 13, 2020, and after some clarifications concerning its qualification as an agricultural-related business,²⁵¹ the loan offer was made on June 16, 2020, and the loan agreement was made on June 19, 2020.

On December 27, 2020, the Consolidated Appropriations Act reappropriated Cares Act SBA loan program funds which included an additional \$138 billion, with \$1.9 billion total for EIDL loans and other programs.²⁵²

The March 11, 2021, American Rescue Plan Act of 2021 added \$460 million to the disaster loan program funds already appropriated.²⁵³

An additional \$1.2 billion was appropriated for direct loans on September 30, 2021, under the Extending Government Funding and Delivering Emergency Assistance Act (EGF-DEAA).²⁵⁴

Finally, the November 15, 2021, Infrastructure Act designated the remaining disaster loan funds, except for the EGF-DEAA funds, as especially for emergency use under the PAYGO Act, where the amounts are held exclusively for emergency appropriations, unless otherwise appropriated by a supermajority.²⁵⁵

647(b)) is amended to read as follows: ``'(b) <<NOTE: Definition.>> As used in this Act, the term 'agricultural enterprises' means those small business concerns engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural-related industries.".

250 GAO-20-625: United States Government Accountability Office, Report to the Congress: COVID-19 Opportunities to Improve Federal Response and Recovery Efforts (June 2020), at 232.

251 EXHIBIT 92

252 PUBLIC LAW 116-260—DEC. 27, 2020 134 STAT. 2019 (c) RESCISSION.—With respect to unobligated balances under the heading “Small Business Administration—Business Loans Program Account, CARES Act” as of the day before the date of enactment of this Act, \$146,500,000,000 shall be rescinded and deposited into the general fund of the Treasury. (d) DIRECT APPROPRIATIONS.— (1) NEW DIRECT APPROPRIATIONS FOR PPP LOANS, SECOND DRAW LOANS, AND THE MBDA.—There is appropriated, out of amounts in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2021, to remain available until expended, for additional amounts— (A) \$284,450,000,000 under the heading “Small Business Administration—Business Loans Program Account, CARES Act”, for the cost of guaranteed loans as authorized under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as amended and added by this Act, including the cost of any modifications to any loans guaranteed under such paragraph (36) that were approved on or before August 8, 2020, of which— ... (F) \$1,918,000,000 under the heading “Small Business Administration—Business Loans Program Account” for the cost of guaranteed loans as authorized by paragraphs (1) through (35) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), including the cost of carrying out sections 326, 327, and 328 of this Act.

253 “SEC. 5006. DIRECT APPROPRIATIONS. (a) IN GENERAL.—In addition to amounts otherwise available, there is appropriated to the Administrator for fiscal year 2021, out of any money in the Treasury not otherwise appropriated, to remain available until expended— ... (2) \$460,000,000 to carry out the disaster loan program authorized by section 7(b) of the Small Business Act (15 U.S.C. 636(b)), of which \$70,000,000 shall be for the cost of direct loans authorized by such section and \$390,000,000 shall be for administrative expenses to carry out such program.”

254 135 STAT. 364 PUBLIC LAW 117-43—SEPT. 30, 2021 For an additional amount for “Disaster Loans Program Account” for the cost of direct loans authorized by section 7(b) of the Small Business Act, \$1,189,100,000, to remain available until expended: Provided, That up to \$620,000,000 may be transferred to and merged with “Salaries and Expenses” for administrative expenses to carry out the disaster loan program authorized by section 7(b) of the Small Business Act.

255 (d) BUSINESS LOANS PROGRAM ACCOUNT.— (1) Of the unobligated balances from amounts made available under the heading “Small Business Administration—Business Loans Program Account, CARES Act” in section 1107(a)(1) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136), as amended by section 101(a)(2) of division A of the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116-139), and in section 323(d)(1)(A) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260) for carrying out paragraphs (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), \$4,684,000,000 are permanently rescinded. (2) Of the unobligated balances from amounts made available under the heading “Small Business Administration—Business Loans Program Account” in section 323(d)(1)(F) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260), \$992,000,000 are permanently rescinded. ... DESIGNATION.—The amount rescinded pursuant to paragraph (1) that was previously designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act. See also, (Pub. L. 111-139, title I, §3, Feb. 12, 2010, 124 Stat. 8.

As to the increase request, the relevant dates are as follows: Initial request August 27, 2020; denial letter transmitted January 28, 2021 (improperly dated January 14, 2021); propriety contested February 2, 2021, including the requisite grounds for reconsideration; reapplication made December 30, 2021; denial March 18, 2022; reconsideration request made September 15, 2022, immediately followed by a notification that the SBA “is no longer accepting COVID-19 EIDL loan increase requests or requests for reconsideration of previously declined COVID-19 EIDL loan or increase requests.”²⁵⁶

B. Three Increase Applications: the Debacle, the Denial, and the Deficit

1. The First Increase Application and Debacle

As to the first denial, the reason provided for the first increase denial was the SBA's inability to obtain a copy of our tax record from the IRS. The letter dated January 14, 2021, was emailed 14 days later (Jan. 28, 2021) despite communications that day (Jan. 14, 2021) regarding the tax record, when no official decision had been made, whereafter an SBA General Counsel provided an SBA loan specialist contact on January 21, 2021, who called Petitioner later that day (Jan. 21, 2021) to offer assistance, and provided instructions to obtain a copy of the Company's tax record from a local IRS office here in Washington, D.C.

However, Petitioner was unable to make an appointment, because the first call dropped mid-conversation followed by “automated hang-ups” after “a dozen or so attempts” to call back, then, once reaching the cue and waiting over “40 minutes” the office closed. The following Monday Petitioner visited the local IRS office and was refused a meeting without an appointment, and waited “58 minutes”²⁵⁷ on hold on location while attempting to make an appointment by phone, as instructed there, followed by a mobile power outage, despite seeing no one else in line, and followed by further failed attempts to make an appointment by phone after leaving the local IRS tax office for a mobile phone recharge.

After describing this experience by email to the SBA, a denial letter was received on January 28, 2021, and dated January 14, 2021, with the reason being “No Record Found”²⁵⁸ regarding our tax record. The Company then sent a letter dated February 2, 2021, refusing the legitimacy of that letter, including the requisite reasons for reconsideration. No final decision has been made on that loan increase request even until today.

2. The Second Increase Application and Denial

As to the second denial, the increase request was made on December 30, 2021, and the denial letter was dated March 17, 2022. The reason stated was “your maximum eligibility of 24 months of working capital has been reached.” However, the Company did not receive 24 months of working capital. The June 16, 2020, EIDL agreement provided only six months of working capital based on 2018 financial reporting. When visiting USAspending.gov and searching for Pricecheck and Pricecheck Inc., the search resulted in “no result found.” However, when searching “Jordan Powell,” a Tennessee entity, “Jordan Powell Inc.” was discovered where approximately \$92,000 was loaned which reflects the rough equivalent of the 18 months of additional working capital (\$87,000, if 2018 financial reporting was used instead of our 2019 tax record) the SBA purports to have loaned to Pricecheck Inc. and is also origin dated June 16, 2020. Meanwhile, the Tennessee entity is in no way associated with the Company or the Petitioner.²⁵⁹

256 EXHIBIT 93

257 EXHIBIT 65

258 EXHIBIT 64.1

259 EXHIBIT 94 [Petitioner was directed to file an identity theft report to the FBI, FTC, or Secret Service followed by a report with the SBA, after

While this could be the result of some brief confusion, there is no good reason that the Company's loan should be unlisted from statutorily required publication on a federal government website.²⁶⁰

3. *The Final Increase Application and Deficit*

The Company made a third reconsideration request on September 15, 2022. The request was followed by notification the loan program funding had been exhausted.²⁶¹

C. Discussion

Earlier and later versions of the Small Business Act contain different loan calculation methodologies. The methodology pertaining to the first request turns on six months of “expenses” and the related reconsideration likely does as well considering both the 5th amendment due process clause²⁶² and a Government Accountability Office (GAO) report that speaks to unprocessed applications keeping their place in the application cue once reapplying after experiencing a “data incident” early in the direct loan program administration.²⁶³

As to the methodology of the second increase request, the calculation may be either expenses or working capital because the statutory provisions at the time of the second increase provided loan amounts according to working capital, however, there remains discussion as to whether the second increase request is an extension to the first or is an entirely new application. Moreover, each determination has varying results for the applicant where an extension would relate back to the initial increase request and be calculated on the basis of six-months of expenses whereas a new increase request perhaps could be calculated on the basis of 24 months of working capital.

There also leaves two remaining considerations: (1) that turns on whether the initial increase request was properly denied when the applicant made best efforts to obtain a tax record from the local IRS office at the direction of an SBA loan specialist on January 21, 2021, and the loan was summarily denied January 28, 2021, and back-dated January 14, 2021, and; (2) whether the February 2, 2021 letter refuting the legitimacy of the back-dated denial letter (without using the word “reconsideration,” including nevertheless, the requisite reasoning for reconsideration) was, in fact, a reconsideration request.

Importantly, emergency assistance under the Small Business Act contains a provision for “Increased Loan Caps” where the loan limit may be lifted for eligible small business concerns affected by the disaster by the Administrator under waiver authority based on economic indicators.²⁶⁴

Petitioner gave notice to the SBA regarding the impending petition. A report with the FTC and SBA was made January 19, 2023.]

260 “SBA will publish loan data, including recipient name, addresses, and amount received. The information is published on the USASpending.gov website pursuant to the requirements of the Data Act.” SMALL BUSINESS ADMINISTRATION (SBA), Supporting Statement for Paperwork Reduction Act Submission, Economic Injury Disaster Loan Application (EIDL) COVID-19, OMB Control Number 3245-0406, August 11, 2021 <https://omb.report/icr/202108-3245-001/doc/113948400>.

261 EXHIBIT 93

262 “The principle of disfavoring retroactive application of the law is rooted in the Fifth Amendment of the U.S. Constitution, i.e. the due process clause.” (In other words, it is not fair to change a law and have the dis-favorable provision apply to a person who relied on the provisions of the earlier version of the same law regarding the activity during the time the earlier version of the law was in force.) <https://www.law.cornell.edu/wex/retroactive>.

263 GAO-20-625: United States Government Accountability Office, Report to the Congress: COVID-19 Opportunities to Improve Federal Response and Recovery Efforts (June 2020), at 233.

264 Small Business Act Section (b)(8) Increased Loan Caps (B) Waiver Authority—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.

Moreover, a major disaster provides additional economic injury disaster loan assistance under section (b)9 of the Small Business Act where, affirmatively, there are no lending limits for *major disasters*²⁶⁵, as the case is here.²⁶⁶

D. Working Capital Considerations of Potential Options in Light of Clear and Unclear Restrictions

For our purposes here, it also appears relevant from a theoretical standpoint to preview the Company's potential for substantial asset management in the context of a unique set of interrelated realities in finance and law.

The Company's present capacity to deploy working capital today from a \$2.5 billion loan amount, as consistent with its 2019 expenses, presents a number of unique limitations and prospective challenges.

Three key determinations in resolving whether such a large sum can be managed responsibly are whether or not fixed income asset investments such as Treasury bills may appropriately be classified as a form of working capital; whether the loan increase may include at least one additional year of deferment; and whether litigation is a working capital expense, where if not, to what extent may revenue become reinvestment as litigation expense after predetermined principal and interest payment amounts are taken exclusively from such revenue.

As to Treasury bills, while the EIDL loan funds are suitable for “a wider-range of business working capital”²⁶⁷ the use of loan funds definition “is a bit vague”²⁶⁸ simply stating “to alleviate economic injury caused by disaster occurring in the month of January 31, 2020, and continuing thereafter.”²⁶⁹ While the SBA guidance referenced in this article is no longer available, Forbes restates the SBA's guidance in its May 20, 2020 article outlining the information provided then. However, neither Forbes' paraphrased restatement, the authorization agreement, nor the “Policies Applying to All Business Loans” regulation or the SBA's Office of Hearings and Appeals provide any guidance on Treasury Bill purchases as working capital. The best information available on the matter appears to be the “eligible use of proceeds” subsection of the regulation where: “A small business must use an SBA business loan for sound business purposes.”²⁷⁰ Accordingly, a sound business purpose justification for treasury bill purchases will be described as part of the potential three key solution provided further below.

As to deferment, the administrator may allow “full payment deferment relief (including payment of principal and interest) for a period of not more than 1 year”²⁷¹ and may provide “an additional deferment period if the borrower provides documentation justifying”²⁷² it, however, the period “may not exceed 4 years.” At this stage, the Company has received 30 months of deferment, and may be eligible for an additional one-year deferment consistent with documented justification.

265 A major disaster, as determined by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)

266 Small Business Act Section (b)(9) Declaration of Eligibility for Additional Disaster Assistance.

267 Brian Thompson: Forbes, “SBA Approving Economic Injury Disaster Loans (EIDLs): What You Need To Know”, May 20, 2020, <https://www.forbes.com/sites/brianthompson/2020/05/20/sba-approving-economic-injury-disaster-loans-eidls-what-you-need-to-know/?sh=2c3988966120>.

268 *Id.*

269 Loan Authorization and Agreement, SBA Form 1391 (5-00), Ref 50 30, Doc #L-01-5044411-01, at 3.

270 13 CFR § 120.120.

271 15 U.S. Code § 636 (a)(7)(B)(i).

272 15 U.S. Code § 636 (a)(7)(B)(ii).

As to litigation expense, “EIDL funds cannot be used for losses that are compensated by other sources.”²⁷³ Legal fees are often compensated by the liable party in a lawsuit and are likely classified as losses compensated by other sources, despite not finding specific guidance for this. Regardless, litigation is unlikely to be an acceptable use of EIDL funds in the context of working capital, especially since losses occurring prior to January 31, 2020, are inapplicable, and must remain dissected to the extent then later amplified by the economic injury caused by the disaster.²⁷⁴ However, revenues from operations resulting from the deployment of working capital are suitable for use in funding litigation. Although, since loans cannot be used for “[p]ayment of any part of a direct federal debt, (including SBA loans)” or “[p]aying down (including regular installment payments) or paying off loans provided, or owned by another federal agency (including SBA),”²⁷⁵ this utilization rests on the availability of remaining funds available exclusively from operating revenues.

Taken together, these three keys work to more soundly establish real underwriting feasibility for the loan amount under the conditions outlined here.²⁷⁶ The combination of Treasury bills, a one-year deferment, and bifurcated accounting standards between loan proceeds and operating revenue informs the following feasibility overview.

Foremost, the loan is not feasible without a one-year deferment granted the amortization schedule of principal and interest payment fees for a loan of this size in contrast with operating revenue projections and the use of proceeds limitation restricting “payment of any part of federal debt.” Essentially and soundly, the business must generate adequate revenues from working capital to meet federal debt repayments.

Although, with a one-year deferment, the debt can be soundly serviced with the addition of capital gains from treasury bill purchases. For instance, the Company's 2019 expenses were \$4,972,689,931 resulting in an appropriate loan amount calculation of \$2,486,344,965 where also the most recently cited 52-week treasury bill price per \$100 was 95.434833 on December 29, 2022, where a \$2.4 billion purchase would yield \$109,564,008 at year end.²⁷⁷ The \$86,344,965 remaining cash would be exclusively for working capital throughout year-one as no payments would be due or could be made. In year-two, the annual payment would be approximately \$138,175,814. Treasury bill revenue from year-one would be used to pay the majority of year-two monthly payments of approximately \$11.5 million supplemented by year-two non-Treasury bill revenues of \$29,925,512²⁷⁸ totaling \$139,489,520 and leaving \$1,313,705 for litigation expenses year-two, essentially for preliminary injunction(s) to use our own intellectual property without being successfully sued and other time-sensitive necessities like tolling the antitrust claim, early settlement talks, and litigation finance applications with businesses like Burford Capital, suitable for providing adequate levels of capital, up to \$100 million, specifically for litigation expenses.

273 Brian Thompson: Forbes, “SBA Approving Economic Injury Disaster Loans (EIDLs): What You Need To Know”, May 20, 2020, <https://www.forbes.com/sites/brianthompson/2020/05/20/sba-approving-economic-injury-disaster-loans-eids-what-you-need-to-know/?sh=6abd26a46120>.

274 *Id.* “[W]e do know that EIDL funds cannot be used for losses that are compensated by other sources. Other sources include but are not limited to: ... claims for civil liability against other individuals, organizations or governmental entities... .”

275 *Id.*

276 13 CFR § 120.120 What are eligible uses of proceeds? “A small business must use an SBA business loan for sound business purposes. The uses of proceeds are prescribed in each loan's Authorization.”

277 Regarding tax paid with loan proceeds: (IRS obligation are excluded from inapplicable federal obligation repayment restrictions.)

278 See Pricecheck Financial Projections, and Additional Materials to SBA Increase Application, provided Dec. 30, 2021 (EXHIBIT 76).

NATURE of

RELIEF SOUGHT

Despite the surrogate market price financial data as high as \$137 billion, as derived from the immediate reduction in Ant Financial's valuation as of April 30, 2021, to \$69 billion from \$205 billion, directly following Petitioner's April 23, 2021 disclosure and request for assistance from MOIAT and the April 28, 2021 notification of intention to file a petition then sent to the press office of this Court, Petitioner seeks an EIDL loan on behalf of the Company consistent with the law at the time the loan agreement authorization between the SBA and the Company was made (June 19, 2020) and when the increase provision was exercised (August 27, 2020).

The loan amount calculations according to six months of expenses, and were based on 2018 or 2019 tax records.²⁷⁹ The Company's 2019 tax record reflects \$47,176,434,719 in total assets and \$4,972,689,931 in total expenses, including amortization.²⁸⁰ Thereby, the loan total calculation total consistent with the Cares Act is \$2,486,344,965.50 and remains the total economic injury disaster loan sought now for over 850 days.

As to the Executive, the President of the United States holds the most demanding job in all of government. Today's world demands a capacity from executives in business and government like never before. The intensity of demand for attention to tremendous detail for hours at a time followed by crystal clear reasoning and synthesis of relevant points, through a cloud of noise, for a numerosity of consequential decisions may not be what our founders had planned for someone in their 80s, for our national leadership, when life expectancy at birth was 39 in 1776.²⁸¹ Due to advancements in medicine since then we know, there's a 20% greater chance of cognitive decline after age 75, and in a world with 'Unexplained Health Instances'²⁸² alongside geopolitical landscape complexities never before seen, it may be possible that the highly technical patent law and engineering technicality of the controversy was misunderstood. Considering this, the most to be said here by the Petitioner, entirely on the condition of evidence, is that Executive acts or omissions here may have obstructed an absolute legal right in the pursuit of justice. However, the President's state of mind in the scope of his duty concerning his capacity to address today's challenges is, of course, a matter for the countenance of the President or the conscience of Congress.

As to antitrust enforcement, in the likelihood of an ongoing investigation by the Department of Justice²⁸³, Petitioner requests a status report be provided to the Company for the purposes of retaining outside counsel for settlement or litigation, later supported perhaps by amicus curie. Without speaking for the Company, Petitioner intends in his ownership capacity to defer to Justice on setting an appropriate level of deterrent to anti-competitive activities now and in the future. Objectively speaking, treble damages and joint and

279 EXHIBIT 2

280 Eagle Mill Supply, Inc., SBA No. SIZ-93-5-3-51 (June 22, 1993). (The SBA Office of Hearings and Appeals recognizes amortization as an expense: "Respecting analysis of the cost of manufacturing in the instant case, the Appellant lists its itemized costs, comprising a total of \$5.54 (including \$.90 per part as "Amortized Tool Cost"), the charge, per part, of Engineered Products of \$1.20 (which we take to exclude the cost of materials, i.e., the plastic), resulting in a total cost of \$6.74 per pan.")

281 Max Roser, Esteban Ortiz-Ospina and Hannah Ritchie (2013) - "Life Expectancy". Published online at OurWorldInData.org. Retrieved from: <https://ourworldindata.org/life-expectancy> [Online Resource].

282 National Academies of Sciences, Engineering, and Medicine 2020. *An Assessment of Illness in U.S. Government Employees and Their Families at Overseas Embassies*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25889>.

283 *United States v. Borden Co.*, 347 U.S. 514, 518-19 (1954). Holding, "private-injunction action . . . supplements Government enforcement of the antitrust laws; but it is the Attorney General and the United States district attorneys who are primarily charged by Congress with the duty of protecting the public interest under these laws . . . Congress did not intend that the efforts of a private litigant should supersede the duties of the Department of Justice in policing an industry." See also, Antitrust Federalism, MICHAEL MURRAY, Deputy Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Remarks as Prepared for Discussion at Antonin Scalia Law School, Arlington, Virginia, (teleconference from Washington, D.C.), August 31, 2020, <https://www.justice.gov/opa/speech/file/1351066/download>, at 11-12.

several liability may not appropriately reflect the will of the legislature here, where the multiples of FinTech businesses in today's market conditions led to a lawsuit against Google in the 100s of billions in 2019. Even now with the realization they were “following Ant's lead,” the point and purpose of competition laws remain in the best interest of consumers.²⁸⁴ Accordingly, it seems more reasonable to limit financial penalties on 'followers' and in the alternative to perhaps require mandatory continuing business law education courses for publicly traded company executives tied to the dispute instead of institutional damages and fees that would mostly impact the pension funds and other retirement accounts of hardworking Americans across the nation, or perhaps any other leniency provisions available to those who come forward and cooperate.²⁸⁵ Furthermore, a settlement (that guarantees repayment of the loan increase) and serves as an appropriate deterrent for Ant and other Chinese businesses involved, should be limited by the best interest of consumers internationally, which serves to benefit the interests of domestic consumers as a matter of international trade and other multilateral agreements.

Fortunately, after Petitioner sent a working copy of this petition to the House and Senate Judiciary Committees in an email with the subject “RED ALERT” on December 17, 2022, whereafter Congress passed the *Protecting American Intellectual Property Act of 2022*, by the Senate on December 20, 2022, by the House December 22, 2022, and signed into law by the President January 5, 2023. Two days later, Reuters reports “Ant Group founder Jack Ma to give up control in key revamp”²⁸⁶ on January 7, 2023.

Accordingly, the nature of relief here would balance the power of industry parties, result in access to the adequate, Congressionally appropriated, resources “to alleviate economic injury caused by disaster occurring in the month of January 31, 2020 and continuing thereafter,” ensure the protection of the Petitioner and the Company after years of unlawful degradation, and present very little financial or international relations risk to the United States.

CONCLUSION

A Writ from the Court here will ensure the fruits of American entrepreneurial labor remain in the United States—the home of the brave, the land of the free, and where justice prevails.

Respectfully Submitted,



Jordan Thomas Taylor Powell

March 7, 2023

²⁸⁴ “As former Assistant Attorney General Bill Baer said in 2014, “federal enforcement seeks to protect the interest of all consumers across the nation... .” Bill Baer, Assistant Att’y General, Antitrust Div. U.S. Dep’t of Justice, Public and Private Antitrust Enforcement in the United States, Remarks as Prepared for Delivery to European Competition Forum (Feb. 11, 2014), <https://www.justice.gov/atr/file/517756/download>.”

²⁸⁵ Sec. Antitrust Enhancements Act of 2004.

²⁸⁶ Yingzhi Yang, Brenda Goh, and Kand Wu, Reuters, *Ant Group founder Jack Ma to give up control in key revamp*, January 7, 2023, <https://www.reuters.com/business/ant-group-says-jack-ma-relinquishes-control-company-2023-01-07/>.