

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE                  FILING OR DETERMINATION OF AN                  ACTION REGARDING A PATENT OR                  TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court SDTX-Houston on the following  Patents or  Trademarks:

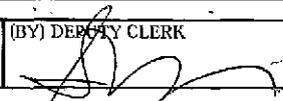
DOCKET NO. 4:08-cv-03353	DATE FILED 11/1/2008	U.S. DISTRICT COURT SDTX-Houston
PLAINTIFF Environmental Analytics, Inc.		DEFENDANT TMX2, Inc., LDAR Solutions, LTD.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1	7,369,945 B2	see attached complaint
2		
3		
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In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK
HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK <b>MICHAEL N. MILBY</b>	(BY) DEPUTY CLERK 	DATE NOV 12 2008
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Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ENVIRONMENTAL ANALYTICS, INC.

*Plaintiff,*

vs.

TMX2, INC. and  
LDAR SOLUTIONS, LTD.

*Defendants.*

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Case No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff Environmental Analytics, Inc. ("EAI") brings this action against defendants TMX2, Inc. ("TMX2") and LDAR Solutions, Ltd. ("LDAR Solutions"), and alleges:

**THE PARTIES**

1. EAI is a corporation organized and existing under the laws of the State of Texas, and having a principal place of business at 1322 Space Park Drive, Suite B275, Houston, Texas 77058-3486.

2. TMX2 is a corporation organized and existing under the laws of Texas, has a principal place of business at 400 South Highway 146, Baytown, Texas 77500-2284, has designated its registered agent in Texas for purposes of service of process as Terry W. Miller, 400 South Highway 146, Baytown, Texas 77520-2284, and is doing business in this judicial district.

3. LDAR Solutions is a limited partnership organized and existing under the laws of Texas, has a principal place of business at 400 South Highway 146, Baytown, Texas 77500-2284, has designated its registered agent in Texas for purposes of service of process as Weston Cotten, 5223 Garth Road, Baytown, Texas 77521-9642, and is doing business in this judicial district.

**JURISDICTION AND VENUE**

4. This is an action for a declaratory judgment of invalidity of U.S. Patent No. 7,369,945 (“the ‘945 patent”) arising under the provisions of the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.* A copy of the ‘945 patent is attached hereto as Exhibit A.

5. Subject-matter jurisdiction over EAI’s claims is conferred upon this Court by 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

6. Each defendant is subject to personal jurisdiction in Texas and this judicial district, and is doing business in this judicial district.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c).

**DECLARATORY JUDGMENT**

**INVALIDITY OF THE ‘945 PATENT**

8. Upon information and belief, TMX2 is the purported owner of the ‘945 patent, and LDAR Solutions is the purported exclusive licensee under the ‘945 patent.

9. Shortly following issuance of the ‘945 patent in May 2008, TMX2 and LDAR Solutions, by and through Terry Miller, contacted EAI and told Rex Moses that EAI was infringing the ‘945 patent and needed to take a license under the ‘945 patent.

10. Pursuant to 28 U.S.C. §§ 2201 and 2202, an actual controversy has arisen and now exists between EAI and defendants related to the invalidity of the ‘945 patent, and EAI requests a declaration of the rights and legal relations of the parties related thereto.

11. The claims of the ‘945 patent are invalid for failure to comply with one or more of the requirements of the United States Patent Act, United States Code, Title 35, including without limitation 35 U.S.C. §§ 102, 103 and 112.

12. Consequently, pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, EAI is entitled to entry by the Court of a declaratory judgment that the claims of the '945 patent are invalid for failure to comply with one or more of the requirements of the United States Patent Act, United States Code, Title 35, including without limitation 35 U.S.C. §§ 102, 103 and 112.

**PRAYER FOR RELIEF**

**WHEREFORE**, EAI prays that:

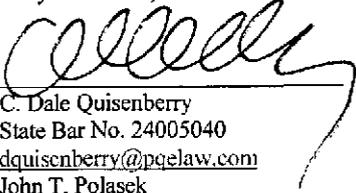
- A. The Court enter a declaratory judgment that the claims of the '945 patent are invalid;
- B. EAI be granted permanent injunctive relief enjoining each defendant, its officers, agents, servants, employees, subsidiaries, affiliates, and those persons in active concert or participation with them from suing or threatening to sue EAI and/or any of its customers for infringement of the '945 patent and/or from enforcing or attempting to enforce the '945 patent, whether by licensing, attempted licensing, or otherwise;
- C. The Court declare this to be an exceptional case in accordance with 35 U.S.C. § 285;
- D. EAI be granted its reasonable attorneys' fees;
- E. Costs be awarded to EAI; and,
- F. EAI be granted such other and further relief as the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

EAI demands trial by jury on all claims and issues so triable.

Respectfully submitted,

Dated: November 11, 2008

By: 

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ATTORNEYS FOR PLAINTIFF

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p><b>I. (a) PLAINTIFF</b></p> <p><b>Environmental Analytics, Inc.</b></p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF</p>	<p><b>DEFENDANTS</b></p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONVEYANCE CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</p>
<p>(c) <b>ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</b></p> <p>C. Dale Quisenberry John T. Polasek Jeffrey S. David POLASEK, QUISENBERRY &amp; ERRINGTON, L.L.P. 6750 West Loop South, Suite 920 Bellaire, Texas 77401 Telephone: (832) 778-8000</p>	<p><b>ATTORNEYS (IF KNOWN)</b></p>

<p><b>II. BASIS OF JURISDICTION</b> (PLACE AN "X" IN ONE BOX ONLY)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (For Diversity Cases Only)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;"><b>PTF DEF</b></td> <td style="width:33%;"></td> <td style="width:33%; text-align: center;"><b>PTF DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="checkbox"/> 4 <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5 <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6 <input type="checkbox"/> 6</td> </tr> </table>		<b>PTF DEF</b>		<b>PTF DEF</b>	Citizen of This State	<input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6														

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 161 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p>	<p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product</p> <p><input type="checkbox"/> 320 Assault Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><b>PERSONAL INJURY - Med. Malpractice</b></p> <p><input type="checkbox"/> 362 Personal Injury - Med. Malpractice</p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 610 Agriculture</p> <p><input type="checkbox"/> 620 Other Food &amp; Drug</p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 630 Liquor Laws</p> <p><input type="checkbox"/> 640 R.R. &amp; Truck</p> <p><input type="checkbox"/> 650 Airline Regs.</p> <p><input type="checkbox"/> 660 Occupational Safety/Health</p> <p><input type="checkbox"/> 690 Other</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 620 Copyrights</p> <p><input checked="" type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce/ICC Rates/etc.</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 610 Selective Service</p> <p><input type="checkbox"/> 650 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 875 Customer Challenge 12 USC 3410</p> <p><input type="checkbox"/> 691 Agricultural Acts</p> <p><input type="checkbox"/> 892 Economic Stabilization Act</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 894 Energy Allocation Act</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p>	
<p><b>REAL PROPERTY</b></p> <p><input type="checkbox"/> 210 Land Condemnation</p> <p><input type="checkbox"/> 220 Foreclosure</p> <p><input type="checkbox"/> 230 Rent Lease &amp; Ejectment</p> <p><input type="checkbox"/> 240 Torts to Land</p> <p><input type="checkbox"/> 245 Tort Product Liability</p> <p><input type="checkbox"/> 290 All Other Real Property</p>	<p><b>CIVIL RIGHTS</b></p> <p><input type="checkbox"/> 441 Voting</p> <p><input type="checkbox"/> 442 Employment</p> <p><input type="checkbox"/> 443 Housing Accommodations</p> <p><input type="checkbox"/> 444 Welfare</p> <p><input type="checkbox"/> 440 Other Civil Rights</p>	<p><b>PRISONER PETITIONS</b></p> <p><input type="checkbox"/> 510 Motions to Vacate Sentence</p> <p><b>HABEAS CORPUS:</b></p> <p><input type="checkbox"/> 530 General</p> <p><input type="checkbox"/> 535 Death Penalty</p> <p><input type="checkbox"/> 540 Mandamus &amp; Other</p> <p><input type="checkbox"/> 550 Civil Rights</p> <p><input type="checkbox"/> 555 Prison Condition</p>	<p><b>LABOR</b></p> <p><input type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Mgmt. Relations</p> <p><input type="checkbox"/> 730 Labor/Mgmt. Reporting &amp; Disclosure Act</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 760 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act</p>	<p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1 395f)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSID Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p>	<p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS - Third Party 26 USC 7609</p>

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from another district (specify)     6 Multidistrict Litigation     7 Appeal to District Judge From Magistrate Judgment

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

35 U.S. § 271 - Patent Infringement

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER FR.C.P. 23

DEMAND Injunction and Demand CHECK YES only if demanded in complaint: JURY DEMAND:  YES  NO

**VIII. RELATED CASE(S) IF ANY:** (See Instructions):

DATE November 11, 2008      SIGNATURE OF ATTORNEY OF RECORD *Colleen*

FOR OFFICE USE ONLY    RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFF \_\_\_\_\_

JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_