

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

TIM NEILAN, on behalf of)	
himself and all others similarly situated,)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	
GUITAR CENTER, INC.,)	
)	
Defendant.)	

CLASS ACTION COMPLAINT

Plaintiff Tim Neilan, individually and on behalf of all others similarly situated, by and through his counsel, bring this Class Action Complaint against Defendant Guitar Center, Inc. (“Defendant” or “Guitar Center”). Plaintiff, on his own behalf and on behalf of a class of similarly situated individuals, alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

I. NATURE OF THE ACTION

1. Mass. Gen Laws ch. 93 § 105(a) addresses and prevents the misuse and improper collection of personal identification information by retailers, and recognizes that there is no legitimate need to obtain such personal information from credit card customers except to the extent it is strictly necessary to complete the transaction.

2. Specifically, Mass. Gen Laws ch. 93 § 105(a) states that:

No person, firm, partnership, corporation or other business entity that accepts a credit card for a business transaction shall write, cause to be written or require that a credit card holder write personal identification information, not required by the credit card issuer, on the credit card transaction form. Personal

identification information shall include, but shall not be limited to, a credit card holder's address or telephone number.

3. This action arises from Guitar Center's violation of Mass. Gen Laws ch. 93 § 105(a) through its practice of requiring, as a condition of using a credit card to make a purchase, Plaintiff's and the Class members' personal identification information, specifically their ZIP codes. This conduct, and these violations of ch. 93 § 105(a), constitute violations of Mass. Gen Laws ch. 93A.

4. Accordingly, Plaintiff brings this action on behalf of the below-defined Class and seeks statutory damages pursuant to Mass. Gen Laws ch. 93A § 9, double or treble damages pursuant to Mass. Gen Laws ch. 93A § 9, injunctive relief, and costs and attorneys' fees.

II. JURISDICTION AND VENUE

5. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d)(2). In the aggregate, Plaintiff's claims and the claims of the other members of the Class exceed \$5,000,000 exclusive of interest and costs, and there are numerous class members who are citizens of states other than Guitar Center's respective states of citizenship.

6. This Court has personal jurisdiction over Guitar Center because this action arises from Guitar Center's transaction of business in Massachusetts. This Court also has personal jurisdiction over Guitar Center because, at all relevant times, Guitar Center was registered to do business in the State of Massachusetts and is therefore subject to general jurisdiction in this State.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1), (2) and 1391(c) as: Guitar Center is deemed to reside in this District because it is subject to personal jurisdiction here; a substantial part of the events and/or omissions giving rise to the claims

emanated from activities within this District; and Guitar Center conducts substantial business in this District.

III. PARTIES

Plaintiff

8. Tim Neilan is a natural person and citizen of the State of Massachusetts.

Defendant

9. Guitar Center is a corporation incorporated and existing under the laws of the state of Delaware with its headquarters located at 5795 Lindero Canyon Road, Westlake Village, California 91362. Guitar Center conducts business throughout the United States and Massachusetts.

IV. FACTUAL BACKGROUND

Guitar Center's Unlawful Collection of PII

10. On December 6, 2012, Plaintiff shopped and purchased items at a Guitar Center retail store location in Danvers, Massachusetts.

11. To consummate each purchase, Plaintiff elected to use, and did use, his credit card as his form of payment.

12. As a condition of using his credit card, Plaintiff was required by Guitar Center to enter personal identification information associated with the credit card, including his full and complete zip code.

13. Guitar Center is not required by credit card issuers to require this information from consumers.

14. Guitar Center recorded Plaintiff's zip code into an electronic credit card transaction form. Guitar Center continues to store Plaintiff's personal identification information, including Plaintiff's name, zip code, and credit card number, in its databases.

15. The Supreme Judicial Court of Massachusetts has determined that a zip code constitutes personal identification information ("PII") within the meaning of Mass. Gen Laws ch. 93 § 105(a). *See Tyler v. Michaels Stores, Inc.*, 984 N.E.2d 737, 744 (Mass. 2013).

Receipt of Unwanted Marketing Materials

16. Subsequent to Plaintiff's purchases at Guitar Center – detailed above – Plaintiff received unwanted marketing materials via United States Mail.

Consumers Place a High Value on Their PII

17. At a Federal Trade Commission ("FTC") public workshop in 2001, then-Commissioner Orson Swindle described the value of a consumer's personal information as follows:

The use of third party information from public records, information aggregators and even competitors for marketing has become a major facilitator of our retail economy. Even [Federal Reserve] Chairman [Alan] Greenspan suggested here some time ago that it's something on the order of the life blood, the free flow of information.¹

18. Though Commissioner's Swindle's remarks are more than a decade old, they are even more relevant today, as consumers' personal data functions as a "new form of currency" that supports a \$26 billion per year online advertising industry in the United States.²

¹ *The Information Marketplace: Merging and Exchanging Consumer Data*, <http://www.ftc.gov/bcp/workshops/infomktplace/transcript.htm> (last visited May 28, 2013).

² *See Web's Hot New Commodity: Privacy*, <http://online.wsj.com/article/SB10001424052748703529004576160764037920274.html> (last visited May 28, 2013).

19. The FTC has also recognized that consumer data is a new – and valuable – form of currency. In a recent FTC roundtable presentation, another former Commissioner, Pamela Jones Harbour, underscored this point by observing:

Most consumers cannot begin to comprehend the types and amount of information collected by businesses, or why their information may be commercially valuable. Data is currency. The larger the data set, the greater potential for analysis – and profit.³

20. Recognizing the high value that consumers place on their PII, many companies now offer consumers an opportunity to sell this information to advertisers and other third parties. The idea is to give consumers more power and control over the type of information that they share – and who ultimately receives that information. And by making the transaction transparent, consumers will make a profit from the surrender of their PII.⁴ This business has created a new market for the sale and purchase of this valuable data.⁵

21. In fact, consumers not only place a high value on their PII, but also place a high value on the *privacy* of this data. Thus, the question is not *whether* consumers value such privacy; the question is “*how much* [consumers] value” that privacy.⁶

³ *Statement of FTC Commissioner Pamela Jones Harbour* (Remarks Before FTC Exploring Privacy Roundtable), <http://www.ftc.gov/speeches/harbour/091207privacyroundtable.pdf> (last visited May 28, 2013).

⁴ *You Want My Personal Data? Reward Me for It*, <http://www.nytimes.com/2010/07/18/business/18unboxed.html> (last visited May 28, 2013).

⁵ *See Web’s Hot New Commodity: Privacy*, <http://online.wsj.com/article/SB10001424052748703529004576160764037920274.html> (last visited May 28, 2013).

⁶ Hann *et al.*, *The Value of Online Information Privacy: An Empirical Investigation* (Mar. 2003) at 2, available at <http://www.comp.nus.edu.sg/~ipng/research/privacy.pdf> (emphasis added) (last visited May 28, 2013).

22. Researchers have already begun to shed light on how much consumers value their data privacy – and the amount is considerable. Indeed, studies confirm that “when [retailers’] privacy information is made more salient and accessible, some consumers are willing to pay a premium to purchase from privacy protective websites.”⁷

23. Consumers thus value their personal data highly, and place an economic value on the privacy of that data. In fact, when consumers were surveyed as to how much they valued their personal data in terms of its protection against improper access and unauthorized secondary use – two concerns at issue here – they valued the restriction of improper access to their data at between \$11.33 and \$16.58 per website, and prohibiting secondary use to between \$7.98 and \$11.68 per website.⁸

V. CLASS ACTION ALLEGATIONS

24. Plaintiff brings Count I, as set forth below, on behalf of himself and as a class action, pursuant to the provisions of Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure on behalf of a class defined as

All persons from whom Guitar Center requested and recorded personal identification information in conjunction with a credit card transaction occurring in Massachusetts (the “Class”).

Excluded from the Class are Guitar Center and its subsidiaries and affiliates; all persons who make a timely election to be excluded from the Class; governmental entities; and the judge to whom this case is assigned and any immediate family members thereof.

⁷ Tsai, Cranor, Acquisti, and Egelman, *The Effect of Online Privacy Information on Purchasing Behavior*, 22(2) Information Systems Research 254, 254 (June 2011).

⁸ *Id.*

25. Certification of Plaintiff's claims for classwide treatment is appropriate because Plaintiff can prove the elements of his claims on a classwide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

26. **Numerosity – Federal Rule of Civil Procedure 23(a)(1).** The members of the class are so numerous that individual joinder of all Class members is impracticable. On information and belief, there are thousands of consumers who have been affected by Guitar Center's wrongful conduct. The precise number of the Class members and their addresses is presently unknown to Plaintiff, but may be ascertained from Guitar Center's books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

27. **Commonality and Predominance – Federal Rule of Civil Procedure 23(a)(2) and 23(b)(3).** This action involves common questions of law and fact, which predominate over any questions affecting individual Class members, including, without limitation:

- a. whether Guitar Center engaged in the conduct as alleged herein;
- b. whether Guitar Center's conduct constitutes violations of Mass. Gen Laws ch. 93 § 105(a) and Mass. Gen Laws ch. 93A § 9;
- c. whether Plaintiff and the other Class members are entitled to statutory, or other forms of damages, and other monetary relief and, if so, in what amount(s); and
- d. whether Plaintiff and other Class members are entitled to equitable relief, including but not limited to injunctive relief and restitution.

28. **Typicality – Federal Rule of Civil Procedure 23(a)(3).** Plaintiff's claims are typical of the other Class members' claims because, among other things, all Class members were comparably injured through the uniform misconduct described above.

29. **Adequacy of Representation – Federal Rule of Civil Procedure 23(a)(4).** Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the other Class members he seeks to represent; he has retained counsel competent and experienced in complex class action litigation; and Plaintiff intends to prosecute this action vigorously. The Class members' interests will be fairly and adequately protected by Plaintiff and his counsel.

30. **Declaratory and Injunctive Relief – Federal Rule of Civil Procedure 23(b)(2).** Guitar Center has acted or refused to act on grounds generally applicable to Plaintiff and the other Class members, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to Class members as a whole.

31. **Superiority – Federal Rule of Civil Procedure 23(b)(3).** A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against Guitar Center, so it would be impracticable for Class members to individually seek redress from Guitar Center's wrongful conduct. Even if Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management

difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

VI. CLAIMS ALLEGED

COUNT I

Violation of Massachusetts Unfair Trade Practices Act Mass. Gen. Laws ch. 93A (On behalf of Plaintiff and the Class)

32. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

33. Mass. Gen Laws ch. 93 § 105(a) provides:

No person, firm, partnership, corporation or other business entity that accepts a credit card for a business transaction shall write, cause to be written or require that a credit card holder write personal identification information, not required by the credit card issuer, on the credit card transaction form. Personal identification information shall include, but shall not be limited to, a credit card holder's address or telephone number.

34. Guitar Center is a corporation that accepts credit cards for retail transactions.

35. Through the practices detailed above, Guitar Center has violated, and continues to violate, Mass. Gen Laws ch. 93 § 105.

36. Mass. Gen. Laws ch. 93 § 105(c) provides that: "Any violation of the provisions of this chapter shall be deemed to be an unfair and deceptive trade practice, as defined in section 2 of chapter 93A."

37. Accordingly, Guitar Center's violations of Mass. Gen Laws ch. 93 § 105 constitute unfair and deceptive trade practices within the meaning of Mass. Gen Laws ch. 93A § 2.

38. Mass. Gen Laws ch. 93A § 9 provides:

Any person ... who has been injured by another person's use or employment of any method, act or practice declared to be unlawful by section two ... may bring an action in the superior court ... for damages and such equitable relief, including an injunction, as the court deems to be necessary and proper Any persons entitled to bring such action may, if

the use or employment of the unfair or deceptive act or practice has caused similar injury to numerous other persons similarly situated and if the court finds in a preliminary hearing that he adequately and fairly represents such other persons, bring the action on behalf of himself and such other similarly injured and situated persons.

39. Plaintiff and the members of the Class have been injured by Guitar Center's collection of their zip codes in connection with their credit card transactions and resultant violations of Mass. Gen Laws ch. 93A § 9.

40. First, Plaintiff and the Class have been injured because they have received unwanted marketing materials after having provided their zip codes when using credit cards at Guitar Center. And second, Plaintiff and the Class have been injured because Guitar Center misappropriated their economically valuable PII without consideration.

41. Prior to filing suit, Plaintiff made a pre-suit demand pursuant to Mass. Gen Laws ch. 93A § 9(3) (the "93A Demand"), in which Plaintiff sought: class-wide relief limited to statutory damages of \$25 pursuant to Mass. Gen Laws ch. 93A § 9, for each violation of Mass. Gen Laws ch. 93 § 105; injunctive relief; and reasonable attorneys' fees and costs. A true and correct copy of the 93A Demand is attached here as Exhibit A. Subsequently, Guitar Center rejected the terms of this demand.

42. Guitar Center's rejection of this demand was made in bad faith, because Guitar Center has knowledge or reason to know that the practice complained of does, in fact, violate Mass. Gen Laws ch. 93 § 105 and Mass. Gen Laws ch. 93A § 9, and that Plaintiff and the Class are entitled to the relief demanded as a matter of law.

43. Accordingly, Plaintiff and the Class are entitled to double or treble damages as a result of Guitar Center's bad faith violations of Mass. Gen Laws ch. 93A § 9.

VII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, requests that the Court enter an order and judgment in her favor and against Guitar Center as follows:

- a. Certification of the proposed Class pursuant to Federal Rules of Civil Procedure 23(a), (b)(2) and (b)(3);
- b. Designation of Plaintiff as representative of the propose Class and designation of Plaintiff's counsel as Class Counsel;
- c. Declaration that Defendant's actions, as described herein, violate Mass. Gen Laws ch. 93 § 105 and Mass. Gen Laws ch. 93A § 9;
- d. Awarding statutory damages of \$25 pursuant to Mass. Gen Laws ch. 93A § 9, for each violation of Mass. Gen Laws ch. 93 § 105;
- e. Doubling or trebling damages pursuant to Mass. Gen Laws ch. 93A § 9;
- f. Enjoining Defendant's continued violations of Mass. Gen Laws ch. 93 § 105, pursuant to Mass. Gen Laws ch. 93A § 9;
- g. Awarding Plaintiff and the Class their reasonable litigation expenses and attorneys' fees;
- h. Awarding Plaintiff and the Class pre- and post-judgment interest; and
- i. Such other and further relief as may be just and proper.

Dated: May 29, 2013

Respectfully submitted,

TIM NEILAN, on behalf of himself
and all others similarly situated

By: 
One of the Attorneys for Plaintiff
And the Proposed Putative Classes

Joseph J. Siprut*
jsiprut@siprut.com
Aleksandra M.S. Vold*
avold@siprut.com
Tyler M. Zanders*
tzanders@siprut.com

SIPRUT PC

17 North State Street, Suite 1600
Chicago, Illinois 60602
Tel: 312.236.0000
Fax: 312.948.9196

Alexander Shapoval, Esq.
BBO#654543
ashapoval@siprut.com

SIPRUT PC

1 Winnisimmet Street
Chelsea, MA 02150
Tel: 617.889.5800
Fax: 617.884.3005

* *Pro Hac Vice* application to be submitted

4823-7308-9556, v. 1

EXHIBIT A



17 NORTH STATE STREET
SUITE 1600
CHICAGO, ILLINOIS 60602
PHONE: 312.236.0000
FAX: 312.878.1342

Joseph J. Siprut
jsiprut@siprut.com

April 23, 2013

VIA FEDERAL EXPRESS AND CERTIFIED U.S. MAIL

Guitar Center, Inc.
c/o C T Corporation System
101 Federal Street
Boston, MA 02110

**Re: *Notice of Claims Pursuant to Mass. Gen Laws ch. 93A § 9
for Violations of Mass. Gen Laws ch. 93 § 105***

Dear Sir or Madam:

I am writing to you under the provisions of Massachusetts General Laws, Chapter 93A, Section 9, and to request relief as outlined in that statute.

Mass. Gen Laws ch. 93 § 105(a) addresses and prevents the misuse and improper collection of personal identification information by retailers, and recognizes that there is no legitimate need to obtain such personal information from credit card customers except to the extent it is strictly necessary to complete the transaction. Specifically, Mass. Gen Laws ch. 93 § 105(a) states that:

No person, firm, partnership, corporation or other business entity that accepts a credit card for a business transaction shall write, cause to be written or require that a credit card holder write personal identification information, not required by the credit card issuer, on the credit card transaction form. Personal identification information shall include, but shall not be limited to, a credit card holder's address or telephone number.

We contend that Guitar Center is in violation of Mass. Gen Laws ch. 93 § 105(a) through its practice of requiring, as a condition of using a credit card to make a purchase, consumers' personal identification information, and specifically their ZIP codes. The Supreme Judicial Court of Massachusetts has determined that a zip code constitutes personal identification information ("PII") within the meaning of Mass. Gen Laws ch. 93 § 105(a). *See Tyler v. Michaels Stores, Inc.*, 2013 Mass. LEXIS 40 (2013).

Mass. Gen. Laws ch. 93 § 105(c) provides that: "Any violation of the provisions of this chapter shall be deemed to be an unfair and deceptive trade practice, as defined in section 2 of chapter 93A." Accordingly, Guitar Center's violations of Mass. Gen Laws ch. 93 § 105 constitute unfair and deceptive trade practices within the meaning of Mass. Gen Laws ch. 93A § 2.

Mass. Gen Laws ch. 93A § 9 provides:



Any person ... who has been injured by another person's use or employment of any method, act or practice declared to be unlawful by section two ... may bring an action in the superior court ... for damages and such equitable relief, including an injunction, as the court deems to be necessary and proper Any persons entitled to bring such action may, if the use or employment of the unfair or deceptive act or practice has caused similar injury to numerous other persons similarly situated and if the court finds in a preliminary hearing that he adequately and fairly represents such other persons, bring the action on behalf of himself and such other similarly injured and situated persons.

My client ("Plaintiff"), and all similarly situated individuals from whom Guitar Center requested and recorded PII in conjunction with a credit card transaction occurring in Massachusetts (the "Class"), have been injured by Guitar Center's violations of Mass. Gen Laws ch. 93A § 9. First, Plaintiff and the Class have been injured because they have received unwanted marketing materials from Guitar Center as a result of having provided their zip codes when using credit cards at Guitar Center. Second, Plaintiff and the Class have been injured because Guitar Center misappropriated their economically valuable PII without consideration.

* * *

We demand that Guitar Center pay Plaintiff and the Class statutory damages of \$25 pursuant to Mass. Gen Laws ch. 93A § 9, for each violation of Mass. Gen Laws ch. 93 § 105, and that Guitar Center cease and desist from this unlawful conduct. We also demand reasonable attorneys' fees and costs, and a reasonable incentive award for Plaintiff for services as the proposed Class representative.

Please note that if Guitar Center fails to accept the terms of this demand, given that Guitar Center knows or should know that the practice complained of does, in fact, violate Mass. Gen Laws ch. 93 § 105 and Mass. Gen Laws ch. 93A § 9, and that Plaintiff and the Class are entitled to the relief demanded as a matter of law, Guitar Center may be subject to double or treble damages under Mass. Gen Laws ch. 93A § 9.

We require a response to this demand within 30 days. If we do not receive a response, we will commence a civil lawsuit against Guitar Center based on the facts and claims in this letter.

Yours sincerely,

A handwritten signature in cursive script that reads "Joseph J. Siprut / LLW".

Joseph J. Siprut

cc: Aleksandra M. S. Vold, Esq.
Tyler Zanders, Esq.

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

TIM NIELAN

(b) County of Residence of First Listed Plaintiff ESSEX (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney (If Known) Name, Address, and Telephone Number Alexander Shapiro, Esq. 1 Winnisimmet Street Chelsea, MA 02150 Tel. 617-889-5800

DEFENDANTS

GUITAR CENTER, INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C.

Brief description of cause: Violation of MGL Chapter 93A

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 05/29/2013

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Tim Nielan v. Guitar Center, Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.
- III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES NO

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME ALEXANDER SHAPOVAL, ESQ.

ADDRESS 1 Winnisimmet Street, Chelsea, MA 02150

TELEPHONE NO. 617-889-5800