

The Patent Trolls Lose and the “Good Guys” Win One – The HQPI Cases Dismissed

By Harvey R. Levenson, Ph. D.
hrlevenson@thegrid.net

Dr. Harvey R. Levenson is Professor Emeritus and former Department Head of Graphic Communication at Cal Poly State University in San Luis Obispo, California. He is a frequent Expert Witness specializing in communication, intellectual property, media, printing, and technology.

Author's note: This article was not sanctioned or funded by any university, or any private or public company. It is meant to educate and inform on a matter that is negatively impacting the growth, development, and survival of companies in the printing and related industries, Original Equipment Manufacturers (OEMs), and equipment distributors.

Print service providers and OEMs, please pay careful attention to this follow-up article. It demonstrates the wisdom of not giving in to greed and extortion meant to decimate your business and industry.

In an uncertain economy with unpredictable upward and downward fluctuations, businesses should protect themselves through an understanding of forces aimed at disruption, causing companies to decline and employees to lose jobs. The printing industry is particularly vulnerable because such forces come not only from within the industry, but from competing media industries as well as from companies demonstrating unethical business practices and having no interests other than greed.

This is [an update to my previous article](#) on the growing issue of patent trolls attempting to extort funds from print service providers and OEMs by claiming patent infringement, mostly on bad patents that can easily be invalidated through Prior Art. The [original article](#) appeared on [WhatTheyThink.com](#) and was then picked up by other industry publications.

An amazing thing happened, and I'd like to think that WhatTheyThink and my article played some role in instigating this. I sense that it was the “power of the press” and investigative reporting that brought to light one of the most devious, unethical, and immoral behaviors aimed at destroying the printing industry and its honorable companies and hardworking employees. This applies not only to small, medium, and large print service providers, but to OEMs as well that invest research and development dollars, and build applications to help improve and build the printing industry.

In this anecdote, the “good guys” won, and the patent trolls lost.

The HQPI Cases Was Dismissed

In one of the latest and most visible cases, High Quality Printing Innovations (HQPI) a shell company, under the troll company of Modern Universal Printing, LLC v. numerous print service providers and OEMs, all of the lawsuits were dismissed. See the following Court Reporter's Transcript of the Proceedings (March 31, 2016) before a United States Judicial Panel on Multidistrict Litigation. This was a six-judge panel.

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UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE: HIGH QUALITY PRINTING)
INVENTIONS, LLC, ('070'))
Patent Litigation.)
) Docket No.
) No. 2690
)

REPORTER'S TRANSCRIPT OF THE PROCEEDINGS

THURSDAY, MARCH 31, 2016

EN BANC:
JUDGE SARAH S. VANCE, Chair
JUDGE MARJORIE O. RENDELL
JUDGE CHARLES R. BREYER
JUDGE LEWIS A. KAPLAN
JUDGE ELLEN SEGAL HUVELLE
JUDGE R. DAVID PROCTOR
JUDGE CATHERINE D. PERRY

TARA SANDFORD, RPR, CSR #3374
taracsr3374@hotmail.com
Official Court Reporter

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APPEARANCES:

For Defendants Great FX Business Cards, LLC; and Posty Card, Inc.:

LEECH TISHMAN FUSCALDO & LAMPL
BY: JEFFREY G. SHELDON, ESQ.

For Defendant Staples, Inc.:

DLA PIPER
BY: NICHOLAS G. PAPASTAVROS, ESQ.

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Santa Barbara, California
Thursday, March 31, 2016

JUDGE VANCE: Next up is Docket 2690, In Re:
High Quality Printing Inventions, LLC, Patent
Litigation. And Mr. Sheldon.

MR. SHELDON: Good morning. Jeffrey Sheldon of
Leech Tishman representing Defendants Great FX and Great
Western. I appreciate your indulgence. I have two
minutes.

No rebuttal since there is nobody to rebut
against. And your indulgence in that my clients have
been dismissed, and you probably noticed that everybody
who signed up to argue Plaintiff dismissed.

JUDGE RENDELL: What's going on here?

MR. SHELDON: It appears that anybody who
signed up to argue --

JUDGE PROCTOR: Should we delay you a couple of
months and allow everyone else to file and join your
motion to centralize these cases?

MR. SHELDON: No. We're opposed to
centralization.

JUDGE PROCTOR: I'm joking. They will be
dismissed.

MR. SHELDON: It is sort of whack-em-all.

1 Anybody who sticks their head up gets dismissed
2 temporarily. And that's the concern. I think at that
3 point we know there is less than ten cases pending and
4 maybe less than five. We don't know how many cases are
5 pending. We don't know where they are pending.

6 JUDGE RENDELL: Tell us about the dismissals.
7 What is going on here? A lot of these are being
8 dismissed without prejudice?

9 MR. SHELDON: Yes, exactly. Our particular
10 situation, we filed a Rule 11 motion and we got
11 dismissed. I was all excited.

12 And then everyone else is getting dismissed
13 without filing the motions. In the Northern --

14 JUDGE VANCE: Dismissed without prejudice?

15 MR. SHELDON: Without prejudice. In Northern
16 District of California, they filed invalidity motions.
17 Dismissed.

18 JUDGE KAPLAN: Has anybody realized that by
19 filing an Answer a stop could be put to this?

20 MR. SHELDON: Hindsight, yes, we did, but our
21 cases were stayed before we even got to oppose the stay.
22 We didn't even have an opportunity to file an Answer.
23 So --

24 JUDGE VANCE: I think we get it.

25 MR. SHELDON: As a matter of policy, this

1 should not be rewarded. The motion should be denied or,
2 at a minimum, give the Plaintiffs 30 days to refile
3 whatever they want --

4 JUDGE PROCTOR: Have you talked with opposing
5 counsel about these dismissals and about this upcoming
6 hearing today?

7 MR. SHELDON: My co-counsel talked to the
8 opposing counsel about the Rule 11 motions. And we
9 thought they were dismissed because of that, but now we
10 are suspicious.

11 We did not talk about the hearing. I didn't
12 realize they weren't even going to show up until today.

13 JUDGE HUVELLE: Has anybody objected on the
14 basis of Rule 42 to any of these dismissals?

15 MR. SHELDON: No. Some of the dismissals were
16 yesterday.

17 Defense counsel have been cooperating. We sort
18 of got caught by surprise. Everybody who wanted to
19 appear gets dismissed, and even people who filed
20 applications to appear late got dismissed.

21 JUDGE RENDELL: If we were to centralize,
22 wouldn't Judge Garbis in Maryland be a logical judge
23 because he knows about this type of --

24 MR. SHELDON: I don't know why he would know
25 about this type of patent versus any other type of

1 patent.

2 JUDGE VANCE: He has a similar case.

3 MR. SHELDON: That I don't know. I don't
4 recall reading that in the papers. I am not saying
5 that's not true. I don't know.

6 My client didn't want centralization. But if
7 we were going to be in the Northern District of
8 California but everybody in the Northern District of
9 California has been dismissed.

10 JUDGE PROCTOR: I like that attitude.

11 JUDGE VANCE: Mr. Papastravros.

12 MR. PAPASTAVROS: Thank you, your Honor.

13 Many of the points I wanted to articulate were
14 made by my brother Mr. Sheldon.

15 But what I really want to do is try to shed a
16 little bit of light on what I think has been going on
17 here. We started with about 32 cases. I think we're
18 down, at last check, and you know it varies by the
19 minute apparently, but we're down to about six or eight
20 cases. None of those parties presented -- made notices
21 of presentment to the Court. So they are obviously not
22 here to argue.

23 I represent Staples. I did make a notice of
24 presentment. We were the only Northern District of
25 Georgia case. We were dismissed two days ago. I

1 already had plans to be out here.

2 JUDGE RENDELL: You are taking no position?

3 MR. PAPASTAVROS: Not with respect to
4 centralization. With respect to venue I am.

5 We have been dismissed. We're the only case in
6 the Northern District of Georgia. We don't believe any
7 centralization would be appropriate there. If
8 centralization were appropriate, we believe either
9 Illinois or California would be the appropriate venues.

10 JUDGE VANCE: What is your take on what is
11 going on? Dismissing people who could argue against
12 centralization?

13 MR. PAPASTAVROS: The concern is tagalong
14 actions. The concern is there will be some decision by
15 the panel to centralize. And one of you mentioned about
16 dismissal without prejudice. That is our real concern
17 here. These will get refiled and Plaintiff will attempt
18 to get us back in the game.

19 JUDGE HUVELLE: Plaintiff is not here to argue
20 for centralization, and you are not arguing for
21 centralization. As far as we know, there is nobody
22 else. What position should we be taking here on
23 centralization with nobody -- or why shouldn't we not
24 centralize?

25 MR. PAPASTAVROS: I would think -- we have not

1 taken that position at this point in time.

2 Circumstances have changed significantly since the
3 beginning of this.

4 I would agree with your Honor at this point.

5 JUDGE VANCE: Thank you. You have anything
6 else? You have a little time. Anything else you want
7 to say? I think you may be ahead.

8 MR. PAPASTAVROS: What I might say, your Honor,
9 I mean, I know a number of Defendants may be pursuing
10 motions for costs in the circumstance, a lot of expenses
11 paid. It would be appropriate to freeze the assets of
12 the Plaintiff to allow us to pursue those costs.

13 JUDGE RENDELL: We don't have that authority.

14 MR. PAPASTAVROS: I thought it might be a bit
15 of an overreach.

16 JUDGE HUVELLE: I thought we were supposed to
17 treat them like whackables.

18 MR. SHELDON: I take responsibility for putting
19 that bug in his ear.

20 JUDGE VANCE: Did you want to say something?

21 MR. SHELDON: Just a policy thing. I mean, at
22 this point it gives patent trolls a bad name. I mean a
23 good name. This is the worst of the worst. If this is
24 allowed, every patent troll is going to do this.

25 JUDGE HUVELLE: My question is, would

1 centralization prevent it better than leaving it the way
2 it is which you described as whackable?

3 MR. SHELDON: Leave it the way it is. If they
4 refile, we are going to file summary judgment motions
5 for noninfringement and invalidity motions will get
6 filed again in the Northern District, which will kill
7 the patent. They have been prepared, been filed. Don't
8 centralize.

9 JUDGE RENDELL: Presumably, if they refile
10 these without prejudice, then there'll be more of a
11 critical mass and maybe see you again.

12 MR. SHELDON: That's possible. But right now,
13 this panel doesn't have the facts. Who is really going
14 to be subject to this case? It is probably going to be
15 more tagalongs than original people.

16 JUDGE BREYER: If it is refiled, you could
17 dispose of the case earlier than this panel can act on
18 it.

19 MR. SHELDON: We are really little defendants
20 and the cost of MDLs is horrendous. They are not going
21 to pay the troll. They are not going to pay them.

22 JUDGE PROCTOR: Should we understand your
23 position to be this: I would call them a patent troll
24 but that would offend all the patent trolls.

25 MR. SHELDON: Well said, your Honor.

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JUDGE VANCE: Thank you very much.
(Hearing concluded.)

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See the following four files of “Supplemental Information” declaring the dismissals and listing all defendants that are now dismissed from the legal action to which they were subjected.

**BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

IN RE HIGH QUALITY	§	
PRINTING INVENTIONS, LLC	§	MDL No. 2690
PATENT LITIGATION	§	
	§	
	§	

**HIGH QUALITY PRINTING INVENTIONS, LLC’S
SUPPLEMENTAL INFORMATION**

Plaintiff High Quality Printing Inventions, LLC (“HQPI”), by and through the undersigned counsel, respectfully submits this Supplemental Information regarding dismissal of additional cases. This Supplemental Information is provided to advise the Judicial Panel on Multidistrict Litigation (the “Panel”) as to new developments occurring after HQPI’s Motion to Transfer and Consolidate for Pretrial [Dkt. 1] (the “Motion”) and other Supplemental Information notices [Dkts. 79, 80, 81, 112, 115, and 118] were filed.

Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) in the following cases:

1. *High Quality Printing Inventions, LLC v. Office Depot, Inc.*, Case No. 9:15-cv-81608-JIC (Southern District of Florida);
2. *High Quality Printing Inventions, LLC v. Barton Cotton Affinity Group, LLC d/b/a Holiday Card Center*, Case No. 1:15-cv-03604-MJG (District of Maryland);
3. *High Quality Printing Inventions, LLC v. Deluxe Small Business Sales, Inc.*, Case No. 15-cv-04253-DWF-TNL (District of Minnesota); and
4. *High Quality Printing Inventions, LLC v. Safeguard Business Systems, Inc.*, Case No. 3:15-cv-03796-N (Northern District of Texas).

Dated: April 6, 2016

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

/s/ Samuel F. Miller

Samuel F. Miller, TN BPR No. 22936
211 Commerce Street, Suite 800
Nashville, Tennessee 37201
Tel: (615) 726-5594
Fax: (615) 744-5594
Email: smiller@bakerdonelson.com

*Counsel for Plaintiff High Quality Printing
Inventions, LLC*

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE HIGH QUALITY	§	
PRINTING INVENTIONS, LLC	§	MDL No. 2690
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Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) in the following cases:

1. *High Quality Printing Inventions, LLC v. OvernightPrints, Inc.*, Case No. 2:15-cv-02234-GMN-VCF (District of Nevada); and
2. *High Quality Printing Inventions, LLC v. Moo, Inc.*, Case No. 1:15-cv-00500-S-LDA (District of Rhode Island).

HQPI further advises the Panel that notices of dismissal for all cases involving defendants who requested oral argument before the Panel have been filed.

Dated: March 30, 2016

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

/s/ Samuel F. Miller

Samuel F. Miller, TN BPR No. 22936
211 Commerce Street, Suite 800
Nashville, Tennessee 37201
Tel: (615) 726-5594
Fax: (615) 744-5594
Email: smiller@bakerdonelson.com

*Counsel for Plaintiff High Quality Printing
Inventions, LLC*

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE HIGH QUALITY	§	
PRINTING INVENTIONS, LLC	§	MDL No. 2690
PATENT LITIGATION	§	
	§	
	§	

HIGH QUALITY PRINTING INVENTIONS, LLC'S
SUPPLEMENTAL INFORMATION

Plaintiff High Quality Printing Inventions, LLC ("HQPI"), by and through the undersigned counsel, respectfully submits this Supplemental Information regarding dismissal of additional cases. This Supplemental Information is provided to advise the Judicial Panel on Multidistrict Litigation (the "Panel") as to new developments occurring after HQPI's Motion to Transfer and Consolidate for Pretrial [Dkt. 1] (the "Motion") and other Supplemental Information notices [Dkts. 79, 80, 81, and 112] were filed.

Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) in the following cases:

1. *High Quality Printing Inventions, LLC v. OvernightPrints, Inc.*, Case No. 2:15-cv-02234-GMN-VCF (District of Nevada); and
2. *High Quality Printing Inventions, LLC v. Moo, Inc.*, Case No. 1:15-cv-00500-S-LDA (District of Rhode Island).

HQPI further advises the Panel that notices of dismissal for all cases involving defendants who requested oral argument before the Panel have been filed.

Dated: March 30, 2016

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
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/s/ Samuel F. Miller

Samuel F. Miller, TN BPR No. 22936
211 Commerce Street, Suite 800
Nashville, Tennessee 37201
Tel: (615) 726-5594
Fax: (615) 744-5594
Email: smiller@bakerdonelson.com

*Counsel for Plaintiff High Quality Printing
Inventions, LLC*

BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE HIGH QUALITY	§	
PRINTING INVENTIONS, LLC	§	MDL No. 2690
PATENT LITIGATION	§	
	§	
	§	

HIGH QUALITY PRINTING INVENTIONS, LLC'S
SUPPLEMENTAL INFORMATION AND WAIVER OF ORAL ARGUMENT

Plaintiff High Quality Printing Inventions, LLC ("HQPI"), by and through the undersigned counsel, respectfully submits this Supplemental Information regarding dismissal of multiple cases. This Supplemental Information is provided to advise the Judicial Panel on Multidistrict Litigation (the "Panel") as to new developments occurring after HQPI's Motion to Transfer and Consolidate for Pretrial [Dkt. 1] (the "Motion") and other Supplemental Information notices [Dkts. 79, 80, and 81] were filed.

Since the filing of the Motion and other Supplemental Information notices, HQPI has filed Notices of Dismissal or Stipulations of Dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A) in the following cases:

1. *High Quality Printing Inventions, LLC v. Digital Room, Inc. d/b/a Prinrunner.com, Next Day Flyers, Uprinting.com, Youprint.com, and Printsmadeeasy.com*, Case No. 2:15-cv-09170-JAK-MRW (Central District of California);
2. *High Quality Printing Inventions, LLC v. Shutterfly, Inc.*, Case No. 5:15-cv-05437-EJD (Northern District of California);
3. *High Quality Printing Inventions, LLC v. Zazzle, Inc.*, Case No. 5:15-cv-05438-EJD (Northern District of California);

4. *High Quality Printing Inventions, LLC v. Minted, LLC*, Case No. 5:15-cv-05440-EJD (Northern District of California);
5. *High Quality Printing Inventions, LLC v. FineStationery.com*, Case No. 1:15-cv-01092-RGA (District of Delaware);
6. *High Quality Printing Inventions, LLC v. Worldwide Tickets and Labels, Inc.*, Case No. 9:15-cv-81609-WPD (Southern District of Florida);
7. *High Quality Printing Inventions, LLC v. Invitation Consultants, Inc.*, Case No. 8:15-cv-02750-VMC-MAP (Middle District of Florida);
8. *High Quality Printing Inventions, LLC v. Staples, Inc.*, Case No. 1:15-cv-04117-ELR (Northern District of Georgia);
9. *High Quality Printing Inventions, LLC v. Cimpress USA Incorporated d/b/a Vistaprint*, Case No. 1:15-cv-13962-RGS (District of Massachusetts);
10. *High Quality Printing Inventions, LLC v. Posty Cards, Inc.*, Case No. 4:15-cv-00943-BP (Western District of Missouri);
11. *High Quality Printing Inventions, LLC v. Great FX Business Cards, Inc.*, Case No. 6:15-cv-03510-S-MDH (Western District of Missouri);
12. *High Quality Printing Inventions, LLC v. PrintingForLess.com, Inc.*, Case No. 1:15-cv-00122-SPW (District of Montana);
13. *High Quality Printing Inventions, LLC v. Printograph, Inc. d/b/a GotPrint*, Case No. 3:15-cv-03795-M (Northern District of Texas); and
14. *High Quality Printing Inventions, LLC v. Luxe Cards, LLC d/b/a Purple Trail*, Case No. 2:15-cv-01858-JLR (Western District of Washington).

HQPI further advises the Panel that notices of dismissal for all cases involving defendants who requested oral argument before the Panel have been filed. Accordingly, because there are no other defendants that have requested oral argument, Plaintiff waives oral argument on the Motion for Consolidation.

Dated: March 29, 2016

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

/s/ Samuel F. Miller

Samuel F. Miller, TN BPR No. 22936
211 Commerce Street, Suite 800
Nashville, Tennessee 37201
Tel: (615) 726-5594
Fax: (615) 744-5594
Email: smiller@bakerdonelson.com

*Counsel for Plaintiff High Quality Printing
Inventions, LLC*

Understand that under a condition of “without prejudice,” the Complaint may be resubmitted by the plaintiff within one year. However, this happening is highly unlikely because of the costs that would be imposed on the plaintiff, and the likelihood of failure due to Prior Art that would invalidate the patent in question. There is no doubt that there would be an aggressive push to invalidate the patent should this particular matter reemerge.

A Little More Background

The plaintiff, HQPI, through its counsel, Baker Donelson Bearman Caldwell & Berkowitz, P.C., pushed for settlement in all of the individual cases against the print service providers and OEMs. They initially were asking a six-figure amount for the right to use the technology allegedly being taught by Patent No. US 6012070 A – “DIGITAL DESIGN STATION PROCEDURE.” Recall that this was a patent originally assigned to Moore Business Forms, and then became an RR Donnelley patent when RR Donnelley purchased Moore.

When the six-figure license fee was rejected by nearly all of the defendants, the licensing asking-fee dropped to about nearly one-half. With virtually no takers at this amount, the plaintiff, out of desperation to “extort” at least some funds from the defendants, dropped their asking price to a few thousand dollars. The legal counsel representing the defendants rejected even this on behalf of their clients.

The plaintiff soon came to realize that they would be receiving nothing from nearly all of the defendants, yet speculation is that they were probably being billed huge legal fees by their counsel for services provided. Hence, all of the cases against existing defendants were dismissed, as further fighting this, with the likely of losing an invalidity contention counter suit, would create further huge expenses. I note “existing defendants” because, unfortunately, a few of the defendants did enter into settlement agreements, likely for lesser amounts than the original asking fee for the licenses. I understand that there were only a few.

My article, that went “viral” in the printing industry after being published by WhatTheyThink.com, also reached the Courts and was taken into consideration, possibly motivating the judges to let the blanket dismissal sit without allowing the plaintiff to argue its case further. The judges probably now better understand the debilitating and counter-productive behaviors of patent trolls more than ever before. In fact, the Court transcript notes that the plaintiff’s counsel didn’t even show-up at the hearing. This in-and-of-itself is very telling.

Communications with RR Donnelley

I have been in communication with RR Donnelley. However, I must honor their request for confidentiality in not revealing the names of anyone that I have been in contact with.

RR Donnelley’s position noted in my article is what I had consent to quote and publish. After my first article was published, first by WhatTheyThink and then by other popular industry publications, I sent it to my RR Donnelley contact, including all of the responses that were received. I pointed out to RR Donnelley that regardless of their published position, the industry was still skeptical of RR Donnelley’s role in supporting and benefiting from the trolls. I asked if RR Donnelley would like to further respond in a follow-up article, further assuring the industry that the company had no financial interest in licensing fees paid to the trolls. I received a polite response as follows:

Thank you for your message. Hope all is well with you. At this time, I am not authorized to make any further statements on behalf of RR Donnelley. However, I appreciate your inquiry.

This too is telling, leaving the sense of skepticism within the industry open regarding RR Donnelley's role.

I would like to take the optimistic position and hypothesize that my article inspired RR Donnelley to consider the position that the article laid out and the immense pressure that the lawsuits placed on honorable industry companies, and that RR Donnelley supported the dismissal of the HQPI litigations.

So What of the CTP Cases?

I've been informed that hearings are pending on the CTP cases. I am of the impression that the CTP matter could conclude in a similar fashion to the HQPI cases. I will report on this once further information becomes available.

Coming Next

The next article will include the many responses received from the printing industry including some from companies that have been the subject to patent troll threats and lawsuits. It will also include what to do should a print service provider or OEM receive a letter from a patent troll claiming infringement and demanding license fees.