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8 **Attorneys for Defendant**  
9 **Kevin Russell**

10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO DIVISION**

13 **ROBERT JACOBSEN,**

14 **Plaintiff,**

15 **vs.**

16 **MATTHEW KATZER, KAMIND**  
17 **ASSOCIATES, INC., and KEVIN**  
18 **RUSSELL,**

19 **Defendants.**

) **Case No. C 06 1905 JSW**

) **DECLARATION OF KEVIN RUSSELL IN**  
) **SUPPORT OF MOTION TO DISMISS**  
) **FOR LACK OF PERSONAL**  
) **JURISDICTION [F. R. CIV. P. 12(b)(2)]**

) **Date: August 4, 2006**

) **Time: 9:00 a.m.**

) **Dept: Courtroom 2, 17th floor**  
) **Hon. Jeffrey S. White**

20 I, Kevin Russell, declare:

21 1. I am a defendant in this action. If called as a witness, I would and could testify  
22 to the following as a matter of personal knowledge.

23 2. I reside in the State of Oregon and intend to continue residing in Oregon for the  
24 indefinite future. My business address is 601 SW 2d Avenue, Suite 1600, Portland, OR  
25 97204.

26 3. I do not own property in California.

27 4. I am an attorney licensed to practice in the courts of Oregon. I have only one  
28 client in California, whom I have never met and never visited. Aside from that client, I  
have no business relationship with any person in California.



Russell Declaration: Exhibit 1

Russell Declaration: Exhibit 1



LAW OFFICES  
**CHERNOFF, VILHAUER, McCLUNG & STENZEL, LLP**

INTELLECTUAL PROPERTY LAW  
INCLUDING PATENT, TRADEMARK, COPYRIGHT  
AND UNFAIR COMPETITION MATTERS

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\* J. PETER STAPLES  
\* WILLIAM O. GENY  
\* NANCY J. MORLARTY  
\* KEVIN L. RUSSELL

DANIEL P. CHERNOFF  
(1935-1995)

October 27, 2005

FOIA Officer  
Office of Science  
US. Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

**Re: Freedom of Information Act Request for all Documents  
Related to Patent Infringement, Status, Funding, Distribution  
of Contributions and Management Practices Associated with the  
JMRI Project by Berkley Labs.  
Our File No.: 7431.0081**

Dear FOIA Officer:

This request for documents is made pursuant to the Freedom of Information Act, 5 U.S.C. §§ 552 *et seq.* This request is made on behalf of KAMIND Associates, Inc. ("KAM") and relates to information gathered by the Physics Division Berkley Livermore Labs (LAB) regarding their duties for JMRI project. KAMIND Associates, Inc. is a small software vendor that has patents being infringed by the JMRI project sponsored by the LAB.

Please consider documents to include all writings, memoranda, letters, notes, working papers, minutes of meetings, photocopies, data, graphs, charts, photographs, inspection reports, compliance reports, records, e-mails (sent, received or drafts), digitized voice communications and any other format of information regarding the JMRI program project (hereafter referred to as COMMUNICATIONS).



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 Office of Science  
 U.S. Department of Energy  
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Specifically, KAM requests:

1. Funding information from the Department of Energy for the JMRI program at the LAB.
2. All COMMUNICATIONS about the JMRI program and proceedings from Robert Jacobsen (LBNL, 1 Cyclotron Rd, MS 50A2160, Berkley Ca, 94720 email address [Bob.Jacobsen@lbl.gov](mailto:Bob.Jacobsen@lbl.gov)). [Exhibit 1, 2, 3]
3. Complete financial records and all COMMUNICATIONS from contributions (PAYPAL) to support the JMRI program. [Exhibit 4, 5]
4. Complete financial records verifying that the funds received for Government project JMRI were deposited in US Treasury.
5. Transcripts of communications (COMMUNICATIONS) to any JMRI team members regarding KAM. [Exhibit 6]
6. All COMMUNICATIONS regarding patent investigation of KAM. [Exhibit 6]
7. All draft COMMUNICATIONS to any member of the JMRI development community. There are 18 members as of 10/24,2005. [Exhibit 2]
8. All COMMUNICATIONS to any member of the JMRI\_STRATEGY group. [Exhibit 7]
9. All COMMUNICATIONS regarding legal opinion on Department of Energy personal at any locations regarding the JMRI activities.
10. All COMMUNICATIONS from email archives (2000 to present) to any member on the Yahoo Groups: JMRI DEVELOPERS. [Exhibit 2]
11. All COMMUNICATIONS from email archives (2000 to present) to any member on the Yahoo Groups: JMRI STRATEGY. [Exhibit 7]
12. All COMMUNICATIONS from email archives (2000 to present) to any member on the Yahoo Groups: JMRI USERS. [Exhibit 8, 9]
13. All COMMUNICATIONS and logs from Skype ID: JacobsenRG related to JMRI activities.
14. Copies (and all drafts) of the welcome letter from the LAB by Bob Jacobson to JMRI members posted on Yahoo groups and or source forge.
15. All information related to the KAM legal action in federal court.
16. All travel activities that relate to the JMRI activities during July 2001, 2002, 2003 and 2004 period.



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17. All COMMUNICATIONS between the following Allen Bryne, Ralph Kimball, Michael Woodman, Graham Plowman, and Jerry Britton. **[Exhibit 10, 11, 12]**
18. All COMMUNICATIONS about JMRI Royalty payment of \$203,000 for KAM Train Server licenses. **[Exhibit 13]**

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin L. Russell", is written over a horizontal line.

Kevin L. Russell

KLR:kk  
Enclosures

cc: KAMIND Associates, Inc.  
(w/enclosures)