

IN THE UNITED STATES DISTRICT COURT  
FOR DISTRICT OF MARYLAND  
Greenbelt Division

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FEDERAL TRADE COMMISSION,		)	
	Petitioner,	)	
		)	
v.		)	Case No. 8:15-cv-02285-PWG
		)	
THE MEDICI PORTFOLIO, LLC,		)	
	Respondent.	)	
		)	
<hr/>		)	

**ORDER TO PRODUCE**

Pursuant to the authority conferred by Sections 6(b) and 9 of the Federal Trade Commission Act, 15 U.S.C. §§ 46(b), 49, Petitioner, the Federal Trade Commission, has invoked the aid of this Court for an order requiring Respondent, The Medici Portfolio, LLC (“Medici”), to comply in full with an Order to File Special Report issued to Medici in the aid of an investigation being conducted by the Commission.

The Order to File Special Report required Respondent to respond in a specified manner using predetermined formats. See Appendix A to Order to File Special Report [Dkt. 1-3 at 27-37] (attached as Exhibit 1). Specifically, the Order required Respondent to use a Microsoft Excel workbook file that the Commission made available at <http://go.usa.gov/V6vA>. The Excel workbook contained individual worksheets that Respondent was directed to use in responding to specifications C

through J. The instructions directed Respondent to enter its responses to each specification into identified rows and cells on each worksheet.

Certain specifications of the Order also required Respondent to provide supporting narrative responses in a separate Microsoft Word document. *See, e.g.*, Specifications C.1.e.(2), C.1.g.(2)-(3) [Dkt. 1-3 at 8]. Some of those also required Respondent to produce supporting documents and to identify such documents as part of the relevant narrative response.

The FTC, in seeking enforcement of its Order to File Special Report, has argued that Respondent has failed to provide full and complete responses in the manner provided above. Respondent did not file an opposition to the FTC's enforcement petition or appear at the show-cause hearing on October 19, 2015, during which the Court made findings of fact and conclusions of law.

Accordingly, it is by this Court hereby

ORDERED that the FTC's Motion for Default Judgment, ECF NO. 8, IS GRANTED, and default judgment be entered for Petitioner Federal Trade Commission pursuant to Fed. R. Civ. P. 55(b)(2); and

IT IS FURTHER ORDERED that Respondent is ordered to produce to the Federal Trade Commission within 21 days of the date of this Order the following documents and information:

Respondent shall provide, on behalf of Medici Portfolio LLC and each of its 17 subsidiaries<sup>1</sup>, narrative responses to each request that requires a narrative

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<sup>1</sup> These 17 subsidiaries are the following entities: (1) Abarta LLC; (2) Accasvek, LLC; (3) Almha LLC; (4) Anu IP, LLC; (5) Boann LLC; (6) Cian IP LLC; (7) Ibormeith IP LLC; (8) Jernberg

response in Specifications C through J of the FTC's Order to File Special Report. Respondent shall provide its responses in a Word document in accordance with the "General Instructions," in Appendix A of the FTC's Order to File Special Report's Specifications, a copy of which is attached hereto and made part of this Order as though fully set forth herein. To the extent the Order requires Respondent to identify any other documents in a narrative response, it shall be produced according to the instructions in Appendix A; and

IT IS FURTHER ORDERED that Respondent shall amend and correct the Excel workbook files previously provided to the FTC as follows:

a. Several of these workbook files contain individual worksheets that are blank. A blank worksheet may indicate that the Respondent failed to respond to an entire specification. For each such blank worksheet, Respondent shall correct any omissions or provide a narrative response to the FTC in a Microsoft Word document explaining the reason(s) for such omissions; and

b. Respondent has produced instances of Excel worksheets with blank cells. For each such blank cell, Respondent shall correct its omission, or explain why such information has been omitted; and

IT IS FURTHER ORDERED that Respondent shall provide to the FTC an updated certificate of compliance; and

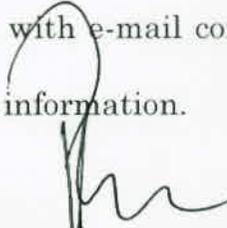
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Dental LLC; (9) Lamina Packaging Innovations LLC; (10) Lugus IP LLC; (11) Medici Industrial Licensing Co., LLC (f/n/a Andraste LLC); (12) Medici Life Sciences Licensing Co., LLC (f/n/a Airmid IP, LLC); (13) Medici Portfolio Acquisition LLC; (14) Safety Innovations LLC; (15) Taranis IP LLC; (16) VStream Technologies LLC; and (17) Welding Innovations Solutions, LLC.

IT IS FURTHER ORDERED that Respondent is commanded to deliver this information to the Federal Trade Commission by personal service, courier, or messenger in such form and format as directed by Appendix A of the FTC's Order to File Special Report; and

IT IS FURTHER ORDERED that Respondent shall provide Burke Kappler, Esq., counsel for the FTC in this matter, with e-mail confirmation of the delivery, and any accompanying shipment tracking information.

SO ORDERED:



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Paul W. Grimm  
United States District Judge

Dated: November 17, 2015, Greenbelt, MD.

APPENDIX A

A. General Instructions

1. The Firm's Special Report must be filed by November 21, 2014.
2. The Special Report must restate each item of the Information Requests with which the corresponding answer is identified.
3. The Special Report shall be entered into the Microsoft Excel workbook spreadsheets at <http://go.usa.gov/V6vA> with this Order whenever possible. The FTC has entered the information request numbers and the type of information that must be provided in the header row of each column. When it is not possible to enter the required answer or information into the applicable worksheet, the Firm shall provide the required answer in a Microsoft Word document.
4. Requests that require narrative responses shall be provided in a Microsoft Word document.
5. Requests that require a narrative response that identifies Reference Numbers shall be submitted in a Microsoft Word table, with two columns. The left column shall contain the request number, and the right column shall contain all responsive Document IDs or Document ID ranges. Where the same request requires multiple responses (e.g., where a request requires a separate response for each relevant person), provide each response in a separate row and note in brackets a differentiating characteristic following the Request Number.

REQUEST NUMBER	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX
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or

REQUEST NUMBER[PERSON 1]	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX
REQUEST NUMBER[PERSON 2]	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX
REQUEST NUMBER[PERSON 3]	DOCUMENT_ID_XXXX-XX; DOCUMENT_ID_XXXX; DOCUMENT_ID_XXXX-XX

6. If any requested information cannot be provided fully, give the information that is available and explain in detail in what respects and why the response is incomplete.
7. The Firm shall submit all written responses in native electronic format. For narrative responses or responses identifying Reference Numbers, the Firm shall provide both

Microsoft Word and PDF versions. For all responses to be submitted via spreadsheet, the Firm shall submit its responses in native Microsoft Excel format.

## B. Definitions

**“Acquire”** and **“Acquisition”** mean to purchase or obtain from another Person any Legal Right to a Patent, or to purchase or obtain a Person who Holds any Legal Right to a Patent. This definition does not include the assignment of Legal Rights to a Patent by a Firm employee who is bound to assign his or her Legal Rights to the Firm at the time of invention.

**“Assert”** and **“Assertion”** mean: (i) any Demand; (ii) any civil action threatened or commenced (by the Firm or other Person) relating to any Patent; or (iii) any investigation pursuant to 19 U.S.C. 1337 threatened or initiated (by the Firm or other Person) relating to any Patent. For Manufacturing Firms, **“Assert”** and **“Asserted”** do not include sales of products manufactured by the Firm, or on behalf of the Firm, that practice the claimed invention.

**“Class”** and **“Subclass”** have the meanings defined by the United States Patent and Trademark Office (USPTO).

**“Demand”** means any effort since January 1, 2009 to License any Patent, in whole or in part, and any other attempt to generate revenue by authorizing a Person outside the Firm to practice an invention claimed in a Patent. Demand does not include complaints or pleadings filed with a United States District Court or the United States International Trade Commission.

**“Documents”** means all electronically stored information, and written, recorded, and graphic materials of every kind in the possession, custody, or control of the Firm. Unless otherwise specified, the term **“Documents”** excludes: (i) bills of lading, invoices, purchase orders, customs declarations, and other similar documents of a purely transactional nature; (ii) architectural plans and engineering blueprints; and (iii) documents solely relating to environmental, human resources, OSHA, or ERISA compliance.

**“Economic Interest”** means any right or claim to current or future revenues derived from a Patent, including, but not limited to: lump-sum payments; royalties; access to other Patent(s) as part of a cross-Licensing agreement; a debt or equity interest in a Person that Asserts Patents; use of the Firm’s Legal Rights to any Patent as collateral for a Person’s loan or investment; or any other form of compensation relating to the Assertion, Acquisition, or Transfer of Patents Held by the Firm. **“Economic Interest”** does not include shareholders of publicly traded Firms that own less than 5% of the outstanding shares of any class of stock in the Firm.

**“Firm”** means the Person served with the information requests described in this notice.

**“Hold”** and **“Held”** mean to possess a Legal Right to a Patent.

**“Legal Right”** means any ownership interest in, an exclusive License to, or other rights adequate to License or enforce a Patent.

**“Litigation”** means any civil action commenced in a United States District Court or with the United States International Trade Commission.

**“License”** means authorization by the Patent holder to practice the claimed invention, including, but not limited to, a covenant not to sue and a covenant not to assert.

**“Maintenance Fee(s)”** has the meaning defined by the USPTO.

**“Patent”** means a United States patent or United States patent application as defined by 35 U.S.C. 101, *et seq.*

**“Patent Portfolio”** means a collection of patents Held by the Firm, including all of the patents Held by the Firm and any sub-groups into which the Firm organizes its patents.

**“Person”** means any natural person, corporation, association, firm, partnership, joint venture, trust, estate, agency, department, bureau, governmental, judicial, or legal entity, however organized or established.

**“Reference Number”** means a Bates number or other sequential identification number.

**“Report”** means all studies, analyses, and reports which were prepared by or for any officer(s) or director(s) of a corporate entity (or, in the case of unincorporated entities, individuals exercising similar functions) or presented to any Person outside the Firm (including, but not limited to, investment presentations and documents filed with the United States Internal Revenue Service or Securities and Exchange Commission).

**“Standard Setting Organization”** or **“SSO”** means any organization, group, joint venture, or consortium that develop standards for the design, performance, or other characteristics of products or technologies.

**“Transfer”** means the sale or exchange of any Legal Right to a Patent, including for monetary or other consideration or for no compensation.

**“Wireless Chipset”** means any baseband processor, radio frequency transceiver, integrated circuit, chip, or chipset, or any combination thereof, and any related software, used to implement wireless communication.

**“Wireless Communications Device”** means any device, including wireless chipsets, which implements wireless communication, including, but not limited to, software, user equipment, base stations, and network infrastructure.

**“Wireless Patent”** means any Patent Asserted against a Wireless Communication Device.

## C. Data Submissions

### 1. Numerical Data

Unless modified by agreement in writing with the Office of Policy Planning Deputy Director, all requests for dollar amounts shall be entered as rounded to the nearest whole dollar, without commas or dollar signs.

Percentages shall be entered as a decimal, i.e., fifty percent shall be entered as <0.50>.

Dates shall be entered as <MM/DD/YYYY>.

### 2. Patents and Patent Applications

U.S. Patent numbers shall be provided as a seven-digit number <9999999>, without commas or spaces.

Reissue patents shall be provided as a six-digit number following the prefix "RE": <RE999999>. Leading zeroes must be entered between "RE" and the number to create six digits.

Design patents shall be provided as a seven-digit number following the prefix "D": <D9999999>. Leading zeroes must be entered between "D" and the number to create seven digits.

U.S. Patent application numbers shall be provided using the two-digit series code followed by the six-digit serial number assigned by the USPTO, in the following format: <99/999999>.

PCT or International Applications can be entered in either the old (14 character) or new WIPO formats. The old (14 character) format includes a two-digit year and five-character sequence number, e.g., 'PCT/US99/12345'. The new (17 character) format includes a four-digit year, e.g., 'PCT/US1999/123456'. The acceptable formats are as follows: <PCT/CCYY/99999 or PCT/CCYYYY/999999>, where

PCT = "PCT"  
CC = 2 character Country Code  
YY – last 2 digits of the year filed  
YYYY = four digit year filed  
99999, 999999 = is the 5 or 6 digit sequence number.

### 3. Jurisdiction and Docket Information

Responses to requests for the jurisdiction of a Litigation or bankruptcy proceeding should use the following formats:

For district court cases, give the district but not the division:

E.g., D.N.J.; or D.D.C.; or C.D. Cal.

For bankruptcy court cases, write the term "Bankr." followed by the federal district name:

E.g., Bankr. D.N.J.; Bankr. D.D.C.

For International Trade Commission cases, write "USITC".

Responses to requests for docket number shall be provided as follows:

For district court and bankruptcy cases, provide the docket number in any of the following formats:

<YY-NNNNN>  
<YY-TP-NNNNN>  
<YY TP NNNNN>  
<YYTPNNNNN>  
<O:YY-NNNNN>  
<O:YY-TP-NNNNN>  
<O:YY TP NNNNN>  
<O:YYTPNNNNN>, where

YY = Two or four digit code for the year filed  
NNNNN = Case number (up to five digits)  
TP = Case type (up to two characters)  
O = Office where the case was filed (1 digit)

For International Trade Commission Cases, write the Investigation Number:

E.g., No. 731-TA-1070B

For proceedings before the Patent Trial and Appeal Board at the United States Patent and Trademark Office, provide the docket number as <Proceeding Type><Year>-<Number>:

E.g., CBM2012-0001; or IPR2012-00001

For proceedings before the Board of Patent Appeals and Interferences at the United States Patent and Trademark Office, provide the docket number as:

BPAI<Year>-<Appeal Number>, where

<Year> = four digit number  
<Appeal Number> = six digit number, with leading zeroes where necessary.

#### **D. Production of Documents**

1. Form of Production. The Firm shall submit documents as instructed below absent written consent signed by an Office of Policy Planning Deputy Director.
  - (a) Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in the following electronic format provided that such copies are true, correct, and complete copies of the original documents:
    - (i) Submit Microsoft Excel, Access, and PowerPoint files in native format with extracted text and metadata.

- (ii) Submit emails in image format with extracted text and the following metadata and information:

<b>Metadata/Document Information</b>	<b>Description</b>
Beginning Reference Number	The beginning Reference Number of the document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.
To	Recipients(s) of the email.
From	The person who authored the email.
CC	Person(s) copied on the email.
BCC	Person(s) blind copied on the email.
Subject	Subject line of the email.
Date Sent	Date the email was sent.
Time Sent	Time the email was sent.
Date Received	Date the email was received.
Time Received	Time the email was received.
Attachments	The Document ID of attachment(s).
Mail Folder Path	Location of email in personal folders, subfolders, deleted items or sent items.
Message ID	Microsoft Outlook Message ID or similar value in other message systems.

- (iii) Submit email attachments other than those identified in subpart (a)(i) in image format with extracted text and the following metadata and information:

<b>Metadata/Document Information</b>	<b>Description</b>
Beginning Reference	The beginning Reference Number of the

Number	document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.
Parent Email	The Document ID of the parent email.
Modified Date	The date the file was last changed and saved.
Modified Time	The time the file was last changed and saved.
Filename with extension	The name of the file including the extension denoting the application in which the file was created.
Originating Path	File path of the file as it resided in its original environment.
Production Link	Relative file path to production media of submitted native files. Example: FTC-001\NATIVE\001\FTC-00003090.xls.
Hash	The Secure Hash Algorithm (SHA) value for the original native file.

- (iv) Submit all other electronic documents other than those described in subpart (a)(i) in image format accompanied by extracted text and the following metadata and information:

Metadata/Document Information	Description
Beginning Reference Number	The beginning Reference Number of the document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.
Modified Date	The date the file was last changed and saved.
Modified Time	The time the file was last changed and saved.

Filename with extension	The name of the file including the extension denoting the application in which the file was created.
Production Link	Relative file path to production media of submitted native files. Example: FTC-001\NATIVE\001\FTC-00003090.xls.
Hash	The Secure Hash Algorithm (SHA) value for the original native file.

- (v) Submit documents stored in hard copy in image format accomplished by OCR with the following information:

Metadata/Document Information	Description
Beginning Reference Number	The beginning Reference Number of the document.
Ending Reference Number	The last Reference Number of the document.
Custodian	The name of the original custodian of the file.

- (vi) Submit redacted documents in PDF format accompanied by OCR with the metadata and information required by relevant document type in subparts (a)(i) through (a)(v) above. For example, if the redacted file was originally an attachment to an email, provide the metadata and information specified in subpart (a)(iii) above. Additionally, please provide a basis for each privilege claim as detailed in Instruction D.2.
- (b) Submit data compilations in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact.
- (c) If the Firm intends to utilize any de-duplication or email threading software or services when collecting or reviewing information that is stored in the Company's computer systems or electronic storage media, or if the Firm's computer systems contain or utilize such software, the Firm must contact the Commission to determine, with the assistance of the appropriate Commission representative, whether and in what manner the Firm may use such software or services when producing materials in response to this Order.
- (d) Produce electronic file and image submissions as follows:

- (i) For productions over 10 gigabytes, use hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data in USB 2.0 or 3.0 external enclosure;
- (ii) For productions under 10 gigabytes, CD-R CD-ROM optical disks, DVD-ROM optical disks for Windows-compatible personal computers, and USB 2.0 Flash Drives are acceptable storage formats; and
- (iii) All documents produced in electronic format shall be scanned for and free of viruses prior to submission. The Commission will return any infected media for replacement, which may affect the timing of the Firm's compliance with this Order.
- (iv) Encryption of productions using NIST FIPS-Compliant cryptographic hardware or software modules, with passwords sent under separate cover, is strongly encouraged.
- (e) Each production shall be submitted with a transmittal letter that includes the FTC matter number; production volume name; encryption method/software used; passwords for any password protected files; total number of documents; and a list of load file fields in the order in which they are organized in the load file.

## 2. Privileged Material

### (a) Privilege Log

- (i) If any documents are withheld from production based on a claim of privilege, provide a statement of the claim of privilege and all facts relied upon in support thereof, in the form of a log that includes each document's authors, addressees, date, a description of each document, and all recipients of the original and any copies.
- (ii) Attachments to a document should be identified as such and entered separately on the log.
- (iii) For each author, addressee, and recipient, state the person's full name, title, and employer or firm, and denote all attorneys with an asterisk.
- (iv) The description of the subject matter shall describe the nature of each document in a manner that, though not revealing information itself privileged, provides sufficiently detailed information to enable Commission staff, the Commission, or a court to assess the applicability of the privilege claimed.
- (v) For each document withheld under a claim that it constitutes or contains attorney work product, also state whether the company asserts that the

- document was prepared in anticipation of litigation or for trial and, if so, identify the anticipated litigation or trial upon which the assertion is based.
- (vi) Submit all non-privileged portions of any responsive document (including non-privileged or redactable attachments) for which a claim of privilege is asserted (except where the only nonprivileged information has already been produced in response to this instruction), noting where redactions in the document have been made. On the log, list the Reference Number of the non-privileged portions of such responsive documents.

3. All documents responsive to this Order:

- (a) Shall be produced in complete form, unredacted unless privileged, and in the order in which they appear in the Firm's files;
- (b) Shall be marked on each page with corporate identification and consecutive document control numbers when produced in image format;
- (c) Shall be produced in color where necessary to interpret the document (if the coloring of any document communicates any substantive information, or if black-and-white photocopying or conversion to TIFF format of any document (e.g., a chart or graph), makes any substantive information contained in the document unintelligible, the Firm must submit the original document, a like-colored photocopy, or a JPEG format image);
- (d) Shall be accompanied by an affidavit of an officer of the Firm stating that the copies are true, correct, and complete copies of the original documents; and
- (e) Shall be accompanied by an index that identifies (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control numbers(s) used to identify that person's documents. The Commission representative will provide a sample index upon request.