

Congress of the United States
Washington, DC 20515

November 14, 2018

The Honorable Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
United States Patent and Trademark Office
600 Dulany Street
Alexandria, VA 22313

Dear Mr. Iancu:

On November 7, 2018, President Donald Trump fired Attorney General Jeff Sessions and put in his place Matthew G. Whitaker to serve as Acting Attorney General. Because Mr. Whitaker was not confirmed by the Senate, both Republican and Democratic constitutional law experts warned that his appointment was, and continues to be, unconstitutional. In addition, because the Senate was not given an opportunity to properly vet Mr. Whitaker's background, serious questions are now arising about his fitness to serve in this position of trust.

We are writing today to request documents relating to a company on whose advisory board Mr. Whitaker reportedly served, World Patent Marketing.

On March 14, 2017, the Federal Trade Commission (FTC) announced charges against the company for an "invention-promotion scam" in which officials were "deceiving consumers and suppressing complaints about the company by using threats of criminal prosecution against dissatisfied customers."¹

At the time, Acting FTC Chairman Maureen K. Ohlhausen stated:

The defendants promised to promote people's inventions and took thousands of dollars, but provided almost no service in return. Then they added insult to injury by threatening people who complained.²

More than a year later, on May 10, 2018, the FTC announced that World Patent Marketing agreed to a settlement banning the company from the industry and imposing a judgment of nearly \$26 million.³

Court records include documents showing that Mr. Whitaker played a direct role in some of these actions. In one email, Mr. Whitaker apparently threatened a disgruntled customer,

¹ Federal Trade Commission, *FTC Halts Invention Promotion Scheme Charged with Bilking Millions of Dollars from Consumers* (Mar. 14, 2017) (online at www.ftc.gov/news-events/press-releases/2017/03/ftc-halts-invention-promotion-scheme-charged-bilking-millions). See also *FTC v. World Patent Marketing, Inc.*, Case No. 17-cv-20848 (S.D. Fl.) (Mar. 6, 2017).

² *Id.*

³ Federal Trade Commission, *FTC Settlement Will Ban Fraudulent Marketers from Invention Promotion Business* (May 10, 2018) (online at www.ftc.gov/news-events/press-releases/2018/05/ftc-settlement-will-ban-fraudulent-marketers-invention-promotion).

warning that filing complaints against the company could result in “serious civil and criminal consequences.” He stated: “I am a former United States Attorney for the Southern District of Iowa and I also serve on World Patent Marketing’s Advisory Board.”⁴

According to the FTC’s March 14, 2017 press release, the United States Patent and Trademark Office (USPTO) was involved in the FTC’s investigation.⁵ For all of these reasons, we request that you produce the following documents by November 27, 2018:

- (1) all documents referring or relating to Mr. Whitaker’s actions or role with World Patent Marketing, Inc., Desa Industries, Inc. (d/b/a World Patent Marketing), or any agents of World Patent Marketing, Inc. or Desa Industries, Inc. (collectively referred to hereinafter as World Patent Marketing);
- (2) all documents of Mr. Whitaker in connection with World Patent Marketing, including all documents between Mr. Whitaker and Scott Cooper, owner and CEO of World Patent Marketing;
- (3) all documents referring or relating to payments made or benefits given by Mr. Cooper or World Patent Marketing to Mr. Whitaker, including but not limited to campaign contributions;
- (4) all documents referring or relating to the formation or potential formation of a political action committee or other fundraising entity, such as Republicans Invent, by Mr. Whitaker, Mr. Cooper, or other employees, officials, representatives, or Advisory Board members of World Patent Marketing;
- (5) all documents referring or relating to complaints about Mr. Whitaker, Mr. Cooper, or World Patent Marketing made to Mr. Whitaker, Mr. Cooper, World Patent Marketing, the FTC, the USPTO, the United States Postal Inspection Service, the Federal Bureau of Investigation, the Better Business Bureau of Southeast Florida, or the Better Business Bureau of New York;
- (6) all documents referring or relating to the use by Mr. Whitaker, Mr. Cooper, or World Patent Marketing of unfair tactics, including threats of legal action; and
- (7) all transcripts from interviews or depositions of Mr. Whitaker, Mr. Cooper, any employee or representative of World Patent Marketing, or any customer of World Patent Marketing.

Thank you for your cooperation with this matter.

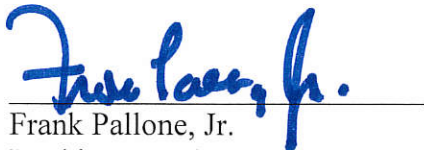
⁴ Dkt. No. 47-23, Additional Filings in Support of a Preliminary Injunction, *FTC v. World Patent Marketing, Inc.*, Case No. 17-cv-20848 (S.D. Fl.) (Apr. 5, 2017).

⁵ Federal Trade Commission, *FTC Halts Invention Promotion Scheme Charged with Bilking Millions of Dollars from Consumers* (Mar. 14, 2017) (online at www.ftc.gov/news-events/press-releases/2017/03/ftc-halts-invention-promotion-scheme-charged-bilking-millions).

Sincerely,



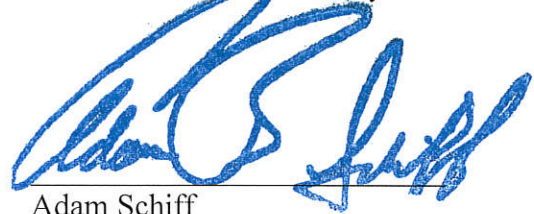
Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce



Jerrold Nadler
Ranking Member
Committee on the Judiciary



Adam Schiff
Ranking Member
Permanent Select Committee on
Intelligence

cc: The Honorable Trey Gowdy, Chairman
Committee on Oversight
and Government Reform

The Honorable Bob Goodlatte, Chairman
Committee on the Judiciary

The Honorable Greg Walden, Chairman
Committee on Energy and Commerce

The Honorable Devin Nunes, Chairman
Permanent Select Committee on Intelligence

Responding to Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Requestors.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Requestors' preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Requestors should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTHOUR, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Requestors should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Requestors' letter to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the House Oversight and Government Reform Committee's Democratic staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance should be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2014 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, should be produced immediately upon subsequent location or discovery.
17. All documents should be Bates-stamped sequentially and produced sequentially.
18. One set of documents should be delivered to the House Oversight and Government Reform Committee's Democratic staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Requestors.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term "employee" means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.