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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91256417
Party	Defendant Expensify. Inc.
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Date	09/24/2020
Attachments	Expensify Initial Disclosures.pdf(22141 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of
Trademark Application Serial Nos. 88/660,297 and 88/660,306
Filed: October 18, 2019
Published: December 17, 2019
Mark: SMARTSCAN

Intuit, Inc.)	
)	Opposition No. 91256417
Opposer,)	
)	
v.)	
)	
Expensify, Inc.,)	
)	
Applicant.)	
)	

EXPENSIFY, INC.’S INITIAL DISCLOSURES

Expensify, Inc. (“Expensify”) submits these Initial Disclosures pursuant to the scheduling order entered in this matter and Fed. R. Civ. Pro. 26(a)(1). These disclosures are based on information presently known and reasonably available to Expensify and which Expensify reasonably believes it may use in support of its claims and defenses. Continuing investigation and discovery may cause Expensify to amend these initial disclosures, including by identifying other potential witnesses, documents and by disclosing pertinent information. Expensify therefore reserves the right to supplement these initial disclosures.

By providing these initial disclosures, Expensify does not represent that it is identifying every document, tangible thing or witness possibly relevant to this action. In addition, these disclosures are made without Expensify in any way waiving its right to object to any discovery request or proceeding involving or relating to the subject matter of these disclosures on any

grounds, including competency, privilege, relevancy and materiality, hearsay, undue burden, confidentiality, or any other appropriate grounds. Furthermore, these disclosures are not an admission by Expensify regarding any matter.

Each and every disclosure below is subject to the above qualifications and limitations.

1. Individuals Likely To Have Discoverable Information

Individuals likely to have discoverable factual information that Expensify may use to support its defenses in the above referenced lawsuit include, but are not necessarily limited to, the following:

David Barret, CEO. Use of SMARTSCAN and development of goods and services related to SMARTSCAN technology.

Ryan Schaffer, Director of Strategy. Use of SMARTSCAN and use of goods and services by customers related to SMARTSCAN technology. Marketing and sales using SMARTSCAN.

The aforementioned individuals can be contacted through counsel of record.

Expensify reserves the right to amend or supplement these disclosures as additional persons or entities possessing relevant information become known.

2. Description of Documents

The following enumerates documents, data compilations, and other tangible things in the possession, custody or control of Expensify that Expensify may use to support its defenses:

- a. Documents evidencing use of SMARTSCAN in marketing, advertising, sales, support, onboarding, etc. by Expensify.
- b. Documents evidencing use of SMARTSCAN by third parties in

marketing, advertising, sales, support.

- c. Documents evidencing the channels of distribution used in the sales and marketing of SMARTSCAN related goods and services.
- d. Documents evidencing the market, market segments, customers, and target customers relating sales and marketing of SMARTSCAN related goods and services.
- e. Documents evidencing sales, pricing, and revenues of SMARTSCAN related goods and services.
- f. Documents evidencing secondary meaning and acquired distinctiveness of SMARTSCAN.
- g. Bad faith uses of SMARTSCAN by Intuit, Inc.

3. Insurance Agreements Liable for Part of All of a Judgement or for Indemnification

Expensify is not currently aware of any insurance agreements that may be responsive to Fed. R. Civ. P. 26(a)(1)(A)(iv). Expensify reserves the right to supplement if any responsive insurance agreement is identified.

4. Reservation of Rights

Expensify reserves the right to amend or supplement these disclosures as provided by Fed. R. Civ. P. 26(e) and to object to the admissibility of any document or statement herein or in Plaintiffs' initial disclosures on all bases set forth in the Federal Rules of Civil Procedure, Federal Rules of Evidence, governing law and the Trademark Trial and Appeal Board rules..

ROBBINS KAPLAN LLP

Dated: September 24, 2019

/s/ Kevin Pasquinelli

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CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2020 I caused a true and correct copy of the foregoing EXPENSIFY, INC.'S REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS PROPOUNDED ON INTUIT SET ONE to be served by email upon the following attorney of record for Opposer, Eric Ball, Fenwick & West LLP, 1 California Street, Mountain View, Ca 94041, eball@fenwick.com.

Dated: September 24, 2020

San Jose, California

By,



Kevin
Pasquinelli
Counsel
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Attorneys for Applicant Expensify, Inc.