

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Sarksian, Diane

DEFENDANTS

Rooke, Andrew K.; Tornetta, Mark A.; Husick, Lawrence A.; Tatro, Scott; and Equias Technology Development LLC

(b) County of Residence of First Listed Plaintiff Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Montgomery
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Steven A. Nash

DLA PIPER RUDNICK GRAY CARY US LLP

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Philadelphia, Pennsylvania 19103-7300

Phone: 215.656.3300; Fax: 215.656.2499

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input checked="" type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury — Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	PERSONAL PROPERTY	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 690 Other		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	LABOR	SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
	REAL PROPERTY	PRISONER PETITIONS	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities—Employment	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities—Other	<input type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. §§ 15, 26; 18 U.S.C. §§ 1962, 1964

Brief description of cause:

ANTITRUST, RICO, STATE LAW TORTS

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE STEWART DALZELLDOCKET NUMBER 05-3573

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Diane Sarkisian, an Individual, Plaintiff	:	
	:	
v.	:	Civil Action No. _____
Andrew Rooke, Mark Tornetta, Lawrence Husick, and Scott Tatro, Individuals Defendants	: : : : : :	JURY TRIAL DEMANDED
And	:	
Equias Technology Development LLC a Delaware limited liability company Defendant	: : :	

COMPLAINT

1. Plaintiff Diane Sarkisian (“Sarkisian”) seeks legal and equitable remedies for antitrust violations, violations of the Racketeering Influenced and Corrupt Organizations Act (“RICO”) and Pennsylvania state law claims of defamation, false light, trade libel, intentional infliction of emotional distress, and tortious interference with existing and prospective business relations by the actions of Defendants as set forth herein.

PARTIES

2. Plaintiff Diane Sarkisian is an individual real estate agent with a place of business at 1126 Horsham Road, Maple Glen, Pennsylvania 19002.

3. Upon information and belief, Defendant Andrew Rooke ("Rooke") is an individual with an address of 7029 Sheaff Lane, Fort Washington, PA 19034.

4. Upon information and belief, Defendant Mark Tornetta ("Tornetta") is an individual with an address of 307 Anthony Drive, Plymouth Meeting, PA 19462.

5. Upon information and belief, Defendant Lawrence Husick ("Husick") is an individual with a correspondence address of P.O. Box 587, Southeastern, Pennsylvania 19399.

6. Each of Defendants Rooke, Tornetta, and Husick (collectively, the "REAL Principals") are equity holders of Real Estate Alliance, Ltd. ("REAL").

7. Rooke is the president of REAL.

8. Upon information and belief, Defendant Scott Tatro ("Tatro") is an individual with a business address of 675 Eastline Road, Malta, NY, 12202.

9. Upon information and belief, Equias Technology Development LLC ("Equias") is a Delaware limited liability company with an address of 675 Eastline Road, Malta, NY 12202.

10. Upon information and belief, Tatro is the sole proprietor and president of Equias.

11. Upon information and belief, Equias is a closely held company, owned and controlled by Tatro, and all conduct of either complained of herein is attributable to the other. For purposes of this Complaint, Equias and Tatro will be referred to collectively as Equias/Tatro.

JURISDICTION AND VENUE

12. This action arises out of Sections 4 and 16 of the Clayton Act (15 U.S.C. §§ 15 and 26) for concerted activity in restraint of trade under Section 1 of the Sherman Act (15 U.S.C.

§ 1) and for attempted monopolization and conspiracy to monopolize under Section 2 of the Sherman Act (15 U.S.C. § 2); RICO (18 U.S.C. §§ 1962 and 1964); and the common law of the Commonwealth of Pennsylvania.

13. This Court has subject matter jurisdiction of such claims under 28 U.S.C. § 1331, in that the claims arise under the laws of the United States, § 1332 in that at least one Defendant is a citizen of a different state than Plaintiff and the amount in controversy exceeds \$75,000, § 1337 in that the claims arise under the laws protecting trade and commerce against restraints and monopolies, and § 1367 in that this is a civil action involving claims arising under the laws of the United States, wherein all other state-law claims are so related to claims within the Court's original jurisdiction that they form part of the same case or controversy. This Court also has jurisdiction over the state-law claims under 28 U.S.C. § 1367 because the federal and state claims are based on the same operative facts, and judicial economy, convenience and fairness to the parties will result if this Court assumes and exercises jurisdiction over such state-law claims.

14. Upon information and belief, the REAL Principals, and Equias/Tatro are doing business in the United States including in the Commonwealth of Pennsylvania and within the judicial district of the United States District Court for the Eastern District of Pennsylvania. The REAL Principals and Equias/Tatro have performed acts in this judicial district for the purpose of realizing pecuniary benefit or otherwise accomplishing an object with the intention of initiating a series of such acts, caused harm or tortious injury by acts or omission in this judicial district and caused harm or tortious injury in this judicial district by acts or omission outside this Commonwealth.

15. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

GENERAL ALLEGATIONS

Plaintiff's Background in Real Estate

16. Sarkisian is an individual real estate agent, who received her license in 1987. Prior to the conduct of the REAL Principals and Equias/Tatro complained of herein, Sarkisian was held in the utmost esteem by her clients and those in the real estate field. Much of Sarkisian's success is directly attributable to her hard work, her character, and her reputation for honesty.

17. Sarkisian launched her career as a real estate agent in 1987 with the philosophy that people came first, and money came second. Sarkisian worked tirelessly to serve her clients, becoming the top producing agent with her first firm in only six (6) months. She quickly earned a reputation of honesty and trustworthiness, always offering her clients her true opinion about properties - even if it cost her a sale. If the property wasn't right for the client, it was not worth a sale to Sarkisian.

18. Sarkisian's personal devotion to her clients has lead to enormous success in the field. In 2005, Sarkisian received the prestigious top award of "Lifetime Achievement" from RE/MAX International. She is consistently honored in the RE/MAX Hall of Fame, Platinum Club, Chairman's Club and Who's Who World Wide America.

19. Prior to the conduct of the REAL Principals and Equias/Tatro complained of herein, Sarkisian was listed as one of the top real estate agents in Pennsylvania and Delaware.

20. Like most real estate agents throughout the United States, Sarkisian uses a Multiple Listing Service ("MLS") to find real estate properties that may be of interest to her clients. Specifically, Sarkisian uses the TREND MLS.

21. MLS's and other computer-driven real estate search services typically include a database of available properties and a search interface for locating the properties of interest.

22. Sarkisian had no involvement with the development, implementation or maintenance of the TREND MLS or any other computer-driven real estate search service.

The Early Failures to Profit, and the Formation of REAL

23. Tornetta is the sole named inventor of U.S. Pat. No. 4,870,576 ("the '576 patent") and U.S. Pat. No. 5,032,989 ("the '989 Patent") (hereinafter collectively called "the Patents-in-suit").

24. Each of the Patents-in-suit includes claims directed to a method in which a computerized system must perform several specifically enumerated steps.

25. The '989 Patent issued on July 16, 1991, based on a patent application that was filed April 24, 1989. The '989 Patent itself claims priority to an earlier application that was filed on March 19, 1986 and issued as the '576 patent on September 26, 1989.

26. Upon information and belief, Tornetta, the sole named inventor and initial owner of the Patents-in-suit, assigned the '576 patent to RealPro, Ltd. ("RealPro") on March 18, 1986. The Assignment was recorded in the Patent Office on March 19, 1986.

27. Upon information and belief, Tornetta assigned the '989 Patent to RealPro on June 4, 1989. The Assignment was recorded in the Patent Office on June 12, 1989.

28. Upon information and belief, in or about 1998, Tornetta or Tornetta's agent contacted Microsoft Corp. ("Microsoft") and Moore U.S.A., Inc. ("Moore") alleging infringement of the '989 Patent and demanding payment of a licensing fee. Upon information and belief, Microsoft and Moore denied infringement and refused to pay any licensing fees.

29. On December 2, 1998, Tornetta filed, in his own name, a lawsuit (No. 2:98-cv-06283-NS) against Microsoft and Moore in the Federal District Court for the Eastern District of Pennsylvania, alleging infringement of the '989 Patent (the "M&M Action"). Husick and his partner Laurence Weinberger represented Tornetta in the lawsuit.

30. On December 14, 1998, Tornetta filed an amended complaint against Microsoft and filed a new lawsuit against Moore (No. 2:98-cv-06484-NS) (the "Moore Action").

31. The Moore Action was dismissed on April 30, 1999 for failure to join an indispensable party, namely, RealPro - then the owner of the patent-in-suit.

32. The M&M Action was dismissed on July 27, 1999, on a Motion for Summary Judgment by Microsoft.

33. An assignment of the Patents-in-suit from RealPro back to Tornetta was recorded in the Patent Office on May 26, 2005. The assignment purports to have been executed on March 31, 1998.

34. Upon information and belief, in or about 1999, Tornetta or Tornetta's agent contacted Mapquest.com, Inc. ("Mapquest") alleging infringement of the '989 Patent and demanding payment of a licensing fee. Upon information and belief, Mapquest denied infringement and refused to pay any licensing fees (as had Microsoft and Moore before it).

35. On December 2, 1999, Tornetta filed a lawsuit (No. 2:99-cv-06125-NS) against Mapquest and Moore (the "Mapquest Action").

36. On the same day, Tornetta filed another lawsuit (No. 2:99-cv-06126-NS) against Microsoft (the "Microsoft Action").

37. At about the same time, Husick and/or Tornetta issued a Press Release ("the 1999 Press Release") describing how Microsoft and Moore infringed the '989 Patent, together with

what appeared to be a copy of the Complaint in the Microsoft Action. The 1999 Press Release further indicated that other companies had changed their websites to avoid the '989 Patent, and that still other companies were negotiating a license.

38. Each of the Microsoft and Mapquest Actions were dismissed on June 8, 2000 based on Tornetta's failure to serve the Complaints.

39. No companies, other than Equias, have ever accepted a patent license from any of the REAL Principals.

40. Following the unsuccessful attempts to sue Microsoft, Mapquest and Moore, and a period of almost five (5) years in which Tornetta took no steps to enforce the patents, Tornetta assigned the Patents-in-suit to REAL on November 18, 2004.

41. Upon information and belief, Husick and Tornetta formed REAL as a holding company for the specific purpose of enforcing and licensing the Patents-in-suit after forming a business relationship with Rooke. Upon information and belief, Rooke, Husick and Tornetta became principals of REAL at that time.

42. Upon information and belief, REAL has substantially no assets other than the Patents-in-suit.

43. Rooke has provided and continues to provide funding for the activities of the other REAL Principals.

44. Upon information and belief, Rooke is in control of the enforcement efforts of one or more of the Patents-in-suit.

45. Husick's personal correspondence address is the same as that of REAL.

46. Upon information and belief, Husick provides legal services in connection with the enforcement, negotiations and licensing of the Patents-in-suit.

47. Husick works as an attorney for REAL, while at the same time pursues his own personal interest and equity share in REAL, owner of the Patents-in-suit.

48. Upon information and belief, the REAL Principals each have a central role in formulating business strategies employed by the REAL Principals.

49. Upon information and belief, in light of the failed attempts to sue Microsoft, Mapquest and Moore, and following the period of almost five (5) years in which Tornetta took no steps to enforce the patents, the REAL Principals explored other avenues for reaping profits from the Patents-in-suit. Among these avenues were failed attempts to sell licenses to associations, agencies, and corporate entities, such as Homestore.com (the owner and operator of the website www.realtor.com), MapInfo Corporation, the New York State Association of Realtors, and numerous other realty companies.

50. Upon information and belief, at least Tornetta also unsuccessfully attempted to convince the National Association of Realtors (“NAR”) to purchase a “blanket license” for the entire real estate industry.

The Bottom Up Approach

51. Upon information and belief, following the initial failed attempts to sue Microsoft, Mapquest and Moore, and the consistent failures in trying to extract money from sophisticated corporate entities, the REAL Principals realized that they could not succeed on the merits against any entity that had the resources to fight them.

52. Upon information and belief, the REAL Principals formulated a “bottom up approach” to corner the market for Internet-based real estate search services. The new approach was initiated about six (6) years after the last of the failed lawsuits.

53. Upon information and belief, the “bottom up approach” is designed to target individual real estate agents, who can not afford to employ patent counsel or to fight expensive patent lawsuits.

54. Upon information and belief, the “bottom up approach” is targeted against individual real estate agents, despite the fact that the vast majority, and likely all, individual real estate agents have no involvement with the development, implementation or maintenance of the computerized systems, which the REAL Principals and Equias/Tatro allege to infringe the Patents-in-suit.

55. Upon information and belief, the strategy behind the “bottom up approach” is built on the premise that it will cost individual real estate agents less money to take a license than to hire a patent attorney.

56. Upon information and belief, the REAL Principals intend to corner the entire real estate market by targeting, one by one, individual real estate agents all over the country in due course and threatening each real estate agent with a patent infringement suit.

57. Upon information and belief, the REAL Principals employ the “bottom up approach” against all individual real estate agents on a collective basis, without performing a sufficient investigation as to the activities of any particular individual agent or comparing those activities to the steps required by the Patents-in-suit.

58. Despite the open and public operation of computerized real estate search systems for at least six (6) years, the REAL Principals have chosen to wait until now, and to target individual real estate agents rather than the developers or operators of the allegedly infringing computerized systems.

59. In accordance with the new “bottom up approach” the REAL Principals have offered and continue to offer real estate agents individual licenses under the Patents-in-suit for a fee of \$10,000.00.

60. Upon information and belief, there are approximately one and one quarter (1¼) million real estate agents that are members of NAR and a significantly greater number of total real estate agents in the United States. At \$10,000.00 per agent, the REAL Principals stands to make over twelve (12) billion dollars in fees with their “bottom up approach” if the entire real estate industry were licensed under the Patents-in-suit.

61. In furtherance of the “bottom up approach”, Husick has sent threatening letters to individual real estate agents, including Sarkisian. The letters typically include a notice of one or more of the Patents-in-suit, and a demand that the individual real estate agent purchase a license under the patents for a \$10,000.00 fee.

62. Upon information and belief, Husick has sent such letters to at least twelve (12) individual real estate agents.

63. Upon information and belief, Husick intends to send more such letters to additional individual real estate agents in the future.

64. Upon information and belief, the REAL Principals operate in conjunction with Equias/Tatro in their “bottom up approach.”

65. In discussing the business activities of Equias and REAL during an interview published on www.rismedia.com (the “Tatro Interview”), Equias/Tatro stated as follows: “REAL has told us that more suits are ‘in the pipeline’ against agents all over the country”. The interview is available at <http://www.rismedia.com/index.php/article/articleview/12017/1/1/>.

66. In sum, Husick has threatened individual real estate agents who refuse to purchase a license under the Patents-in-suit with patent litigation. Upon information and belief, such threats are routinely made by Husick prior to a sufficient investigation as to the activities of the individual agents.

67. Upon information and belief, it is the intention of the REAL Principals to intimidate individual real estate agents in order to scare the individual agents into purchasing a license from REAL (for \$10,000.00), or into finding an alternative 'cheaper' way to obtain a license to the Patents-in-suit.

68. Acting in concert with the REAL Principals, Equias/Tatro provides a purported 'cheaper' or 'easier way out' for individual real estate agents who have been initially contacted by Husick.

69. The REAL Principals have licensed Equias/Tatro to operate under the Patents-in-suit.

70. Upon information and belief, Equias/Tatro does not have the right to sublicense others under the Patents-in-suit.

71. Equias has offered 'licenses' under the Patents-in-suit to several entities.

72. Equias/Tatro described the agreement between REAL and Equias during the Tatro Interview as follows: "Our agreement allows us to take the exact same license that REAL is offering agents at a fee of \$10,000.00, and provide it to agents who use our licensed system at a much lower cost, paid for over time."

73. The REAL Principals have indicated that they do not act in concert with Equias/Tatro. However, upon information and belief, the REAL Principals and Equias must

work in concert to permit 'members' of Equias to use the methods that the REAL Principals and Equias/Tatro contend to be covered by the Patents-in-suit.

74. Upon information and belief, Equias has substantially no assets other than its ability to obtain 'licenses' under the Patents-in-suit for its 'members', and an inactive Internet site at www.findahome.com (the "Find A Home Site").

75. Equias/Tatro have contacted, and upon information and belief, intend to continue to contact, individual real estate agents after Husick has intimidated the agents with the threat of a patent lawsuit.

76. Upon information and belief, when contacting an individual real estate agent, Equias/Tatro offers the agent an 'easy way out' of the litigation threatened by Husick by subscribing to Equias' system, which apparently includes access to the Find A Home Site (the "Equias System").

77. Upon information and belief, the Equias System has been initiated as a 'pyramid scheme' in which real estate agents become initial 'members' for a 'fee' of \$8,500.00. Upon further information and belief, the fee is not requested of at least some of the initial members as an up-front payment, but rather becomes the balance of an account in the agent's name from which \$50.00 is deducted each time the agent convinces a new user (i.e., agent) to join the Equias System. Upon information and belief, Equias/Tatro further request that initial 'members' of the Equias System allow their name to be used in further promotional and marketing efforts (e.g., "Joe Smith has joined the Equias System, you should too").

78. The REAL Principals and Equias/Tatro have thereby developed an intimidation scheme in which individual real estate agents are forced to choose between paying a \$10,000.00

license fee, becoming a 'subscriber' of the Equias System or defending a patent infringement lawsuit.

The Attack on a Successful Real Estate Business

79. Following the long history of unsuccessful attempts by Tornetta and Husick to extract licensing fees for alleged infringement of the Patents-in-suit, a lengthy period of inactivity and the eventual joining of Rooke, the newly formulated "bottom up" approach to extracting money, of which Sarkisian is the first of many victims, has been implemented.

80. Upon information and belief, the REAL Principals and Equias/Tatro have singled out Sarkisian as the first victim of the intimidation scheme based on her success in the real estate field.

81. Upon information and belief, the REAL Principals intend to pursue their relentless intimidation scheme against Sarkisian. As part of their pursuit, the REAL Principals and Equias/Tatro have sought to harass and embarrass Sarkisian, cause damage to her reputation and business, and make an example of her for all other real estate agents across the country who do not acquiesce to their intimidation scheme.

82. Upon information and belief, the REAL Principals and Equias/Tatro intend to employ their intimidation scheme against other individual real estate agents if they are successful in their attack against Sarkisian.

83. Consistent with the intimidation scheme, Husick sent to Sarkisian on June 1, 2005 a notice of the '989 Patent and a demand that she purchase a license under the '989 Patent for \$10,000.00. Enclosed with the letter was a license application form, a sample license to be signed by Rooke, a draft of an Initial Disclosures under F.R.C.P. 26(a)(1), and a draft Complaint directed specifically to Sarkisian.

84. The June 1 letter explains that REAL has established its licensing program “[i]n view of the business reality that patent litigation is time-consuming and expensive ...”

85. Upon Sarkisian’s refusal to acquiesce in the intimidation scheme, the REAL Principals filed a lawsuit on July 12, 2005 in the United States District Court for the Eastern District of Pennsylvania (No. 05-CV-03573-SD) against Sarkisian (“the REAL Action”) alleging infringement and inducement of infringement of the Patents-in-suit.

86. Based on Sarkisian’s activities, REAL, the REAL Principals and Equias/Tatro could not have reasonably expected to succeed on the merits of proving that Sarkisian has ever infringed a valid claim of one or more of the Patents-in-suit.

87. Upon information and belief, none of REAL, the REAL Principals or Equias/Tatro performed a sufficient investigation as to Sarkisian’s computer-driven real estate searching activities before sending her a notice of patent infringement or filing the REAL Action.

88. Upon information and belief, the REAL Action is a sham litigation brought only to force Sarkisian to pay defense costs amounting to more than the offered license fee, harass and embarrass Sarkisian, cause damage to her reputation and business, and make an example of her for all other real estate agents across the country who do not acquiesce to the demands of the REAL Principals and Equias/Tatro, all in furtherance of the intimidation scheme devised by them.

89. Upon information and belief, rather than proving that Sarkisian has ever infringed the Patents-in-suit as alleged in the REAL Action, the true intentions of the REAL Principals and Equias/Tatro are to coerce Sarkisian into (1) purchasing a license to the Patents-in-suit from REAL, (2) joining and/or endorsing the Equias System, and/or (3) serving as an example to all

other real estate agents in the country as to the price to be paid for refusing to comply with the intimidation scheme.

90. Consistent with the intimidation scheme, Equias/Tatro sent Sarkisian an email on August 25, 2005, opening with “I believe our company [Equias] has a way for you to TOTALLY AVOID the Patent Infringement litigation that REAL llc (Real Estate Alliance Limited) has set in motion against you.”

91. The following day, on August 26, 2005, Equias/Tatro sent a second email to Sarkisian outlining a “no cost” proposal by which Sarkisian could become a ‘BETA’ user of the Equias System.

92. The August 26, 2005 email further stated: “Rather than face the substantial personal time, effort, aggravation, embarrassment, and possible damage to reputation...not to mention money litigating for a ‘989 license, we believe this NO COST solution to be a good plan.”

93. The REAL Principals and Equias/Tatro have attempted to make an example of Sarkisian by publicizing the actions against her in order to further intimidate her (and all other real estate agents throughout the country) into purchasing a license under one or more of the Patents-in-suit, or becoming a ‘member’ of the Equias System. Upon information and belief, the publicity activities of the REAL Principals and Equias/Tatro have been purposefully designed to harass and embarrass Sarkisian, cause damage to her reputation and business, and make an example of her for all other real estate agents across the country who do not acquiesce to their intimidation scheme.

94. In furtherance of the publicity and intimidation scheme, the REAL Principals posted a press release (“the July 12 Press Release”) on the same day the Complaint in the REAL

Action was filed. The July 12 Press Release can be found on REAL's Internet website (at <http://homepage.mac.com/lawhusick/REAL989/page2/page2.html>).

95. The July 12 Press Release states that Sarkisian "a local real estate agent who describes herself as being in the top one percent of all agents nationwide, has been named in a federal lawsuit that accuses her of patent infringement."

96. The July 12 Press Release further describes the method that the REAL Principals contend to be covered by the Patents-in-suit, and states that "[r]eal estate agents throughout the United States, like Sarkisian, use this method as a valuable tool to locate desirable residential properties every day as they work with their clients."

97. A similar press release was posted on the Internet website www.investors.com, entitled "Philadelphia-Area Real Estate Agent Sued for Patent Infringement; Other Agents Nationwide May Face Similar Action". This press release is available on the Internet at <http://www.investors.com/breakingnews.asp?journalid=28979744>, and indicates that REAL is the source of the press release, and provides Husick's contact information.

98. In furtherance of the publicity and intimidation scheme, Equias/Tatro conducted the Tatro interview, less than a month after Sarkisian refused to participate in Equias/Tatro's proposed pyramid scheme (i.e., the Equias System), to discuss the REAL Action and future actions against others.

99. Similar comments from Equias/Tatro appeared in the November/December 2005 issue of ARELLO Real Estate Regulatory Review, published by the Association of Real Estate License Law Officials and available on the Internet at <http://www.reic.ca/Boundaries/patent.pdf>.

100. Upon information and belief, in furtherance of the publicity and intimidation scheme, the REAL Principals and Equias/Tatro have solicited additional media attention from various other sources.

101. In posting misrepresentations about Sarkisian on the Internet, the REAL Principals and Equias/Tatro knew or recklessly disregarded the probability that existing and prospective clients of Sarkisian would research her on the Internet before engaging her in connection with the buying and selling of real estate.

102. Upon information and belief, existing clients of Sarkisian, and prospective clients of Sarkisian, have researched Sarkisian on the Internet to decide whether to continue to use Sarkisian, or to engage Sarkisian for the first time, as their real estate agent in connection with real estate transactions.

103. Upon information and belief, existing clients of Sarkisian and prospective clients of Sarkisian have read the July 12 Press Release, the Tatro Interview, and other publications and press releases by the REAL Principals and Equias/Tatro, and have learned that Sarkisian is the subject of a lawsuit.

104. Upon information and belief, the typical clients of Sarkisian are not trained in the nuances of patent law and do not understand the nature of the lawsuit against Sarkisian. Instead, the typical clients of Sarkisian simply understand that Sarkisian has been sued for patent infringement, and that information about the lawsuit is plastered all over the Internet.

105. Upon information and belief, clients of Sarkisian, and prospective clients of Sarkisian, have elected not to continue to use Sarkisian or not to engage Sarkisian for the first time as their real estate agent based on the July 12 Press Release, the Tatro Interview, and the various other public comments by the REAL Principals and Equias/Tatro.

106. Upon information and belief, it was the intention of the REAL Principals and Equias/Tatro at the time they issued the July 12 Press Release and solicited the additional media attention to cause damage to Sarkisian's reputation and harm to her business, and to make an example of Sarkisian for all other real estate agents in the country as to the price to be paid for refusing to comply with the intimidation scheme.

107. In the short time since the REAL Principals and Equias/Tatro began their intimidation and publicity scheme against Sarkisian, she has lost business and suffered irreparable harm, dropping from one of the top ten (10) producing RE/MAX agents in Pennsylvania and Delaware.

Count 1
Concerted Action in Restraint of Trade Under Section 1 of the Sherman Act
By Rooke, Tornetta, Husick and Equias/Tatro

108. Sarkisian incorporates by reference the allegations set forth in Paragraphs 1-107.

109. The broad product market is that of real estate search services and sources of real estate listings. The broad product market potentially includes printed publications and computerized services available through the Internet or provided on electronic media, such as CD-ROM.

110. However, there is low cross-elasticity of demand between Internet-based search services and printed publications or other forms of electronic media because Internet-based search services can be updated with new listings quickly. Updates for other forms of media may be delayed for several days or longer periods of time due to the time involved with printing and distributing publications and CD-ROM. Thus, a user of Internet-based real estate search services has a significant advantage over users of non-Internet based services in finding new "hot"

listings. As such, an increase in price in Internet-based search services is unlikely to drive users to switch to non-Internet based search services.

111. Within the broad product market is a submarket consisting of Internet-based real estate search services.

112. There is low cross-elasticity of demand with respect to Internet-based search services and the available alternatives.

113. Within the submarket of Internet-based real estate search services are those that include mapping functions and those that do not. Mapping functions include the ability to display a map showing properties of interest. Such systems with mapping functions can display maps in various levels of detail.

114. The integrated mapping features of such services are highly convenient for a user searching for available real estate properties because, for example, once a property is found, the map can be used to visualize the location of the property and determine appropriate driving directions to get to it.

115. An integrated mapping function adds value to an Internet-based real estate search service.

116. There is relatively low cross-elasticity of demand between Internet-based real estate search services that include mapping functions and those that do not because many users are willing to pay a higher price for Internet-based real estate search services that include mapping functions. As such, an increase in price for Internet-based real estate search services that include mapping functions will not necessarily drive consumers to use a service without a mapping function.

117. The relevant product market can be defined as Internet-based real estate search services that include mapping functions.

118. The geographic market for such services is nationwide.

119. There are several entities competing with one another in the relevant product and geographic market (hereinafter “the relevant market”).

120. Internet-based real estate search services are provided across state lines in interstate commerce.

121. Accordingly, Sarkisian, who lives and works in Pennsylvania, has been targeted by the REAL Principals and Equias/Tatro in an effort to force her to subscribe to the Equias system, which upon information and belief, is based in New York.

122. Further, upon information and belief, real estate agents from states other than Pennsylvania and New York have also been threatened by Husick with actions similar to the REAL Action and contacted by Equias/Tatro with the ‘easy way out’ in an effort to drive business to Equias.

123. The REAL Principals and Equias/Tatro have conspired together and acted in concert in an effort to coerce individual real estate agents, including Sarkisian, into obtaining access to the Equias System – the sole licensee of the Patents-in-suit – in order to avoid the more expensive alternatives of purchasing a license from REAL or facing the costs of defending a sham litigation, such as the REAL Action.

124. The REAL Principals and Equias/Tatro have and continue to engage in a conscious commitment to a common scheme designed to restrain trade by deceiving and coercing real estate agents in an effort to drive them to obtain Internet-based real estate search services (with or without mapping functions) from a single source, namely Equias.

125. As part of the common scheme, the REAL Principals have asserted, and will continue to assert, that the day to day activities of individual real estate agents (like Sarkisian) infringe the methods claimed in the Patents-in-suit.

126. In accordance with the assertions, the REAL Principals have threatened, and will continue to threaten, individual real estate agents (like Sarkisian) with sham patent litigation based on one or more of the Patents-in-suit.

127. Upon information and belief, prior to threatening such patent litigation against Sarkisian, the REAL Principals did not perform a sufficient investigation into Sarkisian's activities.

128. Sarkisian and other individual real estate agents do not infringe the Patents-in-suit through the mere use of a multiple listing service or other computer-driven real estate search service (with or without mapping functions), as implied by the REAL Principals in the July 12 Press Release and other publications, and, upon information and belief, the REAL Principals are well aware of this fact.

129. The intimidation scheme devised by the REAL Principals and Equias/Tatro, including the enforcement and licensing activities against Sarkisian and other individual real estate agents, is an impermissible attempt to act beyond the scope of the patent grant with respect to the Patents-in-suit, and constitutes an attempt to extract money from individual real estate agents (including Sarkisian) to which the REAL Principals have no right, or to misuse the Patents-in-suit to drive business to a single source.

130. Upon information and belief, the REAL Principal's impermissible attempt to act beyond the scope of the patent grant includes the assertions that every or most real estate agents in the country require a license in order to use Internet-based real estate searching services.

131. The concerted actions of the REAL Principals and Equias/Tatro are likely to have anticompetitive effects on the relevant market because the concerted actions will have a substantial, adverse effect on competition, in that users of Internet-based real estate search services will be forced to use the Equias system.

132. Once an individual real estate agent has acquiesced to the intimidation scheme and subscribed to the Equias System, the individual agent will likely not wish to subscribe to services of other providers of Internet-based real estate search services to avoid paying fees to two providers, to the detriment of such other providers and of competition in the relevant market.

133. The substantial, adverse effect on competition is likely to occur because individual real estate agents, untrained in the nuances of patent law, will, after reading REAL's false and misleading statements as to the scope of the Patents-in-suit, likely incorrectly believe that the Patents-in-suit cover their day to day activities searching for available real estate. Thus, individual real estate agents will believe that they must use the Equias System in order to avoid paying a \$10,000.00 license fee to REAL, instead of the systems of other providers.

134. Moreover, the substantial, adverse effect on competition is likely to occur because those individual real estate agents that correctly understand that the scope of the Patents-in-suit does not cover their day to activities are unable to afford the cost of patent litigation against REAL. Thus, even real estate agents who understand that they do not infringe the Patents-in-suit will be forced to use the Equias System, instead of the systems of other providers.

135. Because individual real estate agents will be deceived or coerced into using the services of Equias, the conduct of the REAL Principals and Equias/Tatro will provide the REAL Principals and/or Equias/Tatro with the ability to raise prices for Internet-based real estate search

services above those prices that would prevail in a competitive market, to the detriment of users of such services.

136. Upon information and belief, consumers will further suffer because the Equias System is of inferior quality to other services offered in the relevant market, at least in that the Equias System is not presently operable.

137. Upon information and belief, the REAL Principals and Equias/Tatro intend to continue to deceive or coerce individual real estate agents until all or the majority of real estate agents in the country are forced to use the services of Equias instead of the systems of other providers. Unless enjoined by this Court, the conduct of the REAL Principals and Equias/Tatro will have a predictable and pernicious anti-competitive effect in the relevant market.

138. Sarkisian has suffered irreparable harm to her business and reputation due to the concerted actions of the REAL Principals and Equias/Tatro, including the false statements publicized by the REAL Principals and Equias/Tatro.

139. The injury suffered by Sarkisian is an integral aspect of the conspiracy among the REAL Principals and Equias/Tatro because it is the very means by which the Defendants seek to achieve their illegal ends (i.e., through intimidation, embarrassment, damage to reputation, etc. for those who refuse to acquiesce), thereby constituting antitrust injury for purposes of § 4 of the Clayton Act.

140. To the extent that the conduct of the REAL Principals is attributable to the individual actions of Husick, upon information and belief, both Tornetta and Rooke are jointly and severally liable for the conduct and the damages caused thereby because each of Tornetta and Rooke play a central role in formulating business strategies employed by the REAL Principals, including the formulation and execution of the overall intimidation scheme.

Moreover, upon information and belief, Rooke is in control of the enforcement efforts of one or more of the Patents-in-suit, including those efforts individually performed by Husick.

141. To the extent that the conduct of the REAL Principals or Equias/Tatro is attributable to the individual actions of Rooke, Tornetta, Husick or Equias/Tatro, upon information and belief, each of them is jointly and severally liable for the conduct and the damages caused thereby because all of them have conspired together and acted in concert in a conscious commitment to a common scheme designed to restrain trade by deceiving and coercing real estate agents in an effort to drive them to obtain Internet-based real estate search services from a single source, namely Equias.

142. The concerted actions of the REAL Principals and Equias/Tatro and their anticompetitive effects, have caused and will continue to cause irreparable injury to Sarkisian, and all individual real estate agents, unless enjoined by this Court.

143. Even absent a present antitrust injury to Sarkisian, the conduct of the REAL Principals and Equias/Tatro represent a true threat of injury to Sarkisian, other individual real estate agents, the public and to competition in the relevant market because, if successful, the REAL Principals and Equias/Tatro will have the ability to charge extra fees, drive business to a single source or otherwise raise prices above those that would prevail in a competitive market. Thus, the conduct of the REAL Principals and Equias/Tatro should be enjoined in accordance with § 16 of the Clayton Act.

Count 2
Attempted Monopolization Under Section 2 of the Sherman Act
By Rooke, Tornetta, Husick and Equias/Tatro

144. Sarkisian incorporates by reference the allegations set forth in Paragraphs 1-143.

145. The REAL Principals and Equias/Tatro, have engaged in predatory and anticompetitive conduct, and have conspired together and acted in concert to engage in predatory and anticompetitive conduct, by attempting to coerce individual real estate agents, including Sarkisian, into obtaining access to the Equias System – the sole licensee of the Patents-in-suit – in order to avoid the more expensive alternatives of purchasing a license from REAL or facing the costs of defending a sham litigation, such as the REAL Action.

146. Upon information and belief, the REAL Principals and Equias/Tatro assert that all real estate agents, who use a provider of Internet-based real estate search services with mapping functions across the country infringe one or more of the Patents-in-suit.

147. Upon information and belief, in addition to Sarkisian, the REAL Principals have contacted at least twelve (12) other individual real estate agents threatening a patent infringement action and/or demanding that the agents purchase a license under one or more of the Patents-in-suit.

148. Upon information and belief, at least six (6) of the individual real estate agents contacted by the REAL Principals have a “Number1Expert” classification awarded by Trader Publishing Company for success in the field of real estate sales.

149. Upon information and belief, these Number1Expert agents have been targeted by the REAL Principals and Equias/Tatro as the next set of examples for all other real estate agents.

150. Upon information and belief, it is the specific intent of the REAL Principals and Equias/Tatro to monopolize the relevant market throughout the United States by coercing all or most individual real estate agents to each become a ‘member’ of the Equias System in order to avoid the more expensive alternatives of purchasing a license from the REAL Principals or defending a sham patent litigation.

151. The REAL Principals enjoy market power in the relevant market by virtue of their collective ownership of the Patents-in-suit in combination with their ability, which they have exercised against Sarkisian, to use the Patents-in-suit to threaten sham litigation against individual real estate agents throughout the country.

152. Unless the anticompetitive activities of the REAL Principals and Equias/Tatro are enjoined by this Court, they will likely achieve monopoly power in the relevant market by coercing all or most individual real estate agents to each become a 'member' of the Equias System in order to avoid the more expensive alternatives of purchasing a license from REAL or facing the costs of defending a sham litigation, such as the REAL Action.

153. The concerted actions of the REAL Principals and Equias/Tatro have caused irreparable harm to Sarkisian's business and reputation.

154. The injury suffered by Sarkisian is an integral aspect of the conspiracy because it is the very means by which Defendant seeks to achieve its illegal ends (i.e., through intimidation, embarrassment, damage to reputation, etc. for those who refuse to acquiesce), thereby constituting antitrust injury for purposes of § 4 of the Clayton Act.

155. To the extent that the conduct of the REAL Principals is attributable to the individual actions of Husick, upon information and belief, both Tornetta and Rooke are jointly and severally liable for the conduct and the damages caused thereby because each of Tornetta and Rooke have a central role in formulating business strategies employed by the REAL Principals, including the formulation and execution of the overall intimidation scheme. Moreover, upon information and belief, Rooke is in control of the enforcement efforts of one or more of the Patents-in-suit, including those efforts individually performed by Husick.