Exhibit A

IP NAVIGATION GROUP™

October 9, 2009

VIA EMAIL

Ralf-Reinhard Boer
Chairman & CEO
Foley & Lardner LLP
321 North Clark Street
Suite 2800
Chicago, IL 60654-5313

Stanley Jaspan
Managing Partner
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306

Re: DataTern v. Foley & Lardner LLP

Gentlemen:

This is an important letter, and I hope that it receives your immediate attention. I urge you to consider the alternatives carefully prior to declining to accept this proposal. So that there is no confusion—this matter will either be resolved by 5 pm (Texas time) on Monday, October 12, 2009 or this matter will not be amicably resolved.

Background: I own and manage an IP advisory company named IP Navigation Group, LLC ("IPNav"). In late 2007, the President of DataTern, Inc. ("DataTern") made an unsolicited contact to IPNav by sending a 2007 PowerPoint presentation regarding patents owned by DataTern, its suit against Red Hat, and future licensing/enforcement strategy. Foley & Lardner represented DataTern—and the terms of that representation are the proper subject of the DataTern v. Foley & Lardner LLP lawsuit currently pending in a federal court in Texas.

On October 1, 2009, your firm made the decision to file a third-party complaint naming IPNav on a tortious interference theory and other affiliated (me) and unaffiliated entities (my wife, her primary fund and one of the fund companies), apparently on a "piercing" theory. This amended complaint should be Exhibit 1 for why lawyers should NEVER represent themselves. This

amended complaint is without any basis in fact and is an obvious attempt to slander and interfere with IPNav and other newly-named defendants' businesses.

Acceptable Resolution: Prior to the close of business (Texas time) on Monday, October 12, the following must occur:

> Δ Foley must file a dismissal with prejudice with respect to IPNav and all the other newly-named defendants
>
> ΔFoley must state in the dismissal: "This complaint was filed in error and, after consultation, Foley & Lardner determined there was, in fact, no basis for filing this action against IPNav, Mr. Erich Spangenberg, Acclaim Financial Group, LLC, TechDev Holdings, LLC or Mrs. Audrey Spangenberg. We have apologized for the inaccurate statements made in the complaint and this apology has been accepted. We further apologize to this Court for wasting judicial time on this matter."
>
> ΔFoley must send a letter of apology to each of these people and entities—that I will leave it to you to draft this letter.

Each element of this proposed resolution is critical—a dismissal without the other elements will not cut it. If Foley will fully comply with this resolution request, IPNav will entrust your local counsel (Melissa Smith—whom I hold in very high regard) and Andrew Spangler (also counsel in Texas) to implement this resolution.

The Alternative: If forced to do so, IPNav will file an answer and counterclaim that will necessarily describe in detail how Foley's decision to file the third-party complaint is but another example, among several spanning several years, of Foley's proclivities to malpractice, fraud, racial discrimination, sexual discrimination, abusive litigation tactics, and all-around bad judgment, both on behalf of its clients and in managing its own lawyers. There is ample documentation to demonstrate this conduct. This information will all be relevant in view of Foley's endeavoring to position itself in the third-party complaint as a "top tier" respectable firm—IPNav will spend significant time and money educating the Court as to the other side of Foley. IPNav sincerely hopes that these actions will not be necessary. If Foley does not accept responsibility for its frivolous pleading, IPNav will have no choice but to bring these matters to the Court's attention.

By Foley's actually filing this third-party complaint that impugns IPNav (among other persons or entities, with no facts to connect them at all to the "DataTern Parties"), which acted solely as a consultant to DataTern to assist that company in mitigating the damage that Foley's ineffective representation had already wrought, Foley has set a perfect stage for a counterclaim from IPNav against Foley for tortious interference. That claim would be grounded upon the threats and coercive conduct that Foley lawyers demonstrated around the time DataTern approached IPNav of its own volition, once DataTern determined it could not waste its time and money with the unproductive and un-strategic course Foley had laid out. By Foley's lawyers' seeking to

coerce a settlement between the Datatern Parties and the opposing party in that litigation—or else Foley would in fact take legal action against IPNav and others—Foley interfered with IPNav's consulting relationship and agreement with the Datatern Parties. Foley's bad choice, yet again, to treat a client relationship with such disdain, regardless of the extent of Foley's financial troubles, not only demeaned the position a lawyer should hold vis-à-vis its client, but that conduct also interfered with the business relationship between IPNav and the Datatern Parties, as well as related opportunities for IPNav to secure other lucrative consulting engagements.

As necessary background for the tortious interference claim, IPNav will be required to recount numerous instances—all supported by references—of Foley's culture of bad conduct, poor judgment, and nonchalance regarding professionalism, which contradict Foley's vastly overrated claims of superiority and excellent client service. Specifically, Foley's high opinion of itself, in paragraph numbers 16 and 17 of the third-party complaint, is certainly not one that the United States Court of Appeals for the Seventh Circuit would share, based on the facts recited about Foley's corporate culture in *Hasan v. Foley & Lardner LLP*, 552 F.3d 520 (7th Cir. 2008). In the decision, the Seventh Circuit noted, among the many unpleasant facts about Foley's approach to managing its firm, "racially charged commentary" from Foley partners regarding its firing an associate, a Muslim of Indian descent, after the terrorist attacks of September 11, 2001.

IPNav trusts that Foley will re-think what it should have already thought about before it filed such a poorly researched third-party complaint. The lack of any genuine factual or legal investigation into the alter ego allegations, for example, demonstrates that a Rule 11 motion for sanctions may be necessary to ensure Foley's tendency to running roughshod over facts and law to achieve dubious ends does not continue. IPNav continues to research what additional measures may be taken against Foley and the individual Foley lawyers on the pleading, including applicable disciplinary rules that preclude a lawyer from filing a frivolous pleading, defined generally as one that has no real basis in law or in fact except to harass the party named within it. Hiding behind a court decision, such as *Taurus IP, LLC v. Daimler Chrysler Corp.*, 559. F. Supp. 2d 947 (W.D. Wis. 2008) that is pending on appeal, or *Taurus IP, LLC v. DaimlerChrysler Corp.*, 519 F. Supp. 2d 905 (W.D. Wis. 2007), also pending on appeal, which is premised on different facts and law than the propositions for which Foley cites those decisions, does not excuse Foley from complying with the basic duty to investigate the facts and law before filing a pleading. In fact, actually reading the opinions will show that the piercing allegation early in the case was based on (i) very narrow and completely inapposite facts; and (ii) in the end, after full briefing, the district court had to find that Texas law did not allow piercing the corporate veil of the Texas LLC. *See* 559 F. Supp. 2d at 961 ("There is ***no evidence*** that Spangenberg has ever before directed any of his entities to avoid paying debts or satisfying judgments.") (emphasis added); *id.* at 952 ("...the corporate veil will not be pierced to make Spangenberg personally liable for a judgment to be entered against Orion IP, LLC because there is insufficient evidence that Orion IP, LLC is likely to evade a judgment entered against it....").

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Personal Aside: You both seem like decent people with better things to do than to permit your less experienced partners to drag you into a very unpleasant situation. I know Ben Garmer and Jay Rothman and trust that these individuals are more representative of Foley & Lardner than the less than impressive attorneys that are running the DataTern case (apparently they sent four partners to mediation in Dallas—things are slow, they can't be that slow). Again, this is not a fight I want to have, but if it must be had, I assure you I will commit the resources necessary to achieve the desired outcome.

I welcome the opportunity to address any questions you may have regarding the nature of IPNav's claims against Foley or the research IPNav has done that discredits Foley's basis for filing such a pleading as the third-party complaint. The Monday deadline, however, is a firm one.

All the best,

IP NAVIGATION GROUP, LLC

By:

Enclosure (Third Party Complaint)

Cc: Melissa Smith, Esq.
Andrew Spangler, Esq.
Scott Kline, Esq.
Liz Wiley, Esq.