

## PATENT PROTECTION FOR HIGH TECHNOLOGY

July 12, 2010

Via EmailMr. Adam Armstrong  
www.ObserverNMS.orgRe: Infringement of Network Instruments' OBSERVER trademark  
Our Reference No.: 401.000005

Dear Mr. Armstrong:

We represent Network Instruments in all of its intellectual property matters. We are contacting you as a follow up to Mr. Douglas Smith's email of July 8, 2010, and in response to your email of that same date.

We are quite frankly disturbed by the perfunctory, dismissive, and cavalier nature of your response. First, you state that Memetic is not an entity. Irrespective of the accuracy or inaccuracy of that contention, we object to the infringing use of the ObserverNMS mark by you personally and/or by Memetic, both jointly and severally. Second, regarding your statement that "ObserverNMS is not Observer," while we do not completely understand what you are trying to convey here, we simply reply that the use of your confusingly similar mark, in connection with network monitoring, will result in confusion among consumers.

If you continue in your refusal to cease your use of the infringing ObserverNMS mark, we will be forced to involve our associates in the UK, and seek all legal remedies available to us, including without limitation, court-ordered injunctions, monetary damages, and seizure of goods. We therefore demand that you immediately cease and desist using the ObserverNMS mark, and that you so notify us of this cessation.

We thank you in advance for your anticipated cooperation.

Sincerely,

  
David D. Zurilla