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11 Attorneys for Defendant
PROPERTY SOLUTIONS INTERNATIONAL, INC.

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 YARDI SYSTEMS, INC.,
16 Plaintiff,
17 v.
18 PROPERTY SOLUTIONS
INTERNATIONAL, INC.,
19 Defendant.
20

Case No. 2:13-CV-07764-FMO-CW
**DEFENDANT PROPERTY
SOLUTIONS INTERNATIONAL,
INC.'S ANSWER AND
COUNTERCLAIMS TO YARDI
SYSTEMS, INC.'S FIRST
AMENDED COMPLAINT**
DEMAND FOR JURY TRIAL
Hon. Fernando M. Olguin

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1 Defendant Property Solutions International Inc. (“Property Solutions”)
2 hereby submits this Answer, Affirmative Defenses, and Counterclaims to the First
3 Amended Complaint (“Complaint”) filed by Yardi Systems Inc. (“Yardi”). Except
4 as expressly admitted below, Property Solution denies each and every allegation of
5 the Complaint.

6 **INTRODUCTION**

7 1. Denied.

8 2. Denied.

9 3. Property Solutions admits that Yardi provided Property Solutions with
10 technical support and assistance, including providing access to screen shots of
11 Yardi’s Voyager software and information about Yardi’s databases, for the benefit
12 of the parties’ mutual clients. The remaining allegations of paragraph 3 are denied.

13 4. Denied.

14 5. Property Solutions admits that Yardi has filed an action alleging
15 copyright infringement and misappropriation of trade secrets. The remaining
16 allegations of paragraph 5 are denied.

17 **PARTIES**

18 6. On information and belief, Property Solutions admits that Yardi is a
19 California corporation with its principal place of business at 430 South Fairview
20 Avenue, Santa Barbara, California 93117.

21 7. Admitted.

22 **JURISDICTION AND VENUE**

23 8. Admitted.

24 9. Denied.

25 10. Property Solutions admits that the parties are citizens of different
26 states. Except as expressly admitted, Property Solutions is without sufficient
27 knowledge or information to form a belief as to the truth of the remaining
28 allegations of paragraph 10, and on that basis denies them.

1 17. Property Solutions admits that there are third party companies that
2 develop and market specialized add-on products and service modules for the
3 property management industry, which products and services are intended to
4 interface with the Voyager software database. Property Solutions also admits that
5 Yardi has a long history of working cooperatively with these third party providers
6 to develop and improve interfaces that will best serve the parties' mutual clients.
7 The remaining allegations of paragraph 17 are denied.

8 18. Property Solutions admits that it is a developer of add-on products and
9 service modules that interface with the Voyager software database.

10 19. Property Solutions admits that, on or about February 23, 2006,
11 Property Solutions signed a Non-Disclosure Agreement. The remaining allegations
12 of paragraph 19 call for a legal conclusion to which no response is required.

13 20. Property Solutions admits that the 2006 NDA defined Confidential
14 Information to include "all technical and non-technical information either party
15 discloses or provides to the other," including "information regarding copyrighted . .
16 . or trade secret material or other intellectual property," "software programs,"
17 "database architecture," "user manuals," "software documentation, ideas . . . know-
18 how, techniques, schema . . . algorithms," and "any information related to current,
19 future, and proposed software, products and services." Property Solutions further
20 admits that the 2006 NDA states that each party "acknowledges that the other
21 party's proprietary software programs, if any, are valuable Confidential Information
22 and agrees that they will not modify, reverse engineer, duplicate, simulate,
23 decompile, create derivative works from, or disassemble the software programs
24 without the other party's prior written consent."

25 21. Property Solutions admits that the 2006 NDA states: "Yardi and
26 Company wish to openly discuss a possible future business relationship. In
27 furtherance of that objective, the parties may disclose certain Confidential
28 Information (defined below) relating to their businesses subject to the terms and

1 conditions of this Agreement and solely for the purpose of evaluating the potential
2 relationship”, “The parties agree to use Confidential Information solely for the
3 purpose of evaluating or pursuing a business relationship and for no other purpose”,
4 and “In no event shall a party use the other party’s Confidential Information to the
5 detriment of or in competition with the other party.” Property Solutions denies the
6 remaining allegations of Paragraph 21.

7 22. Property Solutions admits that the 2006 NDA states: “This Agreement
8 shall remain in full force and effect until terminated by a party. Either party may
9 terminate this Agreement with or without cause upon thirty (30) days written notice
10 to the other party” and “Upon any termination or expiration of this Agreement, or
11 upon the request of the other party, each party shall promptly return all documents
12 and other tangible Confidential Information, electronic or otherwise, in their
13 possession and permanently delete any Confidential Information stored by that
14 party in electronic form.” The remaining allegations of paragraph 22 call for a legal
15 conclusion to which no response is required.

16 23. Property Solutions admits that rather than using Yardi’s standard
17 interfaces, it has developed its own custom interface that allows interoperability
18 between the Voyager software and Property Solutions’ products.

19 24. Property Solutions admits that Yardi provided technical support to
20 Property Solutions during the development of Property Solutions’ custom
21 interfaces. The remaining allegations of paragraph 24 are denied.

22 25. Denied.

23 26. Denied.

24 27. Denied.

25 28. Denied.

26 29. Denied.

27 30. Property Solutions admits that Property Solutions and Yardi had a
28 meeting in Santa Barbara, California on February 7, 2012 and had a subsequent

1 phone call on February 13, 2012. The remaining allegations of paragraph 30 are
2 denied.

3 31. Property Solutions admits that Property Solutions and Yardi had a
4 meeting on February 7, 2012. The remaining allegations of paragraph 31 are
5 denied.

6 32. Property Solutions admits that Yardi followed these meetings with a
7 letter to the Chief Executive Officer and President of Property Solutions, in which
8 Yardi asked Property Solutions to confirm that it did not have a copy of the
9 Voyager software in its possession or otherwise have access to the Voyager
10 software, that its personnel and contractors were not logging into the Voyager
11 software for any purpose, and that it had no Yardi technical manuals or user guides.
12 Property Solutions also admits that Yardi demanded that Property Solutions return
13 any confidential information in its possession to Yardi. The remaining allegations
14 of paragraph 32 are denied.

15 33. Property Solutions admits that it responded to Yardi's inquiry in a
16 letter dated February 23, 2012 and stated that it did not have any copies of the
17 Voyager software in its possession and that it is not accessing the Voyager
18 software. Property Solutions admits that it did not assert it had never had such
19 access. The remaining allegations of paragraph 33 are denied.

20 34. Property Solutions admits that Yardi demanded that Property Solutions
21 cease and desist from using Yardi's intellectual property and explain to Yardi how
22 such information has been used, and that Property Solutions denied having any
23 such access. The remaining allegations of paragraph 34 are denied.

24 35. Property Solutions admits that it at one time had a copy of the Voyager
25 software. The remaining allegations of paragraph 35 are denied.

26 36. Property Solutions admits that in July 2012, Property Solutions sent an
27 email to a mutual client located in California requesting that the client disclose the
28 Yardi database tables that can be used by Property Solutions to identify a lease

1 renewal offer or to tell Yardi that a renewal offer has been accepted. The remaining
2 allegations of paragraph 36 are denied.

3 37. Property Solutions admits that it developed a custom interface for its
4 lease renewal product intended to interface with the Voyager software database.
5 The remaining allegations of paragraph 37 are denied.

6 38. Property Solutions admits that it continues to use its own custom
7 interfaces and has not transitioned to Yardi's standard interfaces. The remaining
8 allegations of paragraph 38 are denied.

9 39. Property Solutions admits that before this lawsuit was filed, Property
10 Solutions asked Yardi to disclose its evidence that Property Solutions had illegally
11 obtained a copy of the Voyager software. Property Solutions further admits that
12 Yardi informed Property Solutions' counsel that a copy of the Voyager software
13 had accessed the Yardi network from a Property Solutions computer, and that Yardi
14 was told that Property Solutions would get back to Yardi with a response. The
15 remaining allegations of paragraph 39 are denied.

16 40. Property Solutions admits that Property Solutions has now released a
17 property management system called "Entrata." The remaining allegations of
18 paragraph 29 are denied.

19 41. Denied.

20 **FIRST CLAIM FOR RELIEF**
21 **(Copyright Infringement – 17 U.S.C. § 101 et seq.)**

22 42. Property Solutions incorporates by reference its answer to paragraphs
23 1 through 41 of this Complaint as if fully set forth herein.

24 43. Property Solutions is without sufficient knowledge or information to
25 form a belief as to the truth of the allegations of paragraph 43, and on that basis
26 denies them.

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1 44. Property Solutions is without sufficient knowledge or information to
2 form a belief as to the truth of the allegations of paragraph 44, and on that basis
3 denies them.

4 45. Denied.

5 46. Denied.

6 47. Denied.

7 48. Denied.

8 49. Denied.

9 50. Denied.

10 51. Denied.

11 52. Denied.

12 **SECOND CLAIM FOR RELIEF**
13 **(Misappropriation of Trade Secrets – Cal. Civ. Code §§ 3426-3426.11)**

14 53. Property Solutions incorporates by reference its answer to paragraphs
15 1 through 52 of this Complaint as if fully set forth herein.

16 54. Denied.

17 55. Property Solutions is without sufficient knowledge or information to
18 form a belief as to the truth of the allegations of paragraph 55, and on that basis
19 denies them.

20 56. Denied.

21 57. Denied.

22 58. Denied.

23 59. Denied.

24 60. Denied.

25 61. Denied.

26 **THIRD CLAIM FOR RELIEF**
27 **(Intentional Interference with Contractual Relations)**

28 62. Property Solutions incorporates by reference its answer to paragraphs
1 through 61 of this Complaint as if fully set forth herein.

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FOURTH AFFIRMATIVE DEFENSE
(Estoppel)

Yardi's claims are barred, in whole or in part, by the equitable doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE
(Comparative Fault)

To the extent that Yardi did sustain any damages, which Property Solutions denies, such damages were caused, in whole or in part, by the comparative fault of Yardi and/or third parties, which thus bars Yardi's recovery for said damages or diminishes such recovery by the amount of fault attributable to Yardi and/or those third parties.

SIXTH AFFIRMATIVE DEFENSE
(Failure to Mitigate)

To the extent that Yardi did sustain any damages, which Property Solutions denies, such damages were caused, in whole or in part, by Yardi's failure to mitigate any damages it may have suffered, which failure to mitigate bars and/or diminishes Yardi's right to any relief against Property Solutions.

SEVENTH AFFIRMATIVE DEFENSE
(No Causation)

To the extent Yardi has suffered any injury or damage, which Property Solutions denies, such injury or damage was not proximately caused by any conduct or inaction of Property Solutions, or was not foreseeable, or both.

EIGHTH AFFIRMATIVE DEFENSE
(Unjust Enrichment)

Yardi's claims are barred because Yardi was enriched by the Property Solutions products Yardi now alleges incorporated its allegedly copyrightable materials and alleged trade secrets.

NINTH AFFIRMATIVE DEFENSE
(Privilege)

Yardi's claims are barred due to absolute and conditional privileges enjoyed by Property Solutions and because the alleged actions by Property Solutions were

1 taken in good faith and were at all times reasonable, privileged, and justified.

2 **TENTH AFFIRMATIVE DEFENSE**
3 **(License)**

4 Yardi is estopped from asserting the claims alleged against Property
5 Solutions due to an express and/or implied license. For example, Yardi has been
6 aware of, and benefited from, the conduct it alleges since at least
7 2006. Furthermore, on information and belief, Yardi has signed contract(s) with
8 mutual customer(s) that are intended to benefit Property Solutions by expressly
9 allowing those customers to use Property Solutions interfaces to connect to Yardi
10 software.

11 **ELEVENTH AFFIRMATIVE DEFENSE**
12 **(Fair Use)**

13 Yardi's claims are barred, in whole or in part, by the doctrines of fair use,
14 nominative fair use, and/or descriptive use.

15 **TWELFTH AFFIRMATIVE DEFENSE**
16 **(Noninfringement)**

17 Yardi's claim for copyright infringement is barred because Property
18 Solutions has not infringed any applicable copyrights.

19 **THIRTEENTH AFFIRMATIVE DEFENSE**
20 **(Copyright Misuse)**

21 Yardi's claims are barred by the doctrine of copyright misuse.

22 **FOURTEENTH AFFIRMATIVE DEFENSE**
23 **(Merger)**

24 Yardi's claims are barred by the merger doctrine.

25 **FIFTEENTH AFFIRMATIVE DEFENSE**
26 **(No Substantial Similarity)**

27 Yardi's claims are barred because Property Solutions' products are not
28 substantially similar to any of Yardi's allegedly copyrightable works.

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SIXTEENTH AFFIRMATIVE DEFENSE
(Failure to Identify Trade Secrets)

Yardi’s claim for misappropriation of trade secrets is barred, in whole or in part, because Yardi has failed to sufficiently identify any purported trade secrets as set forth in the Uniform Trade Secrets Act or any other statutory or common law provisions.

SEVENTEENTH AFFIRMATIVE DEFENSE
(Independent Development)

Yardi’s claims are barred because Property Solutions did not rely on any of Yardi’s alleged trade secrets and independently developed its products, which are demonstrably different from Yardi’s products.

EIGHTEENTH AFFIRMATIVE DEFENSE
(Readily Ascertainable)

Yardi’s claims are barred because the alleged trade secrets are readily ascertainable.

NINETEENTH AFFIRMATIVE DEFENSE
(Inadequate Efforts to Maintain Secrecy)

Yardi’s claims are barred because Yardi failed to make adequate efforts to maintain the secrecy of the alleged trade secrets.

TWENTIETH AFFIRMATIVE DEFENSE
(No Misappropriation)

Yardi’s claim for misappropriation of trade secrets is barred because even if any information disclosed to Property Solutions would be considered a trade secret, Property Solutions has not committed any acts that would constitute misappropriation of such information.

TWENTY-FIRST AFFIRMATIVE DEFENSE
(Consent)

Yardi’s claims are barred, in whole or in part, because Yardi, through its knowing conduct, authorized and consented to the disclosure of alleged trade secrets to Property Solutions and to their use.

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TWENTY-SECOND AFFIRMATIVE DEFENSE
(Unclean Hands)

Yardi’s claims are barred, in whole or in part, by the doctrine of unclean hands.

TWENTY-THIRD AFFIRMATIVE DEFENSE
(Statute of Limitations)

Yardi’s claims are barred by applicable statutes of limitations.

TWENTY-FOURTH AFFIRMATIVE DEFENSE
(No Circumvention of Technological Measures)

Yardi’s claim for violation of the Digital Millennium Copyright Act is barred because Property Solutions did not circumvent any technological measures.

TWENTY-FIFTH AFFIRMATIVE DEFENSE
(Technological Measures Do Not Effectively Control Access)

Yardi’s claim for violation of the Digital Millennium Copyright Act is barred because the alleged technological measures Property Solutions is accused of circumventing do not effectively control access to copyrighted works.

TWENTY-SIXTH AFFIRMATIVE DEFENSE
(No Access to Copyrighted Work)

Yardi’s claim for violation of the Digital Millennium Copyright Act is barred because Property Solutions did not access any copyrighted works through the alleged circumvention.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE
(Legitimate Reverse Engineering)

Yardi’s claim for violation of the Digital Millennium Copyright Act is barred because the alleged conduct constitutes legitimate reverse engineering.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE
(Failure of Condition Precedent)

Yardi’s express contract claim is barred because the alleged contract only applies to disclosures made to discuss a possible future business relationship and disclosures made for other purposes are not subject to the terms of the contract.

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TWENTY-NINTH AFFIRMATIVE DEFENSE
(Lack of Certainty)

To the extent any implied contract existed between Yardi and Property Solutions, which Property Solutions denies, the terms of such contract are so indefinite, vague, and uncertain as to render such contract unenforceable against Property Solutions.

THIRTIETH AFFIRMATIVE DEFENSE
(Lack of Performance)

To the extent that any implied contract existed between Yardi and Property Solutions, which Property Solutions denies, Yardi failed to perform its contractual duties.

THIRTY-FIRST AFFIRMATIVE DEFENSE
(Statute of Frauds)

Plaintiff's implied contract claim is barred by the statute of frauds, including provisions contained in Section 1624 of the California Civil Code.

THIRTY-SECOND AFFIRMATIVE DEFENSE
(Ineffective Modification of Written Contract)

Plaintiff's implied contract claim is barred by reason of the provisions of Section 1698 of the California Civil Code governing the modification of written contracts and the terms of 2006 NDA between the parties.

THIRTY-THIRD AFFIRMATIVE DEFENSE
(Preemption)

Yardi's claim for Intentional Interference with Contractual Relations is barred because it is preempted.

THIRTY-FOURTH AFFIRMATIVE DEFENSE
(Lack of Valid Copyright Registrations)

Yardi's claim for copyright infringement is barred because Yardi failed to comply with the registration and deposit requirements of 17 USC §§ 410 *et. seq.*

THIRTY-FIFTH AFFIRMATIVE DEFENSE
(Reservation of Rights)

Property Solutions' investigation of its defenses is ongoing and Property

1 Solutions reserves the right to supplement or amend these defenses.

2 **COUNTERCLAIMS**

3 Defendant and Counterclaimant Property Solutions International Inc.
4 (“Property Solutions”) hereby submits these Counterclaims against Yardi Systems,
5 Inc. (“Yardi”):

6 Property Solutions repeats and incorporates by reference each of the
7 foregoing paragraphs of Property Solutions’ Answer and Affirmative Defenses to
8 Yardi’s First Amended Complaint.

9 **PARTIES**

10 Property Solutions is a Delaware corporation with its principal place of
11 business at 2912 Executive Parkway, Suite 100, Lehi, Utah 84043.

12 Yardi is a California corporation with its principal place of business at 430
13 South Fairview Avenue, Santa Barbara, California 93117.

14 **JURISDICTION AND VENUE**

15 This Court has jurisdiction over Property Solutions’ counterclaim pursuant to
16 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338(a) (arising under the Federal
17 Copyright Act), 28 U.S.C. § 1367(a) (supplemental jurisdiction) and 28 U.S.C. §§
18 2201(a) and 2202 (declaratory judgment).

19 89. Venue is proper in this judicial district pursuant to 28 U.S.C. §§
20 1391(b), 1391(c) and 1400(a), in that Yardi resides or may be found in this district
21 and is subject to personal jurisdiction in this district.

22 **FACTUAL BACKGROUND**

23 **A. Property Solutions Background.**

24 90. Property Solutions was founded in 2003 by three students at Brigham
25 Young University with the goal of designing and marketing a new property
26 management software product. The company won Brigham Young University’s
27 business plan competition, and went on to take first place in Fortune Small
28

1 Business Magazine's MBA Showdown, a national business plan competition
2 among winners of all accredited MBA-sponsored business plan competitions.

3 91. Property management software generally allows owners and managers
4 of multiple rental and lease units to perform accounting and management tasks,
5 including organizing and storing resident information, processing applications to
6 rent properties, taking maintenance requests from residents, and processing
7 payments. In 2003, Property Solutions designed and planned to market a property
8 management software product initially called Vantage XP, which in 2004 was
9 renamed Resident Works. Shortly after its founding, however, the company
10 decided to change its primary focus to websites and add-ons for existing property
11 management software while continuing to support existing Resident Works
12 customers.

13 92. In 2004, Property Solutions pioneered the technology that allows
14 residents to pay rent online ("ResidentPay[®]"). Property Solutions also developed
15 two categories of websites that interfaced with existing property management
16 software. ProspectPortal[®] is directed at potential residents, and it allows them to
17 review property listings, take virtual tours of properties, and submit rental
18 applications and fees. ResidentPortal[™] is directed at current residents, and it
19 allows them to read and post to community message boards, submit maintenance
20 requests, and view event calendars. Each portal can be customized to add
21 additional features or remove features not desired by an individual customer.

22 93. Property Solutions' portals serve as the access point between an end
23 user (e.g., a resident or prospective resident) and a property management software
24 database. The portals move information to and from the database through a
25 specialized interface in order to fulfill the end user's request. For example, a
26 prospective resident might use a website generated by Property Solutions to view
27 pricing and availability information (pulled from the property management software
28 database) and then fill out a guest card or application. The information provided by

1 the prospective resident is then transferred back to the third party database through
2 a software interface and stored. When the property manager later searches for that
3 information, the database locates and sends the information back to the Property
4 Solutions portal, where it is displayed. Property Solutions has successfully
5 integrated with several of the largest property management software vendors in the
6 industry, including Yardi.

7 94. In recent years, Property Solutions has become the only single-
8 platform multi-tenant property management software provider with a
9 comprehensive, cloud-based product suite. Property Solutions offers a wide variety
10 of software capabilities for property managers using platform-as-a-service
11 technology, all of which are stored and administered by Property Solutions rather
12 than locally on a client's server. This cloud-based approach allows users to make
13 use of Property Solutions' software while dramatically lowering their information
14 technology costs.

15 95. Property Solutions provides customizable interfaces and add-ons for
16 existing property management software, and has also recently expanded its property
17 management product to include accounting, purchasing, and facilities management.
18 That product, previously called Resident Works, was re-branded as Entrata.
19 Property Solutions has grown to nearly 480 employees, and its products currently
20 serve more than 20,000 apartment communities nationwide, including 31 of the
21 National Multi Housing Council (NMHC) Top 50 largest property managers.

22 **B. Yardi and Property Solutions Collaborated to Develop Interfaces**
23 **and Specialized Modules for Yardi's Software.**

24 96. Yardi's property management software historically has been focused
25 on accounting. When Property Solutions was founded, Yardi's software did not
26 include specialized tools that focused on providing services to residents and
27 prospective residents, such as guest cards (in which, for example, a prospective
28 resident provides contact information and details on the type of unit sought), rental

1 applications, payments, and maintenance request processing. In addition, Yardi's
2 software did not allow much customization for individual customers and property
3 managers. As a result, Yardi encouraged third parties such as Property Solutions to
4 develop specialized modules to interface with its software, and provided the
5 technical support necessary to facilitate those integrations.

6 97. As early as 2004, Yardi began working with Property Solutions to help
7 Property Solutions develop a Voyager Integration for its ResidentPay[®] online
8 payment system.

9 98. In early 2006, Property Solutions sent Yardi contact information for
10 its key developers, corporate information, a proposal to create a ResidentPay[®]
11 online payment solution for Yardi's software, and a proposal for Yardi integrations
12 with ProspectPortal[®] and ResidentPortal[™].

13 99. In April 2006, a Yardi executive hosted a call with Property Solutions
14 executives to initiate the parties' formal communications regarding integration.
15 Shortly thereafter, Yardi shipped a copy of its Genesis software to Property
16 Solutions in order to aid Property Solutions in creating its software to be interfaced
17 with the Yardi database. Yardi Genesis is a Windows-based version of Yardi's
18 database software.

19 100. At that time, Yardi encouraged (but did not require) its third party
20 vendors to develop software that communicated with Yardi's database through a
21 Yardi-designed standard interface. Property Solutions felt that the Yardi standard
22 interface was incapable of facilitating the functionality requested by its customers.
23 But Yardi told Property Solutions it could design its own custom interface, and
24 Property Solutions chose to do so. Property Solutions' custom interface provided
25 several advantages over Yardi's standard interface, including the complex
26 integration of payments, balance inquiries, maintenance requests and unit
27 availability requests. The custom interface allowed information to flow through in
28 real time, rather than be updated in a nightly feed. Property Solutions' portals and

1 plug-in modules would lose substantial functionality if forced to communicate with
2 a database through the Yardi standard interface.

3 101. After receiving the Genesis software from Yardi, Property Solutions
4 began work on two kinds of integrations with Yardi's database: (1) self-hosted
5 integrations, in which the Property Solutions-designed interface tool would be
6 located on the customer's server with the customer's Yardi database; and (2) Yardi-
7 hosted integrations, in which the Property Solutions-designed interface tool would
8 be installed on Yardi's servers, which also hosted the customer's database.

9 102. As part of its development efforts, Property Solutions asked Yardi for
10 a copy of Yardi's Voyager database. Yardi told Property Solutions that Property
11 Solutions could obtain a copy of the database from Yardi's customers. Later, when
12 Property Solutions needed an updated copy of Yardi's database, Property Solutions
13 asked Yardi if it could obtain an updated copy from a Yardi customer. Yardi
14 confirmed that Property Solutions could obtain updated databases for Voyager from
15 Yardi's customers.

16 103. In mid-2006, Property Solutions created its first self-hosted Yardi
17 integration, which provided the customer with the ability to process payments
18 through Property Solutions' websites. Later that year, Property Solutions
19 developed a beta version of this integration for another mutual customer of Yardi
20 and Property Solutions. On information and belief, Yardi was aware of and
21 approved the integrations Property Solutions developed.

22 104. In the early years of their collaboration, Yardi encouraged Property
23 Solutions to develop high quality custom integrations with its software databases,
24 and provided Property Solutions with the technical details that allowed Property
25 Solutions to complete those integrations. As Property Solutions worked to perfect
26 its interfaces with Yardi's databases, Yardi developers provided extensive technical
27 support, information about the design of Yardi's software and database, the
28 configuration of its database tables, and the queries that Yardi's software uses to

1 interact with those tables, which were necessary to allow Property Solutions’
2 software to “talk to” Yardi’s databases. In March 2007, Property Solutions
3 developers began working with Yardi developers James Beane and Quan Lee, the
4 director of Yardi’s ASP (active server page) division, on testing and
5 troubleshooting Property Solutions’ Yardi-hosted integration.

6 105. In October 2007, Property Solutions wrote to its Yardi sales
7 representative noting that Property Solutions developers “have worked with James
8 Beane and a few other developers at your organization to complete integration for
9 self-hosted clients of yours” that were running Yardi Voyager versions 5.0 and 6.0.
10 However, before Property Solutions could implement its Yardi-hosted integrations,
11 Property Solutions needed Yardi’s approval, as the Property Solutions interface tool
12 would need to be installed on Yardi’s servers. Thus, in its October 2007 email,
13 Property Solutions provided a list of over a dozen mutual Yardi and Property
14 Solutions customers that were interested in using Yardi-hosted Property Solutions
15 software, and asked when Property Solutions could have its integration approved.
16 Yardi responded that “with your number of clients being so high you should be
17 high on our list” and promised to move the process along.

18 106. In December 2007, Property Solutions informed Yardi that James
19 Beane at Yardi had tested Property Solutions’ web applications and concluded they
20 were ready for launch. Property Solutions also informed Yardi that Property
21 Solutions had a custom interface with a few points of integration that only Property
22 Solutions’ custom built web services could accommodate. In a later email,
23 Property Solutions described this as “the custom integration that we built with
24 James [Beane].”

25 107. In early 2008, Yardi informed Property Solutions that it was now an
26 “approved integration partner” for both self-hosted and Yardi-hosted clients. On
27 information and belief, because Property Solutions’ interface utility was actually
28 installed on Yardi’s servers at that time, Yardi was aware of Property Solutions’

1 software and the way in which it interacts with Yardi's software databases as early
2 as 2008.

3 **C. Property Solutions Went On to Integrate with Yardi's Largest**
4 **Customers, and Yardi Gained Both Profit and a Competitive**
5 **Advantage.**

6 108. Not only did Yardi aid Property Solutions in developing its custom
7 interface to be used with Yardi's software databases, Yardi actually profited from
8 its customers' adoption of Property Solutions' software. In March 2008, Yardi
9 informed Property Solutions that it had begun charging customers a \$2500 up-front
10 fee and \$250/per property annually to use Property Solutions' software if hosted on
11 Yardi's servers. For the many property management companies with hundreds of
12 properties, a per-property charge of \$250 amounted to a substantial annual payment
13 to Yardi. In addition, Property Solutions often referred customers interested in its
14 portals and plug-in modules to Yardi and recommended that they use Yardi's
15 property management software. Similarly, Yardi representatives referred customers
16 to Property Solutions' portal products. Property Solutions' custom portals and
17 plug-ins provided a great benefit to Yardi, as they allowed Yardi to offer features
18 that were not available in Yardi's software but were offered by other property
19 management vendors.

20 109. In 2008, Property Solutions contracted with an increasing number of
21 customers interested in its portals and plug-in products. In September 2008,
22 Property Solutions entered a license agreement to create custom integrations with
23 Yardi's largest customer. Another mutual client emailed Property Solutions around
24 that time stating that its integration was ready to go but that Yardi had informed
25 him it was "waiting for approval from [Yardi founder and CEO] Anant Yardi." On
26 information and belief, Anant Yardi personally approved the integrations developed
27 by Property Solutions.

28 110. In December 2008, Yardi wrote to vendors, informing them that they
needed to be SAS70 compliant to continue interfacing with Yardi products. SAS70

1 is an auditing standard used to verify that service providers have adequate controls
2 and safeguards in place when they host or process data belonging to their
3 customers. Yardi also communicated this information to several clients. To assure
4 Yardi that its Yardi integrations were indeed SAS70 compliant and to avoid any
5 disruptions for their mutual customers, Property Solutions executed a letter
6 agreement dated January 8, 2009. A fully executed copy was received by Property
7 Solutions on February 12, 2009. This letter provided confirmation of SAS70
8 compliance documentation, including a document providing the specifics of how
9 Property Solutions integrates with Yardi's database.

10 111. By January 2009, Property Solutions had contracted with Yardi's first
11 and second largest clients to develop custom integrations. On information and
12 belief, although Yardi aggressively marketed its own portal products (introduced in
13 or around 2007) and standard interfaces to its clients, Yardi nonetheless continued
14 to lose a substantial number of its largest clients to Property Solutions' portal
15 products. At that point, on information and belief, Yardi began to take note of the
16 increasing success of Property Solutions' software products, which further
17 illuminated the deficiencies in Yardi's products.

18 112. In February 2009, Property Solutions President Ben Zimmer emailed
19 Yardi founder and CEO Anant Yardi to introduce himself and suggest a meeting to
20 discuss a further strategic alliance between the two companies. The parties
21 arranged a meeting in Santa Barbara with Mr. Yardi, Mr. Bateman, and Mr.
22 Zimmer. At the meeting, Mr. Yardi asked how Property Solutions had created such
23 successful interfaces with Yardi's software. Mr. Bateman responded that Property
24 Solutions spent two years collaborating with Yardi developers, who provided
25 technical support to Property Solutions' developers as they completed the project.
26 Thus, at least by early 2009, Yardi's founder and CEO was aware that Property
27 Solutions worked directly with Yardi developers, and that those developers
28

1 provided Property Solutions the details of the Voyager software necessary to
2 complete its interface.

3 113. At the conclusion of the meeting, Mr. Yardi gave Mr. Bateman and
4 Mr. Zimmer a demonstration of the newest Voyager features. Shortly after the
5 meeting, Mr. Yardi emailed Property Solutions to discuss outstanding action items
6 for the parties' further collaboration, and Property Solutions continued its work of
7 developing integrations for an ever-increasing number of mutual Yardi/Property
8 Solutions clients.

9 114. As early as 2009 through the present, Yardi employees regularly have
10 assisted Property Solutions and their mutual customers with troubleshooting. It is
11 to the benefit of Yardi to ensure that its largest clients, which are also employing
12 Property Solutions' portals, plug-in products, and interfaces, do not have problems
13 accessing Yardi's software or databases. Yardi has provided technical support to
14 Property Solutions, which includes sending screen shots, detailed instructions, and
15 database table field names from Yardi's Voyager software, on multiple occasions.
16 Yardi also gave Property Solutions administrator rights to access Yardi-hosted
17 interfaces for 120 large clients. Far from surreptitiously accessing Yardi's
18 software, as Yardi alleges, Property Solutions' access was well known to Yardi
19 personnel.

20 **D. Yardi and Property Solutions' Collaborative Relationship**
21 **Eventually Soured as Yardi Made it More and More Difficult for**
22 **Third Party Developers to Integrate.**

23 115. On January 24, 2011, Yardi filed a copyright infringement lawsuit
24 against RealPage, Inc., another provider of property management software and
25 associated plug-ins. After the lawsuit was filed, Yardi held a conference call with
26 its third party integrators, including Property Solutions, to assure them that, in spite
27 of the lawsuit, Yardi remained supportive of collaboration and integration.

28 116. Contrary to those assurances, however, Yardi began ramping up its
efforts to discourage its customers from using Property Solutions' software,

1 erroneously informing customers that Property Solutions' interfaces with Yardi's
2 software presented security problems, and that they did not meet Yardi standards.
3 In fact, on information and belief, Yardi began implementing tactics designed to
4 prevent its customers from freely integrating with all third party vendors, not just
5 Property Solutions.

6 117. In August 2012, Yardi wrote to customers indicating that it would no
7 longer support Property Solutions' custom interfaces, which it used to connect its
8 portals and plug-in modules to Yardi's database. Yardi erroneously claimed
9 Property Solutions' custom interfaces created security issues for customers' data,
10 and encouraged customers to consider Yardi's standard interfaces. This
11 announcement was not well-received by mutual customers of Property Solutions
12 and Yardi, as they wanted the additional capabilities afforded them by Property
13 Solutions' custom integration with Yardi's software, which the Yardi standard
14 interfaces could not provide. On information and belief, many of these customers
15 reached out to Yardi with concerns about the potential transition away from
16 Property Solutions' custom integration.

17 118. Because of its customers' concern, Yardi asked Property Solutions to
18 perform a "gap analysis" to determine what features of Property Solutions' custom
19 interfaces would be lost with the Yardi standard interface. Property Solutions
20 performed that analysis, which detailed the advances Yardi would need to make in
21 order to close the substantial gaps in functionality, and provided the analysis to
22 Yardi. On information and belief, Yardi requested the gap analysis in order to use
23 it to incorporate Property Solutions features into its own products.

24 119. In early 2012, Yardi began communicating that it would start charging
25 vendors including Property Solutions \$25,000 to use each of seven Yardi standard
26 interfaces (for a total of \$175,000 per year, per vendor, for access to all of Yardi's
27 standard interfaces).
28

1 120. To date, however, Yardi still has not forced a single customer to move
2 to Yardi's standard interfaces. In fact, there are over 200 mutual Property
3 Solutions/Yardi customers still using Property Solutions' custom interfaces. In
4 January 2013, Yardi agreed in writing to allow at least one mutual Yardi/Property
5 Solutions customer to continue using Property Solutions' custom interfaces.
6 Despite its allegations in this lawsuit, Yardi continues to provide technical support
7 to Property Solutions and its clients to ensure the continued functioning of their
8 custom integrations, which Yardi now claims are the result of copyright
9 infringement and/or misappropriation of trade secrets. At least as recently as mid-
10 November 2013, after Yardi filed this lawsuit, Yardi sent screenshots and other
11 Voyager information to Property Solutions and a mutual client to aid in
12 troubleshooting. Yardi also continues to publicly communicate its intention to
13 continue supporting the Property Solutions custom interface. Yardi's actions make
14 clear that without Property Solutions' custom interfaces, which facilitate the use of
15 Property Solutions' portals and plug-in modules, Yardi believes it likely would lose
16 customers to other property management software providers.

17 121. Having realized that Property Solutions' custom interfaces, the
18 development of which Yardi encouraged and facilitated, are far superior to its own,
19 and that none of its measures to encourage clients to use Yardi interfaces have
20 succeeded, Yardi has filed this lawsuit in an attempt to stifle competition.

21 **E. Property Solutions Independently Developed its Entrata Property**
22 **Management Software.**

23 122. Since its founding, Property Solutions has continued to develop its
24 own comprehensive property management software, including providing support
25 since 2003 for dozens of clients already using Resident Works as their primary
26 solution for leasing and rents. Property Solutions has simultaneously continued
27 designing add-ons for existing property management software, such as Yardi's
28 Voyager, including a wide variety of plug-in modules, such as check scanning,

1 mobile applications, the ability to aggregate data to internet listing services, renter's
2 insurance applications, call center services, credit screening and online lease
3 execution. After spending many years working closely with other property
4 management software options and seeing the drawbacks of clumsy interfaces,
5 cumbersome workflow, and limited browser selection common in such products,
6 Property Solutions believed that it could do better.

7 123. In 2012, Property Solutions re-branded its property management
8 software from Resident Works to Entrata and announced its plans to enhance its
9 property management software functionality. The goal of the development of
10 Entrata was to create a product unlike any on the market. The user interface would
11 be highly user friendly, and the software would incorporate the core (and largely
12 standardized) accounting functions common to all property management software,
13 but also provide the same selection of tools and ease of use that made Property
14 Solutions' portals and plug-in products for third party software so popular.

15 124. During that process, like any company attempting to develop a new
16 product, Property Solutions looked at each of its competitors to determine how their
17 software could be improved upon. Property Solutions did not, however, attempt to
18 access any of those companies' confidential information, such as source code,
19 database tables, schema, or any other aspects of their software, nor did Property
20 Solutions copy or otherwise incorporate any such information, during the
21 development of Entrata.

22 125. Entrata is the only property management software on the market that
23 provides comprehensive accounting services and built-in applications on a single
24 platform using a multi-tenant architecture. Unlike Yardi's Voyager, for example,
25 Entrata requires only one log-in, and uses only one database. Also unlike Voyager,
26 Entrata is device agnostic, meaning it can be used on any browser, operating
27 system, or device, and it has an open platform that allows third parties to easily
28 integrate with it. Entrata is written in a different programming language than

1 Voyager. Entrata is written in PHP while, on information and belief, Voyager is
2 written in .NET.

3 126. In June 2012, Property Solutions announced the launch of its Entrata
4 Property Management Software at the National Apartment Association Educational
5 Conference (NAA). By March of 2013, Property Solutions had successfully piloted
6 the beta version of Entrata across more than 40 companies.

7 127. A year after its release, Entrata has become the fastest-growing
8 property management software in the industry. Entrata's success is due in large
9 part to the fact that it is not based on legacy programs. Property Solutions' goal
10 was to create a product unlike any other—not to replicate an existing product such
11 as Voyager. Instead, Entrata was designed from the ground up to provide the
12 modern tools and functionality necessary to meet the changing needs of today's
13 property management industry.

14 **F. Communications Prior to the Filing of Yardi's Lawsuit.**

15 128. In early 2012, Yardi emailed Property Solutions and invited its
16 executives to travel to Santa Barbara for a meeting. The email stated that Yardi
17 was looking for information relevant to its recently initiated litigation against
18 RealPage, and said that Yardi also wanted to discuss potential "positive business
19 opportunities." Upon arrival, Mr. Zimmer was surprised to learn that Yardi had its
20 lawyer present. In addition, the same day of the meeting, the venue of the meeting
21 was changed from Yardi's corporate headquarters to the offices of Brownstein
22 Hyatt Farber Shreck, LLP, the firm representing Yardi in this lawsuit.

23 129. At the meeting, Yardi again asked how Property Solutions had been
24 able to develop its interfaces with Yardi Voyager, and Mr. Zimmer responded—just
25 as he had three years earlier—that Property Solutions developed its interfaces
26 through collaboration with Yardi developers since 2007.

27 130. Yardi then asked Mr. Zimmer whether Property Solutions was
28 developing its own property management software. Because Property Solutions

1 had no duty to inform Yardi about its confidential development initiatives, Mr.
2 Zimmer answered that the development of property management software was part
3 of Property Solutions' 2003 business plan and that it pursued property management
4 software for a period of years, but had been focusing its efforts in recent years on
5 other solutions. Mr. Zimmer felt he had been ambushed, that the questioning was
6 improper, and that he was being implicitly threatened by Yardi at this meeting.

7 131. One week later, on February 13, 2012, the parties held a conference
8 call. Yardi again asked Property Solutions how it was able to develop and test its
9 products, and Property Solutions again explained that Yardi developers facilitated
10 Property Solutions' integration and had been extremely helpful both in the early
11 stages of development and in troubleshooting. Contrary to Yardi's assertions,
12 Property Solutions also informed Yardi that it once had a copy of Yardi's software,
13 but could not confirm whether it was Genesis or Voyager. Property Solutions
14 informed Yardi, however, that it had not accessed or used Yardi software's source
15 code in the process of designing and building its interfaces. Yardi nonetheless
16 began sending threatening letters to Property Solutions, and eventually filed this
17 lawsuit.

18 132. Even as it alleged Property Solutions' interfaces infringed its Voyager
19 software copyrights, Yardi was proposing an API agreement with Property
20 Solutions that would allow Yardi to continue offering Property Solutions portals
21 and plug-in modules to its clients. Despite the filing of this lawsuit, Yardi is still
22 trying to conclude that agreement. Yardi thus has acknowledged the value of
23 Property Solutions' products to its customers, many of whom, on information and
24 belief, Yardi fears it might lose in the event it can no longer offer Property
25 Solutions' custom interfaces. Yardi has filed this lawsuit in an attempt to stifle
26 legitimate competition, while at the same time trying to retain and further profit
27 from the Property Solutions software it alleges is the result of copyright
28 infringement and trade secret misappropriation.

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FIRST COUNTERCLAIM
(Declaratory Judgment of No Copyright Infringement)

133. Property Solutions incorporates by reference its allegations in paragraphs 1 to 130, above.

134. Yardi alleges that Property Solutions has infringed Yardi’s copyrights during development of its interfaces for Yardi’s property management software and during development of its Entrata software.

135. Property Solutions denies that Yardi has any valid and protectable copyrights. Property Solutions also denies that it has infringed any protectable expression under the Copyright Act, 17 U.S.C. § 101 et seq.

136. There exists an actual and justiciable controversy between Property Solutions and Yardi with respect to the infringement of any valid copyright interest Yardi may possess.

137. Property Solutions seeks a declaratory judgment that it has not infringed any valid Yardi copyrights. A judicial declaration is necessary and appropriate at this time so that Property Solutions can ascertain its rights.

SECOND COUNTERCLAIM
(Declaratory Judgment of No Misappropriation of Trade Secrets)

138. Property Solutions incorporates by reference its allegations in paragraphs 1 to 135, above.

139. Yardi alleges that Property Solutions has misappropriated Yardi’s trade secrets to develop its interfaces for Yardi software and its Entrata software.

140. Property Solutions denies that it has misappropriated any Yardi trade secrets. Property Solutions further alleges that Yardi has not taken adequate steps to protect its alleged trade secrets.

141. There exists an actual and justiciable controversy between Property Solutions and Yardi with respect to the alleged misappropriation of any trade secrets Yardi might possess.

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142. Property Solutions seeks a declaratory judgment that it has not misappropriated any alleged Yardi trade secrets. A judicial declaration is necessary and appropriate at this time so that Property Solutions can ascertain its rights.

PRAYER FOR RELIEF

WHEREFORE, defendant Property Solutions prays for judgment as follows:

- a. That Property Solutions does not infringe any valid copyright owned by Yardi;
- b. That Property Solutions has not misappropriated any of Yardi’s alleged trade secrets;
- c. That the Complaint be dismissed with prejudice and that judgment on the Complaint, and each and every claim for relief therein, be entered in favor of Property Solutions and against Yardi;
- d. That Yardi takes nothing by this suit;
- e. That Property Solutions be awarded its attorneys’ fees and costs incurred herein; and
- f. For such other and further relief as the Court may deem proper.

Dated: April 18, 2014

MORRISON & FOERSTER LLP

By: /s/ Eric M. Acker
Eric M. Acker

Attorneys for Defendant and
Counterclaimant
PROPERTY SOLUTIONS
INTERNATIONAL, INC.

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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b) and Local Rule 38-1, Property Solutions International, Inc. demands a trial by jury on all issues so triable.

Dated: April 18, 2014

MORRISON & FOERSTER LLP

By: /s/ Eric M. Acker
Eric M. Acker

Attorneys for Defendant and
Counterclaimant
PROPERTY SOLUTIONS
INTERNATIONAL, INC.

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CERTIFICATE OF SERVICE

I certify that on April 18, 2014, I caused a copy of the foregoing to be filed electronically and that the document is available for viewing and downloading from the ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

Executed this 18th day of April, 2014 at San Diego, California.

By: /s/ Eric M. Acker
Eric M. Acker

From: cacd_ecfmail@cacd.uscourts.gov
To: ecfnf@cacd.uscourts.gov
Subject: Activity in Case 2:13-cv-07764-FMO-CW Yardi Systems, Inc. v. Property Solutions International Inc. Answer to Complaint
Date: Friday, April 18, 2014 11:17:00 AM

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UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA

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The following transaction was entered by Acker, Eric on 4/18/2014 at 11:15 AM PDT and filed on 4/18/2014

Case Name: Yardi Systems, Inc. v. Property Solutions International Inc.
Case Number: [2:13-cv-07764-FMO-CW](#)
Filer: Property Solutions International Inc.
Document Number: [45](#)

Docket Text:

ANSWER AND COUNTERCLAIMS TO YARDI SYSTEMS, INC.'S FIRST AMENDED COMPLAINT; DEMAND FOR JURY TRIAL filed by Defendant Property Solutions International Inc..(Acker, Eric)

2:13-cv-07764-FMO-CW Notice has been electronically mailed to:

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