

## **INFORMATION MEMORANDUM**

TO: Distribution

SUBJECT: Use of Projectioneering LCC and FoodQuestTQ LLC Intellectual Property by the Food and Drug Administration without Permission

DATE: September 11, 2013

VIA E-mail



### **THE POSITION OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

On April 27, 2013, the Office of General Counsel, Health and Human Services (HHS-OGC) issued a legal opinion that there was no evidence that the Food and Drug Administration (FDA) had improperly taken Projectioneering LCC and FoodQuestTQ LLC intellectual property to duplicate the FoodQuestTQ LLC suite of computerized risk management software tools.

In that same letter, HHS-OGC alleges that FoodQuestTQ LLC was uncooperative in their dealings with the government. A copy of the April 27, 2013, letter from HHS-OGC appears as an attachment to the report appearing at:

<http://www.nfpcportal.com/Portals/1/Technical%20Paper%20No%20%208%20-%205-9-2013.pdf>

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### **THE POSITION OF PROJECTIONEERING LLC AND FOODQUESTTQ LLC**

It is the position of Projectioneering LLC and FoodQuestTQ LLC that the FDA has committed gross plagiarism of a program of research conducted by Dr. John Hnatio at The George Washington University during the period 2000 through 2006.

The results of Dr. Hnatio's research and doctoral dissertation became the topic of an invention disclosure and a provisional patent that was granted by the U.S. Patent and Trademarks Office (USPTO) on June 12, 2007. The final USPTO patent was issued on January 24, 2012 (US 8,103,601 B2.).

It is the position of Projectioneering LLC and FoodQuestTQ LLC that the FDA took and used without permission a portfolio of twenty trade secrets solely developed and owned by FoodQuestTQ LLC in order to duplicate FoodQuestTQ LLC's suite of computerized food risk management software tools.

It is the position of Projectioneering LLC and FoodQuestTQ LLC that the allegations by HHS-OGC and the FDA Office of Chief Counsel that FoodQuestTQ did not cooperate with the government's inquiry into the matter are specious and defamatory.

**FDA PROCESSES AND COMPUTER AUTOMATED TOOLS THAT USE FOODQUESTTQ INTELLECTUAL PROPERTY WITHOUT PERMISSION**

FoodQuestTQ LLC contends that the FDA is intentionally using Projectioneering LLC and FoodQuestTQ LLC intellectual property, without permission, in the FDA Food Protection Plan and the five FDA computer software tools listed below that imitate FoodQuestTQ products. The FDA is now making the following products publicly available to the food industry free of charge.

1. The FDA Food Protection Plan
2. Food Defense Plan Builder
3. Food Defense Mitigation Strategies Database
4. iRisk
5. Food Related Emergency Exercise Bundled (FREE-B)
6. FDA Post 2007 Updates to C.A.R.V.E.R. plus SHOCK

Figure 1: List of FDA Products that Imitate FoodQuestTQ Products

**EVIDENCE OF FDA VIOLATIONS OF RESEARCH INTEGRITY**

A comprehensive analysis of the FDA plagiarism of Dr. Hnatio’s research in the 2007 FDA Food Protection Plan appears at:

[Insert link to enclosure 1]

A comprehensive analysis of the combination business and process patent resulting from Dr. Hnatio’s program of research appears at:

[Insert link to enclosure 2]

A comprehensive analysis of the 20 trade secrets taken without permission that were used by the FDA to duplicate the FoodQuestTQ LLC suite of computerized risk management software tools and published by FDA on the World Wide Web appears at:

[Insert link to enclosure 3]

Screen shot examples of plagiarism of the 2007 FDA Food Protection Plan and the suite of FoodQuestTQ LLC computerized software tools at:

<https://www.youtube.com/watch?v=92jU-kDnLMM>

**ALLEGATIONS THAT FOODQUESTTQ DID NOT COOPERATE WITH THE FDA/HHS INQUIRY**

The allegations by HHS-OGC and the FDA Office of Chief Counsel that FoodQuestTQ did not cooperate with the government’s inquiry into the matter are specious and defamatory.

As part of the government’s inquiry into the matter both HHS-OGC and the FDA Office of Chief Counsel refused to accept and consider as part of the government inquiry any information relating to:

- 1. FDA’s plagiarism of Dr. Hnatio’s research and ideas;
- 2. Theft and FDA publication on the world Wide Web of FoodQuestTQ trade secrets, and;
- 3. FDA’s policies with respect to direct competition with small business.

HHS-OGC refused to negotiate an agreeable non-disclosure agreement with FoodQuestTQ LLC that would address the full scope of the inquiry and protect the confidentiality of the company’s proprietary information.

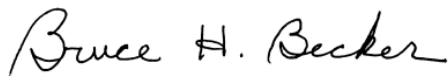
The allegations by HHS-OGC and the FDA Office of Chief Counsel that FoodQuestTQ did not cooperate with the government can have a detrimental impact on FoodQuestTQ’s branding, sales, and marketing activities.

**CAUTION TO ALL PARTIES**

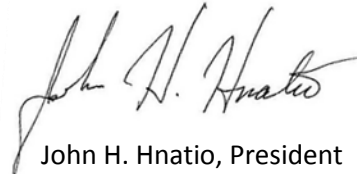
Please be advised that any use of Projectioneering LLC and FoodQuestTQ LLC owned intellectual property, without the express written permission of Projectioneering LLC and FoodQuestTQ LLC will be considered by Projectioneering LLC and FoodQuestTQ LLC as the unauthorized use of Projectioneering LLC and FoodQuestTQ LLC owned intellectual property pursuant to Title 35 USC, Chapter 29, et seq.

**RECOMMENDATION TO AVOID FUTURE LIABILITY**

To avoid future liability in this matter all parties should refrain from using the FDA Food Protection Plan, Food Defense Plan Builder, the Food Defense Mitigation Strategies Database, iRisk and FREE-B tools. It is also recommended that you refrain from using any FDA post-2007 versions of C.A.R.V.E.R. plus SHOCK that contain Projectioneering and FoodQuestTQ intellectual property. In the event that Projectioneering LLC and FoodQuestTQ LLC prevail in this matter, any party that knowingly uses the above FDA referenced products can be held liable for infringement under 35 USC, Chapter 29, et seq. You can legally license, without fear of future liability, products that provide the same capabilities as the FDA imitations by contacting FoodQuestTQ LLC.



Bruce H. Becker, President  
FoodQuestTQ LLC  
Date: September 11, 2013



John H. Hnatio, President  
Projectioneering LLC  
Date: September 11, 2013

cc:  
Secretary Sebelius, HHS  
Commissioner Hamburg, FDA