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10 Attorneys For Plaintiff,
THE ACTIVE NETWORK, INC.

12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 THE ACTIVE NETWORK, INC., a
15 Delaware corporation,

16 Plaintiff,

17 v.

18 COMPUTER SOS, INC., a New York
19 corporation, d/b/a
20 MANAGEYOURLEAGUE.COM

21 Defendant.

Case No. **10 CV 1805 IEG**

NLS

COMPLAINT FOR:

1. **PATENT INFRINGEMENT**
2. **INDIRECT PATENT INFRINGEMENT**
3. **UNFAIR COMPETITION**

DEMAND FOR JURY TRIAL

FILED

10 AUG 30 AM 10:42

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:

MTB
DEPUTY

Gordon & Rees LLP
2211 Michelson Drive
Suite 400
Irvine, CA 92612

CR

1 Plaintiff THE ACTIVE NETWORK, INC. ("ACTIVE NETWORK"), for its complaint
2 against defendant COMPUTER SOS, INC. d/b/a MANAGEYOURLEAGE.COM ("MYL"),
3 alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This civil action for patent infringement arises under the patent laws of the
6 United States, 35 U.S.C. §§ 271, *et seq.*, The court also has jurisdiction under 28 U.S.C. §§
7 1338(a) and (b).

8 2. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b) as MYL
9 sells the accused products alleged herein within this judicial district, and the facts alleged herein
10 and giving rise to the claims in this Complaint substantially occurred within this judicial
11 district.

12 3. On information and belief, MYL or its agents have transacted business in the
13 State of California and within this judicial district, and Defendant expected or reasonably
14 should have expected its acts to have consequences in the State of California and within this
15 judicial district, thus subjecting Defendant to the personal jurisdiction of this Court.

16 4. The Court's exercise of jurisdiction over the person of the Defendant comports
17 with due process of law under the Fifth Amendment to the U.S. Constitution, and with the
18 California long-arm statute, California Code of Civil Procedure §410.10.

19 **PARTIES**

20 5. ACTIVE NETWORK is a Delaware corporation with its principal place of
21 business in San Diego, California. ACTIVE NETWORK is engaged in the business of
22 marketing and providing integrated technology platforms, marketing services and online media
23 properties that encourage and enable participation in activities and events with an emphasis on
24 sports activities and events.

25 6. On information and belief, defendant MYL is a New York corporation with its
26 principal place of business in Cheektowaga, New York. MYL is engaged in the business of
27 marketing and distributing centralized management software to manage sports teams through a
28 centrally-accessible web portal.

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FACTS COMMON TO ALL CLAIMS

1
2 7. ACTIVE NETWORK is the owner of United States Letters Patent No. 6,289,348
3 (the “348 PATENT”) which was issued on September 11, 2001 and is entitled “Method and
4 System of Electronically Receiving and Processing Membership Information of an
5 Organization.”

6 8. The '348 PATENT claims both a group organizational system operational as a
7 computer program on a computer network, and a roster database that communicates with a host
8 server. The organizational system component of the '348 PATENT generally relates to a
9 computer network providing communication between a host server and remote users. The
10 roster database component of the '348 PATENT generally relates to a database in
11 communication with the host server.

12 9. MYL is offering for sale, and, upon information and belief, has sold a product in
13 this judicial district and elsewhere throughout the United States commonly known as Online
14 League Management Software (the “MANAGEMENT SOFTWARE”).

15 10. The MANAGEMENT SOFTWARE falls within the scope of at least one claim
16 of the '348 PATENT.

17 11. MYL is inducing others to infringe and is contributorily infringing the '348
18 PATENT, literally, or under the doctrine of equivalents by using, offering the MANAGEMENT
19 SOFTWARE for sale, and, upon information and belief, selling the MANAGEMENT
20 SOFTWARE in this judicial district and elsewhere throughout the United States in violation of
21 35 U.S.C. §§ 271(a), (b) and/or (c).

22 **COUNT ONE**

23 **(PATENT INFRINGEMENT)**

24 12. ACTIVE NETWORK refers to, re-alleges, and incorporates herein by this
25 reference, each and every allegation in the foregoing paragraphs, as though fully set forth
26 herein.

27 13. As alleged herein, MYL is infringing the claim of the '348 PATENT literally
28 and/or under the doctrine of equivalents in violation of 35 U.S.C. § 217(a).

1 14. As a direct and proximate result of MYL's infringement of the '348 PATENT,
2 ACTIVE NETWORK has been damaged in an amount to be proved at trial, but in an amount
3 not less than a reasonable royalty, and includes lost sales, and/or lost profits.

4 15. MYL knows and has known of its infringement of the '348 PATENT. Despite
5 demand that it cease its infringing activity, MYL has refused and has continue to actively
6 infringe the '348 PATENT. Based on these facts and those to be proved at trial, MYL's
7 infringement is willful and done with intentional disregard of ACTIVE NETWORK's rights in
8 the '348 PATENT, so as to render this case exceptional within the purview of 35 U.S.C. §§ 284
9 and 285, such that ACTIVE NETWORK is entitled to enhanced damages, costs, and an award
10 of attorneys' fees.

11 16. ACTIVE NETWORK has been and continues to be damaged by the unlawful
12 infringing activities of MYL and will be irreparably harmed unless the unlawful infringing
13 activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. §
14 283.

15 **COUNT TWO**

16 **(INDIRECT PATENT INFRINGEMENT)**

17 17. ACTIVE NETWORK refers to, re-alleges, and incorporates herein by this
18 reference, each and every allegation in the foregoing paragraphs, as though fully set forth
19 herein.

20 18. Upon information and belief, MYL has been and is now unlawfully inducing
21 others to infringe and/or contributorily infringe, literally or under the doctrine of equivalents,
22 the claims of the '348 PATENT by using, offering to sell, advertising for sale and selling
23 MYL's MANAGEMENT SOFTWARE product in this judicial district and throughout the
24 United States, IN VIOLATION OF 35 U.S.C. § 271(b) and/or § 271(c).

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1 19. MYL had knowledge and notice of the '348 PATENT and its activities
2 constitute knowing and willful patent infringement. ACTIVE NETWORK has been and
3 continues to be damaged by MYL's unlawful infringing activities and will be irreparably
4 harmed unless the unlawful infringing activities are preliminarily and permanently enjoined by
5 this Court as provided by 35 U.S.C. § 271(b).

6 20. Upon information and belief, ACTIVE NETWORK has suffered and continues
7 to suffer lost sales and in turn damages as a direct result of the unlawful infringement of the
8 '348 PATENT by MYL. Under 35 U.S.C. § 284, ACTIVE NETWORK is entitled to damages
9 to be established at trial or upon an accounting adequate to compensate for the infringement,
10 including lost profits, but not less than a reasonable royalty.

11 21. Upon information and belief, MYL's infringement of the '348 PATENT is
12 willful and done with an intent to harm ACTIVE NETWORK or in reckless disregard for the
13 rights of ACTIVE NETWORK. Therefore, this is an exceptional case and ACTIVE
14 NETWORK is entitled to enhanced damages under 35 U.S.C. § 284.

15 22. This is an exceptional case under 35 U.S.C. § 285 entitling ACTIVE
16 NETWORK to its reasonable attorneys' fees.

17 23. ACTIVE NETWORK has been and continues to be damaged by the unlawful
18 infringing activities of MYL and will be irreparably harmed unless the unlawful infringing
19 activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. §
20 283.

21 **COUNT THREE**

22 **(UNFAIR COMPETITION)**
23 **[Cal. Bus. & Prof. Code § 17200 *et seq.*]**

24 24. ACTIVE NETWORK refers to, re-alleges, and incorporates herein by this
25 reference, each and every allegation in the foregoing paragraphs, as though fully set forth
26 herein.

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1 25. California Business & Professions Code § 17200 *et seq.* provides that unfair
2 competition means and includes “any unlawful, unfair or fraudulent business act or practice and
3 unfair, deceptive, untrue or misleading advertising.”

4 26. By and through MYL’s conduct, including the conduct detailed above, MYL has
5 engaged in activities that constitute unlawful, unfair, and fraudulent business practices
6 prohibited by Business & Professions Code § 17200 *et seq.*

7 27. MYL’s acts of intentional and willful patent infringement as alleged above
8 constitute unfair competition actionable under the laws of the State of California as fraudulent
9 business acts or practices in that these acts violate the patent laws. Specifically, and without
10 limitation, the MANAGEMENT SOFTWARE infringes the ’348 PATENT either directly or
11 indirectly under the doctrine of equivalents. Further, MYL’s sale, offering for sale, distribution
12 and/or advertising of the MANAGEMENT SOFTWARE has had a significant negative impact
13 on the commercial value of and market for ACTIVE NETWORK’s products.

14 28. MYL’s acts of infringement as alleged above are unlawful, unfair, fraudulent,
15 deceptive, misleading, and untrue and constitute a violation of Business & Professions Code
16 Section 17200 *et seq.* ACTIVE NETWORK reserves the right to identify additional violations
17 by MYL as may be established through discovery.

18 29. As a result of MYL’s acts of unfair competition, ACTIVE NETWORK has
19 suffered and will continue to suffer irreparable harm, and ACTIVE NETWORK has no
20 adequate remedy at law with respect to this injury. Unless the acts of unfair competition are
21 enjoined by this Court, ACTIVE NETWORK will continue to suffer irreparable harm.

22 30. As a direct and legal result of MYL’s unlawful, unfair, and fraudulent conduct
23 described above, MYL has been and will continue to be unjustly enriched with ill-gotten gains.

24 **WHEREFORE, ACTIVE NETWORK prays for relief against MYL as follows:**

- 25 1. For judgment that MYL has infringed, contributorily infringed and/or induced
26 the infringement of, at least one claim of the ’348 PATENT;
- 27 2. That ACTIVE NETWORK recover damages, jointly and severally, against MYL
28 under 35 U.S.C. § 284 in an amount to be determined at trial or by accounting for the lost

1 profits, but no less than a reasonable royalty, on all sales of the MANAGEMENT
2 SOFTWARE, plus pre-judgment and post-judgment interest;

3 3. That the damages awarded pursuant to the preceding paragraph be increased to
4 three times the amount awarded because this is an exceptional case under 35 U.S.C. § 284;

5 4. That the Court declare this is an exceptional case and ACTIVE NETWORK be
6 awarded all of its attorneys' fees in connection with this matter under 35 U.S.C. § 285;

7 5. That the Court preliminarily and/or permanently enjoin and restrain defendants,
8 their officers, agents, servants, employees and those persons in active concert or participation
9 with any of them, from further acts of infringement for the remaining life of the '348 PATENT
10 under 35 U.S.C. § 283;

11 6. For judgment that MYL's conduct constitutes unlawful, unfair, and/or fraudulent
12 business practices within the meaning of California's Unfair Competition Act, and California
13 Business and Professions Code sections 17200, *et seq.*;

14 7. That the Court award restitution, disgorgement, injunctive relief and all other
15 relief allowed under Cal. Bus. Prof. Code §§ 17200 *et seq.*;

16 8. That the Court award punitive damages for intentional and willful acts;

17 9. For an award of all costs of this action;

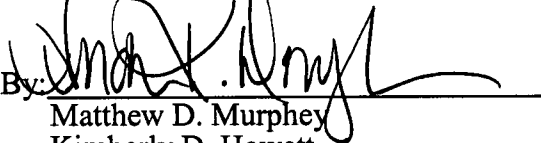
18 10. Assess prejudgment interest on the damages so awarded and computed above;

19 and

20 11. For such other and further relief as this court may deem just and proper.

21
22 Dated: August 27, 2010

GORDON & REES LLP

23
24 By: 
25 Matthew D. Murphey
26 Kimberly D. Howatt
27 Andrea K. Douglas
28 Attorneys for Plaintiff
THE ACTIVE NETWORK, INC.

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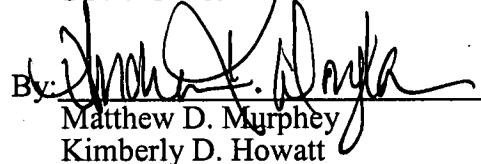
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JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, ACTIVE NETWORK requests a jury trial of all issues that may be tried to a jury in this action.

Dated: August 27, 2010

GORDON & REES LLP

By: 
Matthew D. Murphey
Kimberly D. Howatt
Andrea K. Douglas
Attorneys for Plaintiff
THE ACTIVE NETWORK, INC.

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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

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
 THE ACTIVE NETWORK, INC., a Delaware corporation

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Matthew D. Murphey, SBN: 194111;
 Andrea K. Douglas, SBN: 212065
 Gordon & Rees LLP
 2211 Michelson Drive, Suite 400
 Irvine, CA 92612
 (949) 255-6950

DEFENDANTS
 COMPUTER SOS, INC., a New York corporation, d/b/a
 MANAGEYOURLEAGUE.COM

County of Residence of First Listed Defendant San Diego
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
 DEPUTY

'10 CV 1805 IEG NLS

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)

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 <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<table border="1"> <tr> <th>PERSONAL INJURY</th> <th>PERSONAL INJURY</th> </tr> <tr> <td> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability </td> </tr> <tr> <th colspan="2">PERSONAL PROPERTY</th> </tr> <tr> <td> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> <td></td> </tr> </table>	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability 	PERSONAL PROPERTY		<input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	PROPERTY RIGHTS								
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark								
			IMMIGRATION	SOCIAL SECURITY								
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609								
				FEDERAL TAX SUITS								
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609								

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):
28 U.S.C. §§1338 (a) and (b), 1391(c) and 1400(b); 35 U.S.C. §§ 271 et seq.,

Brief description of cause:
Patent Infringement; Indirect Patent Infringement; Unfair Competition

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 _____ DOCKET NUMBER _____

DATE August 27, 2010
 SIGNATURE OF ATTORNEY OF RECORD Andrea K. Douglas

FOR OFFICE USE ONLY
 RECEIPT # 17430 AMOUNT \$300 APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS017430
Cashier ID: mbain
Transaction Date: 08/30/2010
Payer Name: SAN DIEGO LEGAL SUPPORT SVCS

CIVIL FILING FEE
For: ACTIVE NETWORK V COMPUTER SDS
Case/Party: D-CAS-3-10-CV-001805-001
Amount: \$350.00

CHECK
Check/Money Order Num: 92792
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.