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10 **Attorneys for Plaintiff**  
**DRUGLOGIC, INC.**

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13 IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 DRUGLOGIC, INC.,

15  
16 Plaintiff,

17 v.

18 ORACLE CORPORATION and  
PHASE FORWARD, INC.,

19 Defendants.

Case No. \_\_\_\_\_

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

20 Plaintiff DRUGLOGIC, INC. ("DrugLogic") hereby complains against Defendants  
21 ORACLE CORPORATION ("Oracle") and PHASE FORWARD, INC. ("Phase Forward") as  
22 follows:

23 1. DRUGLOGIC is a Delaware corporation having its principal place of business at  
24 11490 Commerce Park Drive, Suite 320, Reston, Virginia 20191.

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NORTHERN DISTRICT OF CALIFORNIA

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1  
2 2. DRUGLOGIC makes and sells state-of-the art solutions in support of  
3 pharmacovigilance and drug safety surveillance practices for both pharmaceutical and  
4 biotechnical companies. Its proprietary Qscan product monitors both company proprietary  
5 adverse event data and publicly available data sources.

6 3. ORACLE, a Delaware corporation headquartered in Redwood Shores, California,  
7 is a leading provider of business software and hardware systems. ORACLE serves over 370,000  
8 customers in over 145 countries around the world including customers in California and this  
9 judicial district.

10 4. Relsys International, Inc. ("RELSYS") was formed as a California corporation in  
11 1987. From 1987 to 2009, RELSYS created and sold drug safety and pharmacovigilance  
12 software solutions worldwide. During that time, RELSYS supplied products and systems  
13 offering regulatory reporting and drug safety database technology in the health science industry.

14 5. On March 23, 2009, ORACLE announced it agreed to acquire RELSYS. The  
15 ORACLE acquisition was completed on or about August 3, 2009. Following the completion of  
16 the acquisition, RELSYS was merged into ORACLE, on information and belief, through  
17 ORACLE's wholly-owned subsidiary, ORACLE SYSTEMS CORPORATION ("ORACLE  
18 SYSTEMS"). Relsys (India) Private Limited and Relsys UK Limited are international  
19 subsidiaries of ORACLE.

20 6. From at least 2004 to 2009, RELSYS made and sold Argus Perceptive, now a  
21 component of ORACLE's risk management suite for the life sciences industry. Argus Perceptive  
22 helps life sciences companies proactively detect safety signals via real-time monitoring of  
23 product-event combinations and provides an integrated platform for real-time risk analysis.

24 7. PHASE FORWARD was formed as a Delaware corporation in 1997. From 1997  
25 until 2010 PHASE FORWARD created and sold technology solutions to assist life sciences  
26 companies in managing their clinical development process. During that time, PHASE  
FORWARD supplied products and systems providing a dynamic, visual data mining

1 environment for detecting signals, uncovering patterns, and recognizing emerging trends in the  
2 health science industry.

3 8. On or about April 15, 2010, ORACLE, PHASE FORWARD, and Pine  
4 Acquisition Corporation ("PINE") (a wholly-owned subsidiary of ORACLE) entered into an  
5 Agreement and Plan of Merger. Pursuant to that Agreement, PINE was to merge with and into  
6 PHASE FORWARD, whereby the separate corporate existence of PINE was to cease and  
7 PHASE FORWARD was to become the surviving corporation and a wholly-owned subsidiary of  
8 ORACLE. On April 16, 2010, ORACLE issued a press release confirming the Agreement to  
9 acquire PHASE FORWARD. ORACLE completed its acquisition of PHASE FORWARD on  
10 August 11, 2010.

11 9. PHASE FORWARD developed the Empirica Signal application which supports  
12 the detection of safety signals through the use of advanced data mining techniques applied to a  
13 variety of spontaneous reporting databases, including a company's internal safety database.

14 10. Prior to their acquisitions by ORACLE, DRUGLOGIC was a direct competitor of  
15 both RELSYS and PHASE FORWARD. Now, DRUGLOGIC's Qscan product competes directly  
16 with ORACLE's rebranded and repackaged versions of Argus Perceptive and Empirica Signal.

17 11. ORACLE continues to use the technologies developed by RELSYS and PHASE  
18 FORWARD to provide products and services that assist the life science industry in capturing,  
19 accessing, managing, and sharing clinical and medical data.

### 20 JURISDICTION AND VENUE

21 12. This is a complaint for patent infringement under the patent laws of the United  
22 States, Title 35 of the United States Code, and for breach of contract under the laws of the State  
23 of California. This Court has original jurisdiction over the subject matter of this Complaint  
24 under 28 U.S.C. § 1338(a) and supplemental jurisdiction under 28 U.S.C. § 1367(a). Venue in  
25 this district is proper under 28 U.S.C. §§ 1400(b) and 1391(b) and (c).

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**FIRST CLAIM FOR RELIEF**  
**PATENT INFRINGEMENT**

13. DRUGLOGIC owns full right, title and interest in and has the sole and exclusive right to enforce and has standing to sue and recover damages for infringement of U.S. Patent No. 6,789,091 B2 (“the ‘091 Patent”), entitled “Method and System for Web-Based Analysis of Drug Adverse Effects” (attached as Exhibit A). The ‘091 Patent was filed on May 2, 2001 and was issued by the United States Patent and Trademark Office on September 7, 2004.

14. ORACLE has infringed at least independent claims 1, 2, 8 and 9 of the ‘091 Patent under 35 U.S.C. § 271(a) by making, using, importing, selling, or offering to sell Oracle Argus Perceptive and related products and services. Discovery of material currently in the sole possession, custody, and/or control of ORACLE will likely lead to evidence of direct infringement of other claims of the ‘091 Patent under 35 U.S.C. § 271(a).

15. As the successor in interest to RELSYS, ORACLE is also liable for the past infringement by RELSYS of at least independent claims 1, 2, 8 and 9 of the ‘091 Patent under 35 U.S.C. § 271(a) by making, using, importing, selling, or offering to sell Argus Perceptive between September, 2004 and August, 2009. Discovery of material currently in the sole possession, custody, or control of ORACLE will likely lead to evidence of direct infringement of other claims of the ‘091 Patent under 35 U.S.C. § 271(a).

16. Upon information and belief, ORACLE has also actively induced third parties, including purchasers of products and related services for the RELSYS, PHASE FORWARD and ORACLE products described above, to infringe at least independent claims 1, 2, 8 and 9 of the ‘091 Patent under 35 U.S.C. § 271(b) by providing, operating and/or promoting and assisting in the use of Oracle Argus Perceptive and related products and services. Discovery of material currently in the sole possession, custody, or control of ORACLE will likely lead to evidence of indirect infringement of other claims of the ‘091 Patent under 35 U.S.C. § 271(b).

1 17. PHASE FORWARD has infringed at least independent claims 1 and 8 of the '091  
2 Patent under 35 U.S.C. § 271(a) by making, using, importing, selling, or offering to sell its  
3 Empirica Signal application. Discovery of material currently in the sole possession, custody, or  
4 control of PHASE FORWARD will likely lead to evidence of direct infringement of other claims  
5 of the '091 Patent under 35 U.S.C. § 271(a).

6 18. Upon information and belief, PHASE FORWARD has also actively induced third  
7 parties, including purchasers of products and related services for the Empirica Signal application  
8 described above, to infringe at least independent claims 1 and 8 of the '091 Patent under 35  
9 U.S.C. § 271(b) by providing, operating, and/or promoting and assisting in the use of the  
10 Empirica Signal application and related products and services. Discovery of material currently in  
11 the sole possession, custody, or control of PHASE FORWARD will likely lead to evidence of  
12 indirect infringement of other claims of the '091 Patent under 35 U.S.C. § 271(b).

13 19. Prior to this action, RELSYS, PHASE FORWARD, ORACLE SYSTEMS, and  
14 ORACLE were aware of the '091 Patent and had actual notice of DRUGLOGIC's infringement  
15 claims. ORACLE has continued its actions despite an objectively high likelihood that these  
16 actions constituted infringement of the '091 Patent. This likelihood was known or was so  
17 obvious that it should have been known by them. Accordingly, ORACLE's infringement and  
18 inducement to infringe has been willful and deliberate.

19 20. DRUGLOGIC has been injured by the infringement caused by ORACLE and  
20 PHASE FORWARD and is entitled to damages adequate to compensate it for all of the  
21 infringement that has occurred. The unlawful acts of infringement of the claims of the '091  
22 Patent by ORACLE and PHASE FORWARD will continue unless enjoined by this Court.

23 **FIRST CLAM FOR RELIEF**  
24 **REQUESTED RELIEF**

25 WHEREFORE, DRUGLOGIC requests that a judgment be entered as follows:

- 26 A. A finding that Defendants have infringed the '091 Patent;

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2 B. An injunction prohibiting Defendants, and all those acting in  
3 concert or participation with Defendants from further acts of infringement of the  
4 '091 Patent;

5 C. An award to DRUGLOGIC of such damages as it can prove at trial  
6 against Defendants sufficient to fully and adequately compensate it for the acts of  
7 infringement that have occurred, said damages to be no less than a reasonable  
8 royalty with respect to each entity found to infringe any asserted claim of the '091  
9 Patent;

10 D. An augmented award to DRUGLOGIC for any damages so  
11 determined that are found for willful infringement, pursuant to 35 U.S.C. § 284,  
12 together with prejudgment interest;

13 E. An award to DRUGLOGIC of costs and its reasonable attorneys'  
14 fees; and

15 F. Such other relief as this Court and the jury may determine to be  
16 proper and just.

## 17 **SECOND CLAIM FOR RELIEF**

### 18 **BREACH OF CONTRACT**

19 21. DRUGLOGIC incorporates by reference the allegations of paragraphs 1- 12.

20 22. This is an action for breach of contract under the laws of the State of California.

21 23. On December 22, 2004, DRUGLOGIC and RELSYS entered into a Co-Marketing  
22 and Development Agreement ("CMDA").

23 24. The CMDA was amended once on May 28, 2008. By the amendment, the parties  
24 agreed that all CMDA terms not expressly amended "shall continue in full force and effect, as  
25 though the Agreement had not terminated by its terms pursuant to Section 7.1 thereof."

26 25. The CMDA contained provisions for "Confidential Information" that were not  
expressly amended by the May 28, 2008 amendment.



1 D. An award to DRUGLOGIC for any exemplary, special, incidental  
2 or punitive damages, together with prejudgment interest, as it may be entitled to  
3 by law;

4 E. An award to DRUGLOGIC of costs and its reasonable attorneys'  
5 fees; and

6 F. Such other relief as this Court and the jury may determine to be  
7 proper and just.

8 NIRO, HALLER & NIRO

9 DAVIS WRIGHT TREMAINE

10 By: 

11 Martin L. Fineman

12 Attorneys for Plaintiff  
13 DRUGLOGIC, INC.

14 **JURY DEMAND**

15 A trial by jury is hereby demanded on all issues triable to a jury in this case.

16 NIRO, HALLER & NIRO

17 DAVIS WRIGHT TREMAINE

18 By: 

19 Martin L. Fineman

20 Attorneys for Plaintiff  
21 DRUGLOGIC, INC.