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7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 (SAN JOSE)  
11

12 UNITED STATES OF AMERICA and  
STATE OF CALIFORNIA, *ex rel.*  
13 VINCENT HASCOET and PHILIPPE  
PACAUD DESBOIS,  
14

15 Plaintiffs,

16 vs.  
17

18 MORPHO, S.A., a/k/a SAFRAN  
19 IDENTITY & SECURITY, S.A., a  
French corporation; SAFRAN, S.A.,  
20 a/k/a SAFRAN GROUP, S.A., a  
French corporation; SAFRAN  
21 U.S.A., INC., a California corporation;  
MORPHOTRAK, LLC, a Delaware  
22 limited liability company; and  
MORPHOTRUST USA, LLC, a/k/a  
23 MORPHOTRUST USA, INC., a  
Delaware limited liability company,  
24

25 Defendants.  
26  
27  
28

\* Case No. 5:15-cv-00746-LHK  
\*  
\* **THIRD AMENDED COMPLAINT, WITH**  
\* **DEMAND FOR JURY TRIAL**  
\*  
\* *Causes of Action on Behalf of U.S.:*  
\*  
\* 1. Knowingly Presented, or Caused to Be Presented,  
\* a False or Fraudulent Claim for Payment or  
\* Approval, in Violation of the False Claims Act, 31  
\* U.S.C. § 3729(a)(1)(A)  
\*  
\* 2. Knowingly Made, Used, or Caused to Be Made or  
\* Used, a False Record or Statement Material to a  
\* False or Fraudulent Claim, in Violation of 31 U.S.C.  
\* § 3729(a)(1)(B)  
\*  
\* *Causes of Action on Behalf of State of California:*  
\*  
\* 3. Knowingly Presented a False Claim for Payment  
\* or Approval, in Violation of the California False  
\* Claims Act, Cal. Gov. C. § 12651(a)(1)  
\*  
\* 4. Knowingly Submitted a False Record or State-  
\* ment to Get a False Claim Paid or Approved, in  
\* Violation of the California False Claims Act, Cal.  
\* Gov. C. § 12651 (a)(2)  
\*  
\* 5. Failure of Beneficiary of False Claim to  
\* Disclose False Claim within Reasonable Time  
\* after Discovery, in Violation of Cal. Gov.  
\* Code § 12651(a)(8)  
\*

## Introduction

1  
2 1. This is a False Claims Act *qui tam* case in which the whistleblowers ("Relators"),  
3 Vincent Hascoet and Philippe Pacaud Desbois, pursuant to the Federal False Claims Act ("FCA")  
4 and the California False Claims Act ("CFCA"), sue to recover from Safran, S.A. and its agent  
5 subsidiaries damages and civil penalties on behalf of the United States of America and the State  
6 of California, arising out of false or fraudulent claims, and fraudulent concealment, by Safran,  
7 S.A., and its agent subsidiaries incident to the sale of fingerprint and palmprint identification  
8 devices to federal and state entities.

9 2. (a) Via both express certifications and implied certifications, Defendant Safran, S.A.,  
10 a/k/a Safran Group, S.A.), by and through its entities and agents that it directly or indirectly owns  
11 100%, and hides behind and does business as, which entities are also named herein as  
12 Defendants, made material false claims, and engaged in acts of fraudulent concealment, to the  
13 United States and all states of the United States, including, but not limited to, the State of  
14 California, and other government entities in the United States, as to the country of origin of  
15 fingerprint and palmprint identification technology sold by Defendants to such government  
16 entities. (b) Defendants specifically falsely claimed, and continue to falsely claim: (i) that the  
17 algorithms technology within such devices, at all times pertinent hereto, was, and is, Safran-  
18 owned *French* technology, when in fact it is *Russian* technology, specifically technology owned  
19 by Russian corporation Papillon ZAO and used by the Russian Federal Security Service ("FSB")  
20 of the Russian Federation, the successor to the KGB that was the intelligence function under the  
21 USSR; (ii) that Defendants, at all times pertinent hereto, were in compliance with applicable  
22 laws prohibiting agreements in restraint of trade between, where Defendants and their Russian  
23 competitor, Papillon ZAO, at all times relevant hereto, had an agreement to divide up the  
24 market, with Defendants having exclusive rights to sell in the United States, most of Western  
25 Europe, the U.A.E., and some other Middle East countries, and with Papillon ZAO having  
26 exclusive rights to sell in Russia, Turkey, China, Taiwan, Kazakhstan, Mongolia, Poland,  
27 Tajikistan, and Albania, and other Asian markets; there was, and is, a firm commitment by each  
28 not to compete in the other's agreed geographic market area; and (iii) and that Defendants were,

1 at all times pertinent herein, in compliance with the The Trade Agreements Act of 1979  
2 ("TAA"), Pub.L. 96-39, 93 Stat. 144, enacted July 26, 1979, codified at 19 U.S.C. ch. 13  
3 (19 U.S.C. §§ 2501-2581).

4 3. Relators allege the following five numbered causes of action against Safran S.A.  
5 (a/k/a Safran Group, S.A.), Safran Identity and Security, S.A., (a/k/a "Morpho," "Morpho, S.A.,"  
6 and "Morpho Group"), Safran U.S.A., Inc., MorphoTrak, LLC, and MorphoTrust USA, LLC  
7 (a/k/a MorphoTrust USA, Inc.), collectively "Defendants" and "Safran Defendants"):

8  
9 No. 1: Knowingly Presented, or Caused to Be Presented, a  
False or Fraudulent Claim for Payment or Approval, in Violation  
10 of the False Claims Act, 31 U.S.C. § 3729(a)(1)(A);

11 No. 2: Knowingly Made, Used, or Caused to Be Made or  
Used, a False Record or Statement Material to a False or  
12 Fraudulent Claim, in Violation of 31 U.S.C. § 3729(a)(1)(B);

13 No. 3: Knowingly Presented a False Claim for Payment or  
Approval, in Violation of the California False Claims Act, Cal.  
14 Gov. C. § 12651(a)(1);

15 No. 4: Knowingly Submitted a False Record or Statement  
to Get a False Claim Paid or Approved, in Violation of the  
16 California False Claims Act, Cal. Gov. C. § 12651 (a)(2);

17 No. 5: Failure of Beneficiary of False Claim to Disclose  
False Claim within Reasonable Time after Discovery, in Violation  
18 of Cal. Gov. Code § 12651(a)(8).

19 **Relators Vincent Hascoet and Philippe Pacaud Desbois**

20 4. Relators Vincent Hascoet and Philippe Pacaud Desbois are citizens of France and are  
21 residents of The Russian Federation ("Russia"). Both are former employees of entities of  
22 Safran, S.A., a/k/a Safran Group, S.A. For security and privacy reasons, Philippe Pacaud  
23 Desbois in the original Complaint was referred to by the fictitious name "Roger Roe."

24 **Relators' Qualification as Original Sources**

25 **Receiving and Relying on Information Not Publicly Disclosed**

26 5. (a) Relators Vincent Hascoet and Philippe Pacaud Desbois obtained the false claims  
27 allegations made herein via their work for Defendants; they are insider "original sources," as that  
28 term is used in the context of the Federal False Claims Act ("FCA") and the California False

1 Claims Act ("CFCA"). (b) Relators had direct, firsthand, and independent knowledge and  
2 information on which the allegations of false claims herein are based, and they obtained such  
3 knowledge entirely through their own labors and their jobs with entities of Safran, S.A., a/k/a  
4 Safran Group, S.A., unmediated by anything else. (c) Relators rely entirely on information  
5 received because of their work on compliance issues for entities within Safran, S.A., a/k/a Safran  
6 Group, S.A. (d) Relators collaborated with one another in the analysis and presentation of such  
7 information.

8 6. (a) Relator Philippe Pacaud Desbois was a high-level employee of Safran, S.A., a/k/a  
9 Safran Group, S.A., for seven years, from November, 2007, to September 2014. (b) Within  
10 "Safran – Aerospace, Defence, Security," he served as Chief Financial Officer Russia ("Delegue  
11 Finance Russie"), over ten legal structures with 500 to 600 employees and annual turnover of  
12 \$500 million. (c) He led the full scope of finance function in all Safran's entities in Russia,  
13 including four production sites and a joint venture; he supported the mother companies of the  
14 subsidiaries in strategic aspects for Russia; he deployed a shared service center for support  
15 functions (Finance, HR, IT and Administration); and he restructured the group of companies for  
16 tax optimization. He later served as Chief Executive Officer of Morpho Russia ("Morpho Rus").  
17 (d) In such security division, he handled the acquisition and integration of a new company, he  
18 supervised manufacturing and supply chain activities, and he had a close working relationship  
19 with Administration. (e) He simultaneously was Safran's country delegate for finance in Russia  
20 for several years, until mid-2014. (f) In his high-level role as the CEO of Morpho Russia,  
21 Philippe Pacaud Desbois occupied a position of strategic importance via which he became  
22 informed of a July 2, 2008, Technology License Agreement between Sagem Sécurité SA  
23 ("Sagem") and Papillon ZAO. (g) He, as CEO of Morpho Russia, was provided documentation  
24 and oral reports in the course of business, reflecting the source and marketing of technology for  
25 Defendants' fingerprint identification products, and regarding a policy and concerted effort by  
26 Defendants to conceal the source of such technology from American government entities and  
27 NATO, together with an agreement in restraint of trade between Defendants and the Russian  
28 corporation Papillon ZAO to divide up the world market in terms of geographic regions. (h) In

1 his capacity as the CEO of Morpho Russia, he was informed of the license contract with  
2 Papillon; because he felt he had to compete with Papillon in some markets, he was explained the  
3 full story of Morpho's relationship with Papillon; he was told by higher management, in the  
4 ordinary course of business, that Papillon is an unofficial partner with Morpho and that Morpho  
5 accordingly should not compete with Papillon.

6 7. (a) Relator Vincent Hascoet, from July 23, 2012, through May 31, 2014, served in  
7 Moscow, Russia, as Deputy Director of the Russian branch of PowerJet, a joint venture of  
8 Snecma and NPO Saturn. (b) Incident to his work with PowerJet, Vincent Hascoet became  
9 familiar with myriad areas of widespread serious and material noncompliance, most of which he  
10 raised in detail in a comprehensive report to PowerJet management in Moscow and Snecma  
11 management at Snecma Siège in Paris. (c) These areas included, but were not limited to, myriad  
12 acts of bribery, unlawful gifts, bogus transactions, tax evasion, and false certifications of com-  
13 pliance with laws. (d) As Branch Manager of PowerJet, Vincent Hascoet, like Philippe Pacaud  
14 Desbois, was also in charge of an ongoing relationship with the Russian administration (taxes,  
15 pension fund, etc.), carrying the exact same penal responsibilities as Philippe Pacaud Desbois  
16 had as the CEO of Morpho Russia. (e) Further, Vincent Hascoet, in the same manner as Philippe  
17 Pacaud Desbois, held such responsibilities jointly with Hascoet's Chief Accountant. (f) Follow-  
18 ing Mr. Hascoet's complaints and reports about these compliance issues, his employment was  
19 terminated. (g) Because of Vincent Hascoet's comprehensive internal compliance work, he and  
20 Philippe Pacaud Desbois, in the course of business, engaged in extensive professional communi-  
21 cations with one another regarding compliance issues, including especially the areas of non-  
22 compliance jointly alleged by Relators in this *qui tam* action. (h) Philippe Pacaud Desbois and  
23 Vincent Hascoet also closely collaborated in regard to communicating with the United States  
24 Securities & Exchange Commission ("SEC") regarding the Safran Defendants' serious issues of  
25 noncompliance.

26 8. (a) From several months preceding the filing of this *qui tam* lawsuit forward to the  
27 present, Relators regularly and meticulously monitored news media reports, in American,  
28 French, Russian, and other European news media, in English language, French language, and

1 Russian language, in regard to any pre-lawsuit news media reports of Defendants' conduct  
2 relative to Morpho fingerprint identification systems. (b) Prior to the filing of this *qui tam*  
3 action, there was no public disclosure, via the news media, via any filing with any court or other  
4 government office, or via any other means, of the false claims pled herein prior to the filing of  
5 this *qui tam* action.

#### 6 **Safran Defendants and Related Entities**

7 9. (a) Defendant Safran, S.A., a/k/a Safran Group, S.A. ("Safran") is the parent company  
8 and principal Defendant in this case. (b) Safran, S.A., is a conglomerate corporation formed  
9 under the laws of France in 2005 with the merger of Sagem Sécurité S.A. and Snecma S.A.  
10 Safran's three core business divisions are Aerospace, Defense, and Security. (c) The Security  
11 Division's expertise spans three key markets: identification of people and goods, production of e-  
12 documents, and detection of dangerous substances. (d) The stock of Safran S.A. (a/k/a Safran  
13 Group, S.A.), is traded on the following exchanges: NYSE, Euronext, Paris, and SAF. (e) The  
14 term "Safran Defendants" as used in this Complaint refers collectively to the Safran Defendants  
15 acting by and through their agents, subsidiaries, and managerial employees, and each of them.  
16 (f) Safran's top management, including especially former Sagem Sécurité S.A. CEO *Jean-Paul*  
17 *Jainsky* and current Safran S.A. CEO, *Philippe Petitcolin*, at all times alleged herein, were and  
18 are directly responsible for conceiving and orchestrating the false claims and fraudulent conceal-  
19 ment alleged herein, featuring *a labyrinthine convoluted tangled web of agent subsidiary*  
20 *entities that Safran, S.A., at all times alleged herein, directly and indirectly wholly owns and*  
21 *uses as agents in an ever-changing shell game.* (f) *Managerial employees of the of Safran*  
22 *Defendants, in doing the acts and things described in this Complaint, were acting within the*  
23 *course and scope of their respective agencies and/or employment, with the knowledge, con-*  
24 *sent, and direction of top management of Safran, S.A.* (g) *Further, each Safran Defendant*  
25 *worked at the direction of Safran, S.A., and each other Safran Defendant, to injure the United*  
26 *States and the State of California.*

27 10. (a) The Safran Defendants do business in the State of California and elsewhere in the  
28 United States both as defendant Safran U.S.A., Inc., a corporation incorporated under the laws of

1 the American state of Delaware, as defendant Morpho or Morpho, S.A., re-named in May 2016  
2 as "Safran Identity and Security, S.A.," a corporation incorporated under the laws of France, as  
3 MorphoTrak, LLC, a corporation incorporated under the laws of Delaware, or as MorphoTrust  
4 USA, LLC, a corporation incorporated under the laws of Delaware. (b) Safran U.S.A., Inc., is  
5 97.5% owned by Safran, S.A. (a/k/a Safran Group, S.A.), and 2.5% owned by Safran Identity &  
6 Security, S.A., which is yet another subsidiary of Safran, S.A. (c) Safran U.S.A., Inc., for over  
7 40 years has supported a U.S. customer base that includes the federal government, branches of  
8 the American military, private sector companies and more in the aerospace, defense and security  
9 sectors. (d) Safran's U.S.A., Inc.'s industrial footprint is Safran, S.A.'s most extensive outside  
10 France. (e) Safran U.S.A., Inc. has expanded by 50% over the last ten years and comprises 30  
11 companies and joint ventures, with 58 locations across 22 states. (f) Safran U.S.A., Inc.,  
12 accounts for about 25% of the total revenues of Safran, S.A. (a/k/a Safran Group, S.A).

13 11. (a) At all times alleged herein, neither Safran, S.A. (a/k/a Safran Group, S.A.),  
14 Morpho, S.A., Safran Identity and Security, S.A., nor MorphoTrust USA, LLC. (a/k/a  
15 MorphoTrust, Inc.), had filed with the office of the California Secretary of State the "Statement  
16 of Information" required by such office, nor was any such entity otherwise properly registered  
17 with the California Secretary of State to do business in California. (b) Further, prior to July 11,  
18 2014, defendant MorphoTrak, LLC, did not have on file with the California Secretary of State  
19 such a required "Statement of Information". (c) At all times during which each such entity  
20 failed to have on file such a Statement of Information with the California Secretary of State,  
21 such entity was not in good standing on the records of the California Secretary of State, and was  
22 ***not legally authorized to engage in business in California.***

23 12. (a) Sagem Sécurité SA is a corporation organized under the laws of France, having its  
24 place of business in Paris, France. (b) Sagem Sécurité SA develops and supplies high-precision  
25 opto-mechanical, electronics, and optical solutions for defense, astronomy, research, and  
26 industry applications worldwide. (c) ***Sagem Sécurité SA now operates as a subsidiary of***  
27 ***Safran, S.A. (a/k/a Safran Group, S.A.).*** (d) Snecma S.A. is a French multinational aircraft and  
28 rocket engine manufacturer headquartered in Courcouronnes, France; alone or in partnership,

1 Snecma designs, develops, produces and markets engines for civil and military aircraft, launch  
2 vehicles and satellites; Snecma also offers a complete range of engine support services to  
3 airlines, armed forces and other operators

4 13. (a) Safran Identity and Security, S.A., a/k/a variously as "Morpho," "Morpho Group,"  
5 "Morpho, S.A.", and "Safran Identity and Security Group," is a corporation incorporated under  
6 the laws of France, and is owned 75% by Safran, S.A. (a/k/a Safran Group, S.A.), and 25% by  
7 Safran U.S.A., Inc. (b) *Safran, S.A. (a/k/a Safran Group, S.A.), effective May 19, 2016, began*  
8 *having all Safran Group companies communicating under a single brand name and logo –*  
9 *“Safran”, and Morpho began doing business as “Safran Identity and Security Group.”*

10 (c) Morpho offers a unique multibiometric product portfolio with fingerprint, multimodal  
11 (combination of finger vein and fingerprint biometrics), and facial devices.

12  
13 **Particulars Regarding False Claim Regarding the Country of Origin of**  
14 **the Fingerprint Software Technology in the Morpho Product**

15 14. (a) Incident to the Safran Defendants' sale of Morpho fingerprint identification  
16 products to the United States and to individual states and other government entities within the  
17 United States, including, but not limited to the State of California, the U.S. Federal Bureau of  
18 Investigation ("FBI") was, and is, in charge of centralizing all fingerprints on behalf of all other  
19 government entities in the U.S., and therefore was, and is, the unique client of Morpho. (b) At  
20 all times alleged herein, Defendant MorphoTrust, LLC, claimed to be a preferred partner of  
21 many federal agencies, such as the Transportation Security Agency ("TSA") and many state  
22 agencies, including agencies in California, initiating fingerprinting systems and software, and in  
23 regard to capturing and submitting fingerprints. (c) MorphoTrust, LLC, made the sale of  
24 hardware used for registering fingerprints and palm prints.

25 15. (a) Defendant MorphoTrak, LLC, a wholly owned subsidiary of Defendant Safran  
26 USA, Inc., is the recognized world leader in fingerprint identification, providing biometric and  
27 identity management solutions to the U.S. and Canadian markets. (b) Formed in April 2009,  
28 MorphoTrak's markets include law enforcement, border control, civil identification, facility/IT



1 security and access control. (c) MorphoTrak since its formation has employed hundreds of  
2 persons in the U.S., with headquarters near Washington D.C., major corporate facilities in  
3 Anaheim, CA and Tacoma, WA, and regional facilities throughout the U.S.

4 16. (a) For national security, border protection, and other purposes, a material represen-  
5 tation made by Safran Defendants was that Morpho fingerprint identification devices sole to the  
6 United States, the State of California, and other government entities within the United States  
7 was that the products being purchased were *French* technology, owned and developed by Safran.

8 (b) Incident to sales of Morpho fingerprint identification devices to entities of the United States,  
9 the State of California, and other government entities within the U.S., Defendants falsely  
10 claimed that the algorithms technology used in such Morpho fingerprint identification tech-  
11 nology was, and is, *French* technology, owned by Safran. (c) Safran top management went to  
12 great lengths to conceal from customers and even their own employees in the United States that  
13 the algorithms technology was prohibited *Russian* technology, used by the Russian FSB and  
14 developed by the Russian company Papillon Software and Papillon Technology for Fingerprint  
15 and Palmprint Recognition, dba Papillon ZAO ("Papillon").

16 17. (a) Papillon ZAO ("Papillon") is a Russian corporation formed by Russian ex-  
17 military personnel. (b) Papillon, at all times alleged herein, was a leader in fingerprint  
18 identification technology, and it had filed its patent for such technology in Russia in 2007  
19 (published on October 29, 2008).

20 18. (a) *Sagem Sécurité SA ("Sagem"), now a wholly owned subsidiary of Safran, on*  
21 *July 2, 2008, executed a Technology License Agreement ("Agreement" and "Sagem-Papillon*  
22 *Agreement") with Papillon, which Agreement Sagem and its successor company Safran kept*  
23 *secret. (b) Via such secret Agreement, Sagem became the licensee of Papillon fingerprint*  
24 *identification technology software that was used as the basis for Morpho fingerprint*  
25 *identification products sold to the United States, to the State of California, and to various*  
26 *other government entities, including cities, counties, other states, and other government*  
27 *entities within the United States. (c) Sagem, incident to making and concealing this secret*  
28 *licensing Agreement with Papillon ZAO, first did so via Sagem's then CEO, Jean-Paul*

1 *Jainsky, who is still employed at Safran, S.A., but not as CEO. (d) The existence of the*  
2 *subject secret licensing agreement also was concealed by Philippe Petitcolin, who was*  
3 *Morpho's CEO, who later became Safran, S.A.'s CEO, and who continues to be Safran, S.A.'s*  
4 *CEO. (e) The consideration paid by Sagem to Papillon at the time of execution was 3,795,000*  
5 *Euros (equivalent to over 5 million U.S. dollars at that time), including yearly annual fees of*  
6 *650,000 Euros for the years 2009 to 2012 and 1,150,000 Euros for the year 2013. (f) This*  
7 *Papillon technology was five times more efficient and faster than Sagem's own algorithms, as*  
8 *the Papillon technology could perform the identification with 12 recognition points instead of 60*  
9 *for Sagem's technology at that time.*

10 19. (a) Frank Barret, who is presently working as Director of Cloud Services for  
11 MorphoTrak, LLC, in California, worked in France between 2007 and 2010 as Project Manager  
12 for the Morpho France offices of Morpho, S.A., a/k/a Safran Identity & Security, S.A.  
13 (b) Within such time frame, Mr. Barret led a team of 19 software engineers in the field of IT  
14 product development. Such team's task was to put in place agile development methods to  
15 increase productivity, quality, and reduce lead time. (c) Incident to this process, Safran, S.A.,  
16 top management sent, and Frank Barret's team received, five Papillon algorithms from Russia,  
17 which algorithms Mr. Barret's team incorporated into Morpho's AFIS. (d) *Frank Barret knew*  
18 *about the Russian origin of the algorithms, and he participated in the sale of such AFIS*  
19 *products containing these algorithms to U.S. agencies and California agencies, in which sales*  
20 *Safran, S.A., management concealed the Russian origin of the algorithms and perpetuated the*  
21 *false claim that the algorithms were French technology developed and owned by Safran, S.A.*  
22 (e) *Jean-Paul Jainsky and Safran, S.A., top management, including Safran, S.A., CEO*  
23 *Philippe Petitcolin, kept secret from representatives of the United States and the State of*  
24 *California the Russian origin of the subject fingerprint identification algorithms, and*  
25 *perpetuated the falsehood that the subject Russian technology was French technology*  
26 *developed and owned by Safran.*

27 20. The definitions section of the Sagem-Papillon Agreement makes clear that the  
28 Morpho software is Russian technology. Specifically, the Agreement states, in pertinent part:

1 "Papillon Technology' means Russian and foreign Patents, Patent applications, and Copyrights,  
2 and the know-how, computer software, technical, and operational information in each case  
3 which are owned by or licensed to Licensor or which, until the end of year 2013, are or will be  
4 invented, developed, owned or controlled by Licensor, and falling within the Licensed field."

5 21. The subject Sagem-Papillon Agreement grants the right "to the purpose of develop-  
6 ing and selling integrated products on its own name, at is own risk through its normal sales  
7 channels".

8 22. (a) Art 6.19(f) of the Sagem-Papillon Agreement states: "To the licensor's  
9 knowledge, software does not contain, . . . , any (i) undisclosed 'back door' . . . ." Relators,  
10 however, are unaware of any measures ever taken by Defendants to independently verify that  
11 there is no "back door" or Trojan horse that could enable the FSB or others within the Russian  
12 Federation to circumvent or defeat fingerprint identification devices in the United States  
13 currently using the Russian software used by the Russian FSB. (b) Frank Barret's team of  
14 software engineers did not perform any tasks related to these risks.

15 23. (a) On or about September 9, 2009, Safran, doing business through its subsidiary and  
16 agent MorphoTrak, LLC, was awarded a contract by Lockheed Martin to provide fingerprint  
17 identification technology for the FBI's Next Generation Identification (NGI) system. (b) Such  
18 contract, obtained by Daniel Vassy, President and CEO of MorphoTrak, LLC, enhanced  
19 MorphoTrak's position as the leading U.S. provider of Automated Fingerprint Identification  
20 Systems (AFIS), supplying law enforcement and civil identification systems to most U.S. states,  
21 to numerous local government agencies, and to the FBI and several other Federal agencies.  
22 ***(c) Such September 9, 2009, contract was obtained by Morpho Track, LLC, President and***  
23 ***CEO Daniel Vassy based on knowingly false representations by Jean-Paul Jainsky and other***  
24 ***Safran, S.A., top management, to Mr. Vassy and other Safran employees in the U.S., during***  
25 ***months culminating in the September 9, 2009, contract, that MorphoTrak's technical solution***  
26 ***was, and is, based on Safran's own state-of-the-art fingerprint identification algorithms***  
27 ***(French technology), when in fact such was based on state-of-the-art algorithms developed***  
28 ***and owned by Russian corporation Papillon ZAO and secretly licensed to Safran.*** (e) Daniel

1 Vassey, President and CEO of MorphoTrak, LLC, passed on this knowing misrepresentation by  
2 Mr. Jainsky and other Safran top management to the United States through prime contractor  
3 Lockheed Martin. (f) *Such action by Safran, S.A., top management constituted fraudulent*  
4 *concealment.* (g) *MorphoTrak, by and through Daniel Vassy, in late 2008 or early 2009, also*  
5 *passed to NIST (the U.S. National Institute of Standards & Technology) the lie of Safran top*  
6 *management that MorphoTrak's biometric matching algorithms for fingerprint identification*  
7 *were developed by MorphoTrak, and belonged to MorphoTrak, when, in fact, such algorithms*  
8 *were developed by, and belonged to, Papillon ZAO.*

9 24. French employees of the Safran Defendants' Morpho France subsidiary, who, in  
10 numerous visits to the United States, were instrumental in the aforementioned contract's  
11 negotiation, included: (a) *Jean-Paul Jainsky*, who was the CEO of Sagem at that time, who  
12 also had signed the contract with Papillon ZAO, and who is still working for Safran; (b)  
13 *Francois Perrachon*, who was Senior Vice-President for Corporate Sales Development and a  
14 member of the Executive Committee at Morpho between July 2007 and December 2012; and (c)  
15 *Antoine Grenier*, who was in charge of all legal aspects. These executives were fully aware of  
16 the Russian origin of the algorithms they were selling, but they, as agents on behalf of Safran,  
17 S.A., and the other Safran Defendants, knowingly and fraudulently concealed such origin from  
18 employees of the United States and the State of California; these executives did not apprise  
19 Lockheed Martin, the FBI, the DOJ, and other U.S. entities of the technology's Russian origin.  
20 The subject French executives – Mr. Jainsky, Mr. Perachon, and Mr. Grenier – through  
21 concealment and outright misrepresentation, perpetuated the fiction that the subject algorithms  
22 were French technology, developed and owned by Safran, when in fact they were Russian  
23 technology, developed and owned by Papillon ZAO.

24 25. (a) In August 2010, Morpho Trak (whose CEO at that time was Daniel Vassy)  
25 awarded Bio-Key International Inc. (whose CEO at that time was Mike DePasquale) a contract  
26 for building a fingerprint biometric identity solution on the fusion of Bio-key and MorphoTrak  
27 algorithms as part of the contract awarded by Lockheed Martins to MorphoTrak for providing

28 \\\

1 the FBI's next NGI system. (b) Bio-Key International Inc. (OTC Bulletin Board: BKYI) was a  
2 leader in fingerprint based biometric identification solutions.

3 26. (a) In 2002, Papillon ZAO was awarded a contract for providing the same AFIS  
4 research and identification technology to the Russian Ministry of Interior and to the Federal  
5 Security Service (FSB), which controls the border guards, as well as to other agencies such as  
6 immigration. (b) All these agencies use the services of the "Main Information Analytical  
7 Center" (GIAZ), which is located in Moscow, for storing over 25 million digital prints and is  
8 also connected to several regional information centers.

9 27. The FBI made a switch to this faster upgraded AFIS on 900 new workstations at the  
10 FBI, called Advanced Fingerprint Information Technology (AFIT), in March 2011, as a first step  
11 toward the NGI, reducing delays from up to 24 hours for civil cases to 10-15 minutes. Accuracy  
12 was increased at the same time from 92% to 99%

13 28. (a) The FBI's Next Generation Identification system improvements became opera-  
14 tional in May 2013, including a threefold increase in latent fingerprint search accuracy and  
15 creating the first nationwide palm print identification system thanks to the Russian biometric  
16 technology incorporated by Safran and supplied by its US subsidiary MorphoTrak, Lockheed  
17 Martin being the FBI's NGI integrator for incorporating "Safran's" latest algorithms. (b) The  
18 NGI implementation concerned more than 18,000 local, state, tribal and federal law improve-  
19 ment agencies nationwide. (c) As the primary supplier of biometric technology to the FBI, the  
20 biometric matching algorithms that Safran top management had falsely represented as being  
21 Safran's were ranked #1 by the National Institute of Standards and Technology (NIST) for latent  
22 fingerprint matching accuracy in the automatic mode. (d) The MorphoBIS platform is widely  
23 used by law enforcement agencies across the US, which can scan all of a hands "Major Case  
24 Prints".

25 29. (a) Defendant Safran, by and through its agents and subsidiaries, including  
26 specifically Safran's agent and wholly owned subsidiary MorphoTrust, U.S.A., LLC (a/k/a  
27 MorphoTrust, U.S.A., Inc.), contracted with the U.S. Department of Justice ("DOJ") pursuant to  
28 a so-called blanket purchase agreements (BPA). (b) BPAs eliminate contracting and open

1 market costs, and eliminate the need for repetitive individual purchases from the schedule  
2 contract. (c) Specifically, *pursuant to GSA Schedule Contract No. GS-35F-0904P, Robert A.*  
3 *Eckel, CEO of MorphoTrust, U.S.A., LLC, on December 4, 2012, signed a BPA with DOJ for*  
4 *purchases of JABS fingerprint and palm print identification equipment that the Government*  
5 *at the time expressly estimated would exceed \$8 billion over the life of the agreement.* (d) In  
6 turn, DOJ Contracting Miguela Shivers signed such BPA on January 7, 2013. (e) At the time of  
7 issuance of such BPA, Safran already had an existing U.S. General Services Administration  
8 (“GSA”) Technology Schedule 70 (IT-70) contract, executed on or about September 9, 2009,  
9 and set to expire on September 27, 2014. (f) Both the prior Schedule 70 contract and the new  
10 BPA imposed DOJ Security Requirements on the Safran Defendants’ fingerprint identification  
11 systems sold to the United States and the State of California, including elaborate pre-screening  
12 and investigation duties and security certifications related to the systems (e.g., extensive  
13 background checks for all contractors used, use of foreign nationals only from countries that are  
14 allied with the United States, and complete prohibition against use of non-U.S. citizens in the  
15 development, operation, management, or maintenance of DOJ IT systems unless a rare high-  
16 level waiver has been granted). (g) *Such DOJ Security Requirements obligated the Safran*  
17 *Defendants and their agents to disclose their use of Papillon ZOE as a subcontractor*  
18 *supplying algorithms for Defendants’ fingerprint identification products, which disclosure the*  
19 *Safran Defendants wilfully and knowingly did not make.* (h) *Further, the subject contracts*  
20 *contain a certification by the contracting Safran entity that it had required all subcontractors*  
21 *to adhere to all security requirements of the contracts, which certification by Robert A. Eckel,*  
22 *the contracting executive for the contracting Safran entity, was knowingly false.* (j) *The*  
23 *contracting Safran entities, in violation of DOJ Security Requirements, fraudulently*  
24 *concealed their contractual relationship with subcontractor Papillon ZOE and their use of*  
25 *Papillon ZOE algorithms technology used by the Russian Ministry of Interior and the Russian*  
26 *Federal Security Service (FSB).* (i) *There was no disclosure by Morpho Trust USA, LLC,*  
27 *MorphoTrack, LLC, or any other Safran Defendant to DOJ or to Lockheed, or any other*  
28 *prime contractor, that the fingerprint identification algorithms claimed to be developed and*

1 *owned by Safran were actually developed and owned by Russian company Papillon ZAO; to*  
2 *the contrary, at the time such contract was executed, Safran was falsely touting to the world*  
3 *that the algorithms were French technology developed and owned by Safran.*

4  
5 **Particulars Regarding Defendants' False Certification of**  
6 **Compliance with Applicable Laws Prohibiting Agreements in Restraint of Trade**

7 30. Papillon, at all times alleged herein, had limited success in selling its technology,  
8 notwithstanding its search for western partners.

9 31. At all times alleged herein, management for Defendants had an agreement with  
10 Papillon that Defendants and Papillon would divide up the world market for fingerprint identi-  
11 fication products, and would not compete in each other's market. Such agreement specifically  
12 entailed an agreement that Papillon would not compete with Defendants for sales of fingerprint  
13 identification products in the United States.

14 32. Such agreement in restraint of trade was made and maintained in contravention to  
15 written representations by Defendants to the United States and the State of California, certifying  
16 compliance with the "full and open competition" requirement attendant to Part B, Subchapter 6,  
17 of the Federal Acquisition Regulation ("FAR"), including, but not limited to, compliance with  
18 the Sherman Antitrust Act (15 U.S.C. §§ 1-7) and all other U.S. antitrust laws prohibiting  
19 activities that restrict interstate commerce and competition in the marketplace.

20 33. Such agreement to divide the world market constituted a blatant violation of the  
21 Sherman Antitrust Act, for which the United States and the State of California are entitled to  
22 treble damages and attorney fees.

23  
24 **Particulars Regarding False Claim Via Certification of Compliance**  
25 **with The Trade Agreements Act of 1979**

26 34. (a) Defendants, via Defendants' personnel handling government sales, routinely and  
27 regularly falsely certified, in writing, to purchasing entities of the United States and to  
28 purchasing entities of the State of California, and of counties, cities, and other political

1 subdivisions thereof, that Defendants, at all times pertinent herein, were in compliance with The  
2 Trade Agreements Act of 1979 ("TAA"), Pub.L. 96-39, 93 Stat. 144, enacted July 26, 1979,  
3 codified at 19 U.S.C. ch. 13 (19 U.S.C. §§ 2501-2581). (b) In general, a product is TAA  
4 compliant if it is made in the United States or a "Designated Country" as set forth in the  
5 "Designated Countries" list set forth in FAR 25.003 (c) The Russian Federation is *not* on such  
6 "Designated Countries" list, and at no time during the time pertinent to this litigation was the  
7 Russian Federation on such list.

### 8 **Damages**

9  
10 35. Over the last eight years, Defendants' surreptitious sales of such Russian technology  
11 to federal, state, and local government entities within the United States were in excess of \$1  
12 billion, before trebling and before application of per-incident penalties.

### 13 **National Security Implications**

14  
15 36. The national security implications are significant. It is conceivable that, in time of  
16 conflict, or even in time of renewed cold war, the Russian Federation FSB may have and use a  
17 "back door" or Trojan horse in the Papillon fingerprint identification technology software such  
18 that the FSB could override fingerprint identification devices in such strategic places at the  
19 Pentagon, the CIA, the NSA, the TSA, and other secure areas, and gain unauthorized entry.

### 20 **Pre-Filing Service on the United States and the State of California**

21  
22 37. Consistent with the pre-filing disclosure provisions of the False Claims Act and the  
23 California False Claims Act, Relators Vincent Hascoet and Philippe Pacaud Desbois, several  
24 months prior to the filing of the Complaint in this action, confidentially disclosed the underlying  
25 facts of Relators' allegations to the U.S. Department of Justice and to the State of California  
26 Office of Attorney General.

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**FIRST CAUSE OF ACTION**

**Knowingly Presented, or Caused to Be Presented, a False or Fraudulent Claim for Payment or Approval, in Violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(A)**

38. The above allegations of Paragraphs 1-37, common to each and every cause of action set forth herein, are incorporated herein by reference, the same as fully set forth within this Cause of Action.

39. In performing the acts particularly set forth above, Defendants defrauded the United States of America, by knowingly presenting, or causing to be presented, to one or more officers or employees of the United States of America, a false and fraudulent claim for approval or payment for good and services, with an implied certification of compliance with all Federal eligibility laws, in contravention of the Federal False Claims Act (31 U.S.C. § 3729(a)(1)(A)), to the damage of the treasury of the United States of America, by causing the United States to pay out money it is not obligated to pay.

40. By engaging in the above-referenced conduct, Defendants knowingly presented, or caused to be presented, a false or fraudulent claim for payment or approval, in violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(A).

41. As a direct and proximate result of Defendants' aforesaid conduct, the United States suffered, and is entitled to recover, actual damages, trebled and with per-incident penalties and statutory attorney fees.

**SECOND CAUSE OF ACTION**

**Knowingly Made, Used, or Caused to Be Made or Used, a False Record or Statement Material to a False or Fraudulent Claim, in Violation of 31 U.S.C. § 3729(a)(1)(B)**

42. The above allegations of Paragraphs 1-37, common to each and every cause of action set forth herein, are incorporated herein by reference, the same as fully set forth within this Cause of Action.

1 43. By virtue of the particular acts described above, Defendants knowingly made, used,  
2 or caused to made or used a false or fraudulent record or a false or fraudulent statement material  
3 to getting a false or fraudulent claim paid or approved by the United States of America, in  
4 contravention of the Federal False Claims Act (31 U.S.C. § 3729(a)(1)(B)) to the damage of the  
5 Treasury of the United States of America, by causing it to pay out money it was not obligated to  
6 pay.

7 44. By engaging in the above-referenced conduct, Defendants knowingly made, used, or  
8 caused to be made or used, a false record or statement material to a false or fraudulent claim, in  
9 violation of 31 U.S.C. § 3729(a)(1)(B).

10 45. As a direct and proximate result of Defendants' aforesaid conduct, the United States  
11 suffered, and is entitled to recover, actual damages, trebled and with per-incident penalties and  
12 statutory attorney fees.  
13

14  
15 **THIRD CAUSE OF ACTION**

16 **Knowingly Presented a False Claim for Payment or Approval, in Violation**  
17 **of the California False Claims Act, Cal. Gov. C. § 12651(a)(1)**  
18

19 46. The above allegations of Paragraphs 1-37, common to each and every cause of action  
20 set forth herein, are incorporated herein by reference, the same as fully set forth within this  
21 Cause of Action.

22 47. By virtue of the above conduct, Defendants have knowingly made, used, or caused to  
23 be made or used, a false claim to get a false or fraudulent claim paid or approved by the State of  
24 California, in contravention of the California False Claims Act (Cal. Gov. C. § 12651(a)(1)), to  
25 the damage of the State of California, by causing it to pay out money it was not obligated to pay.  
26

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1 48. As a direct and proximate result of Defendants' aforesaid conduct, the State of  
2 California suffered, and is entitled to recover, actual damages, trebled and with per-incident  
3 penalties and statutory attorney fees.

4  
5 **FOURTH CAUSE OF ACTION**

6 **Knowingly Submitted a False Record or Statement to Get a False Claim Paid**  
7 **or Approved, in Violation of the California False Claims Act, Cal. Gov. C. § 12651 (a)(2)**

8 49. The above allegations of Paragraphs 1-37, common to each and every cause of action  
9 set forth herein, are incorporated herein by reference, the same as fully set forth within this  
10 Cause of Action.

11 50. By virtue of the acts particularly described above, Defendants have knowingly made,  
12 used, or caused to be made or used a false record or statement to get a false claim paid or  
13 approved by the State of California, in contravention of the California False Claims Act (Cal.  
14 Gov C. § 12651(a)(2)), to the damage of the Treasury of the State of California, by causing it to  
15 pay out money it was not obligated to pay.

16  
17 51. As a direct and proximate result of Defendants' aforesaid conduct, the State of  
18 California suffered, and is entitled to recover, actual damages, trebled and with per-incident  
19 penalties and statutory attorney fees.

20  
21 **FIFTH CAUSE OF ACTION**

22 **Failure of Beneficiary of False Claim to Disclose False Claim within Reasonable**  
23 **Time after Discovery, in Violation of Cal. Gov. Code § 12651(a)(8)**

24  
25 52. The above allegations of Paragraphs 1-37, common to each and every cause of action  
26 set forth herein, are incorporated herein by reference, the same as fully set forth within this  
27 Cause of Action.  
28

1           53. If, notwithstanding the facts alleged above, the finder of fact determines that any  
2 Defendants' submission of the above-referenced false claims to the State of California was  
3 inadvertent, rather than knowing, the California False Claims Act, at Cal. Gov. C. § 12651(a)(8),  
4 imposes liability upon the beneficiary of an inadvertent submission of a false claim to the State  
5 or political subdivision, where such beneficiary subsequently discovers the falsity of the claim,  
6 and fails to disclose the false claim to the state or the political subdivision within a reasonable  
7 time after discovery of the false claim. In such circumstance, Defendants each discovered the  
8 falsity of the subject claims, yet failed to disclose such falsity to the State of California within a  
9 reasonable time after discovery.

10           54. By engaging in the above-referenced conduct, Defendants, as beneficiaries of the  
11 false claim, failed to disclose false claim within reasonable time after discovery, in violation of  
12 Cal. Gov. Code § 12651(a)(8).

13           55. As a direct and proximate result of Defendants' aforesaid conduct, the State of  
14 California suffered, and is entitled to recover, actual damages, trebled and with per-incident  
15 penalties and statutory attorney fees.  
16

17  
18  
**PRAYER FOR RELIEF**

19  
20           Relators pray for the following relief:

21           1. Judgment in favor of the United States against all Defendants, jointly and severally, by  
22 reason of the violations of the False Claims Act as set forth above, in an amount equal to three  
23 times the amount of damages the United States has sustained because of Defendants' actions,  
24 plus a statutory civil penalty of not less than Eleven Thousand Five Hundred Dollars (\$11,500)  
25 for each false claim, plus three times the amount of damages which the United States has  
26 sustained, pursuant to 31 U.S.C. § 3729(a);  
27

28           \\

1 2. Judgment in favor of the State of California against all Defendants, jointly and  
2 severally, by reason of the violations of the California False Claims Act as set forth above, in an  
3 amount equal to three times the amount of damages the State of California has sustained because  
4 of Defendants' actions, plus a statutory civil penalty of not less than Five Thousand Dollars  
5 (\$5,000) for each false claim, plus three times the amount of damages which the State of  
6 California has sustained, pursuant to the California False Claims Act;

7  
8 3. Award to Relators of the maximum amount allowed pursuant to 31 U.S.C. § 3730(d),  
9 the Federal False Claims Act, on the United States' recovery;

10 4. Award to Relators of the maximum amount allowed pursuant to the California False  
11 Claims Act, on the State of California' recovery;

12 5. Award to Relators of all reasonable expenses which the Court finds to have been  
13 necessarily incurred, plus reasonable attorneys' fees and costs, pursuant to the False Claims Act  
14 and the California False Claims Act;

15 6. Debarment of Defendants from contracting with the U.S. and the State of California;

16 7. Alternative to debarment, a Corporate Integrity Agreement ("CIA");

17 8. Such other and further relief as the Court deems proper.  
18  
19

20 Dated: February 10, 2017

BARTLEY LAW OFFICES  
ATTORNEYS FOR RELATORS VINCENT  
HASCOET AND PHILIPPE PACAUD DESBOIS

*/s/Daniel R. Bartley*

24 By: \_\_\_\_\_  
25 DANIEL R. BARTLEY, ATTORNEY

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**DEMAND FOR TRIAL BY JURY**

Relators demand trial by jury.

Dated: February 10, 2017

BARTLEY LAW OFFICES  
ATTORNEYS FOR RELATORS VINCENT  
HASCOET AND PHILIPPE PACAUD DESBOIS

*/s/Daniel R. Bartley*

By: \_\_\_\_\_

DANIEL R. BARTLEY, ATTORNEY

**PROOF OF SERVICE**

I declare I am employed in the County of Santa Clara, State of California, by Bartley Law Offices, 1999 South Bascom Avenue, Suite 700, Pruneyard Towers - South Tower, Campbell, CA 95008-2205. I certify that I am over the age of 18. I hereby certify that on today's date, I electronically filed the foregoing "**THIRD AMENDED COMPLAINT, WITH DEMAND FOR JURY TRIAL**" with the Clerk of the United States District Court for the Northern District of California by using the District Court's CM/ECF system. I certify that all the counsel listed below are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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I declare under penalty of perjury, under the laws of the United States and the State of California, that the foregoing is true and correct and that this declaration was executed on this 10th day of February, 2017, in the City of Campbell, Santa Clara County, California.

*/s/Daniel R. Bartley*

\_\_\_\_\_  
Daniel R. Bartley