



2. Code seeks damages, appropriately trebled, for all damages caused by Defendants' actions, an award of its attorneys' fees, and costs for bringing this action. Further, Code seeks a preliminary and permanent injunction prohibiting Defendants from engaging in further violations of either the Sherman Act and Clayton Act.

## **II. JURISDICTION AND VENUE**

3. This action is brought under Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2, and Section 3 of the Clayton Act, 15 U.S.C. § 14. Code seeks treble damages pursuant to Section 4 of the Clayton Act, 15 U.S.C. § 15(a). Code also seeks injunctive relief pursuant to Section 16 of the Clayton Act, 15 U.S.C. § 26.

4. This Court has subject matter jurisdiction over Code's claims pursuant to 28 U.S.C. §§ 1331 and 1337, and 15 U.S.C. §§ 15 and 26.

5. Venue is proper in this District under 28 U.S.C. § 1391(b) and 15 U.S.C. § 22 because (a) Defendants reside, transact business, committed an illegal or tortious act, have an agent, or are found in this District, and (b) a substantial portion of the events described below have been carried out in this District.

6. All Defendants market and sell Healthcare Barcode Readers and other products across state lines, and receive substantial payments across state lines. Defendants' business activities that are the subject of this Complaint are within the law of, and have substantially affected, interstate trade and commerce.

## **III. PARTIES**

### **Plaintiff**

7. Plaintiff The Code Corporation is a Delaware corporation with its principal place of business at 12393 South Gateway Place Park, Suite 600, Draper, Utah 84020.

### **Defendants**

8. Honeywell International Inc. is a Delaware corporation with its principle place of business at 101 Columbia Road, Morristown, New Jersey 07962. Defendant can be served with process upon its registered agent in Texas or, if no registered agent has been appointed, through service upon the Texas Secretary of State.

9. Hand Held Products, Inc. is a wholly-owned subsidiary of Honeywell International Inc. and a Delaware corporation with its principal place of business at 9680 Old Bailes Road, Fort Mill, South Carolina 29707. Defendant can be served with process upon its registered agent in Texas or, if no registered agent has been appointed, through service upon the Texas Secretary of State.

10. Intermec Technologies Corporation is a wholly-owned subsidiary of Intermec, Inc. and a Washington corporation with its principal place of business located at 9680 Old Bailes Road, Fort Mill, South Carolina 29707. Defendant can be served with process upon its registered agent in Texas or, if no registered agent has been appointed, through service upon the Texas Secretary of State.

11. Intermec IP Corp. is a wholly-owned subsidiary of Intermec Technologies Corporation and a Delaware corporation with its principal place of business located at 9680 Old Bailes Road, Fort Mill, South Carolina 29707. Defendant can be served with process upon its registered agent in Texas or, if no registered agent has been appointed, through service upon the Texas Secretary of State.

12. Intermec, Inc. is a wholly-owned subsidiary of Hand Held Products, Inc. and a Delaware corporation with its principal place of business at 16201 25th Ave. W., Lynwood, WA 98087-2520. Defendant can be served with process upon its registered agent in Texas or, if no registered agent has been appointed, through service upon the Texas Secretary of State.

#### IV. FACTUAL ALLEGATIONS

##### History of Barcode Reader Technology

13. In 1948, a local food chain store owner approached Drexel Institute of Technology in Philadelphia asking about research into a method of automatically reading product information during checkout. Bernard Silver, a graduate student at Drexel Institute, along with fellow graduate student Norman Joseph Woodland, teamed together to develop a solution. *See* <https://www.barcodesinc.com/articles/history.htm>.

14. Approximately seventy (70) years ago, on October 20, 1949, Mr. Woodland and Mr. Silver invented the first barcode and the first barcode reader.

15. Barcoding was first used commercially in 1966, but to make the system acceptable to the industry as a whole, standardization was needed. *See* <https://www.barcodesinc.com/articles/history.htm>. In 1970, Logicon Inc. developed the Universal Grocery Products Identification Code (“UGPIC”). The first company to produce barcode equipment for retail trade using UGPIC was the American company Monarch Marking in 1970. *Id.*

16. In 1972, a Kroger store in Cincinnati began using a bull’s-eye code. *Id.* During that same timeframe, a committee was formed within the grocery industry to select a standard code to be used in the industry. IBM proposed a design, based upon the UGPIC work and similar to today’s UPC code. On April 3, 1973, the committee selected the UPC symbol (based on the IBM proposal) as the industry standard. The success of the system since then has spurred on the development of other coding systems. George J. Laurer is considered the inventor of UPC or Uniform Product Code.

17. In June of 1974, the first UPC scanner was installed at a Marsh’s supermarket in Troy, Ohio. On June 26, 1974, Clyde Dawson pulled a 10-pack of Wrigley’s Juicy Fruit gum

out of his basket and it was scanned by Sharon Buchanan at 8:01 am. The pack of gum is now in the Smithsonian Museum.

18. Today, most supermarkets read barcodes using laser scanner technology first developed in the 1960s. Unlike the old photo-sensor system, which reads a barcode by moving a photo-sensor with a small aperture across the barcode, a laser scanner moves, or scans, the extremely bright pinpoint of laser light across the barcode, typically 660nm red in color. A photo-sensor(s), with a wide field of view encompassing the entire barcode, is covered by a filter which passes the 660nm red color while blocking ambient illumination of other wavelengths. As the scanning laser moves across a white space the reflected intensity is significantly higher than when the laser is moving across a dark bar of the barcode thereby generating the fluctuations in illumination intensity for reading the barcode.

19. In 1995, Dr. Yinjuin Wang of Metanetics introduced the first two dimensional (“2D”) CMOS imager-based barcode reader.

20. In 1997, Code was founded by entrepreneurs in the Charleston, South Carolina area.

21. By 2000, Code released the Zap Scanner, which was later renamed the CR1.1. Also in 2000, Code developed a proprietary and secure two-dimensional barcode symbology that would eventually be called GoCode®. Additionally, during this time, Code launched its CR1, an ultra-high density VGA CMOS two-dimensional imaging based barcode reader. This was more than seven (7) years before Honeywell entered the barcode market with its acquisition of Hand Held Products.

22. The initial market targeted by Code was publishers that would use the GoCode within advertisements. When a barcode in an advertisement was read by a barcode reader, a

URL within the GoCode associated with the advertisement or publisher would be provided to a web-browser for the purpose of directing the web browser to a website with additional information about an advertised product. This technology was a precursor to the QR codes used in magazines and on products today which, when read by a smart phone, takes a web-browser operating on the smart phone to a website for additional information.

23. By 2003, Code launched the CR2, its first barcode reader with dual field optics and a 1.3 megapixel CMOS imager. This provided the ability for the same barcode reader to function in more applications with diverse cell/bar sizes and higher densities than any other 2D imaging based barcode readers on the market. The dual field optics means that two sets of optics are used to focus two separate images of the barcode within the field of view of each optic onto the photo-sensor array. The far field optics were optimized for reading wide 1D barcodes while the near field optics were optimized for reading high density 2D barcodes (typically square or with a much smaller aspect ratio than a 1D barcode). The CR2 was also one of the very first 2D imaging based barcode readers available with Bluetooth® communications.

24. The CR2 enabled Code to expand into other markets, including the market for hand held 2D imaging based barcode readers for use in healthcare facilities (the “Healthcare Market” or “Relevant Market”). Code’s first healthcare customer was Brigham and Women’s Hospital in Boston in 2003. <https://www.ftc.gov/enforcement/cases-proceedings/131-0070/honeywell-international-inc-matter> At that time, Code was the only company tendering a 2D barcode reading solution that could read the small 2D barcodes used by the Hospital. In fact, Code has continually

redesigned and modified its CR2 product line to target the needs of healthcare providers in the Healthcare Market.

25. Following in the footsteps of Code's success, Hand Held Products (now part of Honeywell), Metrologic (now part of Honeywell), and Symbol Technologies (now part of Zebra) entered the Healthcare Market offering 2D solutions. While these late entrants, like Honeywell, have the financial strength and power in other markets to give them the resources to muscle into the Healthcare Market, their products, on information and belief, are technologically inferior to Code's. By way of example only, and on information and belief, products offered by Honeywell are not designed for the Healthcare Market. Rather, these products are designed for other, general uses, like manufacturing, and are "re-skinned" with Healthcare Plastic (defined below). But, these re-skinned products, such as the Honeywell (HHP) 4600g, are not technologically directed at the needs of the Healthcare Market. As a result, they are not technologically equivalent to Code's products. Just adding a new Healthcare Plastic does not make a competing product the same as Code's.

26. In September 2007, Code started development of its second generation dual-field optics product, the CR2500 series line of barcode readers, an innovative product designed specifically to meet the needs of the Healthcare Market. The CR2500 was launched in October 2008.

27. Code attributes much of its success in the Healthcare Market to its innovative technologies implemented in its barcode readers including but not limited to:

- Code's dual field optics in the CR2 and CR2500 enable Code to read all symbologies at all densities and on a variety of surfaces that were known to be in use in healthcare facilities;

- The configurability and scripting technologies Code engineered into its barcode readers made Code barcode readers easy to operate with a healthcare facility's existing HIS systems;
- Code's programmable dual scan buttons enable the CR2500 to operate with two different HIS systems simultaneously in the same facility;
- Code's glare reduction technology in the CR2500 enable reading of barcodes printed on reflective and curved surfaces, including plastics;
- Code's CR2500 includes both a traditional "gun" form factor and a popular "palm" form factor, both sharing common accessories such as batteries and chargers;
- Code's CR2500 implement multiple good read indicators for a variety of working environments within a hospital, including the traditional beep tone, a silent LED indicator, and a silent vibration indicator;
- Code's universal mount chargers provide flexible mounting options for a variety of limited work space environments, including medical carts;
- Code implemented the most up to date Bluetooth standard in the CR2500 to enable wireless barcode reading while avoiding interference with the facilities WiFi network;
- Although more expensive than traditional plastics, Code implemented advanced plastics in its housings which could stand up to frequent cleaning with the disinfectants in use at health care facilities ("Healthcare Plastics"); and
- Code implemented several innovative power management technologies to enable use of its barcode readers for a full 12-hour shift on a single charge.

28. In 2012, Code launched its next generation product, the CR2600, which has sold more than 150,000 units and, until Honeywell's anticompetitive and unfair business practices, may have been the #1 selling product into the Healthcare Market since its launch.

29. Code has expended tremendous time and financial resources researching and developing 2D imaging based handheld barcode readers for the Healthcare Market ("Healthcare Barcode Readers"), including Code's 2600 series line of barcode readers, its next generation Healthcare Barcode Reader product launched in 2012 to address preventable errors across every department of a healthcare facility.



### **Honeywell's Late Entry Into the Barcode Reader Marketplace**

30. In December 2007, three (3) months after Code started development of its second generation Healthcare Barcode Reader, the CR2500, the global conglomerate, Honeywell International Inc., made its first entry into the broader barcode scanning industry with its \$390 Million purchase of Hand Held Products, Inc. See <http://news.thomasnet.com/companystory/honeywell-announces-agreement-to-acquire-handheld-products-inc-imaging-and-mobile-innovator-534890>.

31. Honeywell subsequently expanded its footprint in the barcode reader market by acquiring Metrologic Instruments on July 2, 2008 for \$720 Million. See [https://web.archive.org/web/20090328172251/http://metrologic.com/corporate/press\\_rel/honeywell/pr\\_070208.htm](https://web.archive.org/web/20090328172251/http://metrologic.com/corporate/press_rel/honeywell/pr_070208.htm).

32. Honeywell continued its acquisition of market power by purchasing Intermec on September 17, 2013 for \$600 Million. See [http://www.intermec.co.uk/about\\_us/newsroom/press\\_releases/2013-09-Honeywell-Scanning-Mobility-Day-1.aspx](http://www.intermec.co.uk/about_us/newsroom/press_releases/2013-09-Honeywell-Scanning-Mobility-Day-1.aspx).

### **Honeywell Acquired Market Power That Concerned the FTC**

33. In 2013, the Federal Trade Commission filed a complaint to prevent Honeywell International Inc.'s planned acquisition of Intermec, Inc. The FTC's focus was the 2D scan engine market. 2D scan engines are a submarket of the larger 2D barcode reader market. The Healthcare Market is also a submarket of the larger 2D barcode reader market as well. 2D scan engines are a component of 2D barcode readers.

34. The Federal Trade Commission explained the basis for its concern that Honeywell would violate antitrust laws:

The market for 2D scan engines in the United States is highly concentrated. Honeywell, Intermec and Motorola are the three most significant participants in the 2D scan engine market in the United States. Post-Acquisition, the combined share of two firms – Honeywell and Motorola – would be in excess of 80%. Additionally, Honeywell, Intermec and Motorola are the only 2D scan engine firms in the U.S. that have deep and broad portfolios of relevant IP that insulate them and their customers from infringement suits.

*See Complaint, available at*

<https://www.ftc.gov/enforcement/cases-proceedings/131-0070/honeywell-international-inc-matte>  
[r](#).

35. If Honeywell were to have acquired monopoly power in the 2D scan engine market, it could have leveraged this monopoly into the larger 2D barcode market, as well as into the Healthcare Market because of its ability to keep competitors from entering into the 2D scan engine market. As noted by the FTC in its Complaint, Honeywell has a substantial IP portfolio related to 2D scan engines. The FTC was concerned that Honeywell would use this portfolio, and the threat of infringement suits, to drive out or keep competitors from the market. If it were successful in this strategy, Honeywell could then force others to license its IP as opposed to trying to develop competing, non-infringing technology. The practical impact would be that Honeywell would be the dominant force in the 2D scan engine market, and all manufacturers and developers would be forced, ultimately, to license Honeywell's technology.

36. What the FTC was concerned about Honeywell doing in the 2D scan engine market/2D barcode market is exactly what they are attempting to do to gain monopoly power in the Healthcare Market.

37. The Federal Trade Commission's investigation culminated in Honeywell entering into a consent order designed to prevent it from excluding one competitor, Datalogic, from the 2D Scan Engine Market. *See Decision and Order, available at*

<https://www.ftc.gov/enforcement/cases-proceedings/131-0070/honeywell-international-inc-matter>.

38. On September 17, 2013, Honeywell acquired Intermecc, Inc. and thereby cemented a dominant position in the 2D imaging based barcode reader market. *See* Honeywell Completes Acquisition of Intermecc, *available at* [http://www.intermec.co.uk/about\\_us/newsroom/press\\_releases/2013-09-Honeywell-Scanning-Mobility-Day-1.aspx](http://www.intermec.co.uk/about_us/newsroom/press_releases/2013-09-Honeywell-Scanning-Mobility-Day-1.aspx).

**Honeywell’s Anticompetitive Acts Have Partially Excluded Code And Threaten to Fully Exclude Code From the Healthcare Market**

39. Since its acquisition of Intermecc and establishment of its market power in the overall 2D barcode market, Honeywell has used its market power to coerce distributors, resellers, and developers of integral software into joining a campaign to attempt to exclude Code from the Healthcare Market and convert all Code sales into Honeywell sales. Honeywell also leveraged its market power to attempt to extract confidential information, such as client lists, from companies that distributed both Code and Honeywell products.

40. Company X<sup>1</sup> is a barcode reader reseller for both Code and Honeywell. On March 6, 2017, Honeywell employee Sheila Gill sent an email to officers of Company X, including Vice President of Sales John Doe, requesting that they contact end users of Code’s products and use Honeywell’s talking points and FAQ (the “Talking Points”) to call into question Code’s viability as a company. In those Talking Points, Honeywell, through Company X, falsely asserted that “Code has engaged in widespread infringement affecting a broad range of

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<sup>1</sup> The matters at issue in this Complaint are also subject to an ITC proceeding filed concurrently with this Complaint and specific information contained within the ITC complaint are currently subject to the ITC confidentiality rules. Code has used placeholder names for certain entities and persons, *i.e.* “Company X” and “John Doe”, to comply with the ITC confidentiality rules. Code will amend this Complaint to reveal the identity of these entities and persons as soon as possible.

its current product portfolio,” and stated that if end users “are concerned in any way we could introduce our Honeywell Xenon solution as an excellent alternative.”

41. On March 28, 2017, Company X employee John Roe sent Company A employee Richard Roe an email (“Roe Email”) stating that Company X’s records indicate that Company A uses Code scanners and warning that “purchasing and use of Code scanners” would be “with the knowledge that these actions may mean you are doing so under patent infringement.” After that threat came a proposed way out: “If you are concerned in any way and if you would like to change to the legal patented technology, we can offer the Honeywell Xenon solution as an excellent competitive alternative.” In other words, end users could either risk reprisal from Honeywell, the more powerful company, if they continued to rely on Code’s allegedly illegal products, or switch to Honeywell’s “legal patented” products. In conversations on or about March 28, 2017 and March 29, 2017 involving John Roe and other Company X officers Company X officers revealed that the Roe Email had been written by Honeywell and that it was part of Honeywell’s “marketing program.” In exchange for Company X’s agreement to disseminate the Roe Email, Honeywell told Company X that it should anticipate picking up additional business by participating in the marketing campaign.

42. Several other resellers of Code, including Company B and Company C were also contacted by Honeywell and asked to disseminate a similar letter to its customers which Company X disseminated.

43. Company Y is a dominant provider of electronic health record (“EHR”) systems for hospitals and a major reseller of Code’s equipment to these hospitals. Honeywell knows that Company Y has a strong influence on a hospital’s decision to purchase barcode reading equipment. On information and belief, Honeywell requested Company Y disseminate similar

false and misleading information from the Talking Points in an attempt to make its disparaging message more wide-spread and influential.

44. Equally important, Company Y is a dominant EHR provider to hospitals, and hospitals rely on Company Y to certify which barcode readers will integrate with Company Y's records system. About 1,400 of the approximately 5,500 hospitals in the U.S. use Company Y EHR systems. Hospitals using a Company Y EHR system typically do not purchase products that Company Y does not certify. In the past, Company Y has certified Code's equipment to work with its EHR records software, which has had a strong influence on hospitals' decisions to purchase Code's Healthcare Barcode Readers.

45. Code has developed technology that allows the use of an Android mobile computer to be used as Healthcare Barcode Readers. Honeywell has a competing Android device, which Company Y certified in November 2016. Despite the fact that Company Y assisted Code in the development of this technology, Company Y presented its final decision to Code not to certify it on or about April 5, 2017. Consequently hospitals will not buy it. On information and belief, Honeywell contacted Company Y and coerced it into not certifying Code's competing Android product. Code has invested over \$1,500,000 in this new technology and cannot sell it because of Honeywell's interference with Company Y. End users, such as hospitals, are also suffering because they do not have access to the technology, which was designed specifically with the needs of the Healthcare Market in mind.

46. In addition, on or about April 20, 2017, a Company Y employee informed a Code employee that a Honeywell representative asked Company Y to provide Honeywell with a list of Code's customers or send an email to Code's customers notifying them of the lawsuit.

47. On information and belief, on or about January 19, 2017, Productivity Products at Honeywell Safety & Productivity Solutions hosted a meeting of employees and a senior executive of Honeywell told them to put doubt in the minds of customers, like Company Y and Company X, about the viability of Code as a company.

48. On information and belief, following this executive's instructions, Honeywell Sales Representative Doug Brown began telling customers that Honeywell's anticompetitive acts will "bury Code" and that "[customers] should be very careful of Code."

49. On information and belief, Honeywell Sales Representative Patrick Bogart characterized the lawsuit as one that "will put Code out of business," and Honeywell Solutions Architect Jason Manguba characterized the lawsuit as one that "Code is going to lose."

50. On information and belief, Honeywell plans to continue to pressure resellers, like Company X, and EHR developers, like Company Y, into favoring Honeywell over competitors. If that plan is successful, the network effects in Honeywell's favor would prevent meaningful competition in the Healthcare Market because healthcare providers will flock to the products that are certified and therefore believed to be compatible with the medical records systems they already use.

51. Company D is a distributor for both Honeywell and Code. On or about March 14, 2017, a senior executive of Company D, which is Code's largest distributor, reported that a Honeywell representative asked him the following, or the equivalent of the following: "we do so much barcode business with you, we don't know why you don't just give all of the Code business to us." On or about April 20, 2017, another senior executive of Company D told Kerri Humpherys, a Code employee, that John Waldron, President and CEO of Safety and Productivity Solutions at Honeywell, demanded that Company D run a press release about

Honeywell's lawsuit against Code and stated that Honeywell is making a play to drive business. Ultimately Company D declined to run any press releases.

52. On or about January 19, 2017, representatives of Honeywell met with representatives of Code's largest reseller, Company Z, ("Company Z Meeting"). Upon information and belief, at the Company Z Meeting, Honeywell falsely disparaged Code.

53. Subsequent to this conversation, and without notice, Company Z suddenly dropped internal marketing of Code products. This impacted Code's ability to market to Company Z sales representatives. As a result, salespeople at Company Z were less willing, and less motivated, to sell or offer to sell Code's products. Code's sales through Company Z are down in 2017 as a direct result of the discontinued internal marketing. Upon information and belief, Company Z's actions are not based on product quality or concerns, but rather are directly traceable to Honeywell's actions.

54. Upon information and belief, on or about January 19, 2017, Lisa London, then President, Productivity Products at Honeywell Safety & Productivity Solutions (formerly Honeywell Scanning and Mobility), sent a letter to resellers outside of the United States (some of which purchase Code Products) detailing the United States patent infringement allegations in the South Carolina lawsuit and disparaging Code and Code's products. This has had a direct negative impact on Code.

55. Upon information and belief, Honeywell pressured multiple other market participants, including Company B and C, to attempt to coordinate with its campaign against Code.

56. On May 23, 2017, Honeywell sent an email to its business partners signaling the need for protectionist coordination: "We are committed to working closely with our strong

network of distributors, value-added resellers and independent software vendors and believe this action will help drive broader protection for our partners.”

### **Honeywell Misled Code’s Customers**

57. Honeywell also unfairly competes in the Relevant Market by misleading Code’s Customers.

58. Upon information and belief, on January 19 or January 20, 2017, Honeywell held a meeting at which it instructed employees to put doubts in the minds of Customers about the viability of Code. In accordance with those instructions, Honeywell representatives warned Code Customers that Code would be going out of business and that they should avoid Code. For example, Honeywell Sales Representative Doug Brown told several Code resellers that Honeywell will “bury Code” and that customers “should be very careful of Code.” Moreover, Honeywell Sales Representative Patrick Bogart has stated: “Code has two options: either go bankrupt or sell.” These disparaging statements are false and misleading.

59. On January 19, 2017, Honeywell issued a press release falsely stating that “Code has engaged in widespread infringement affecting a broad range of its current product portfolio.” This statement is false on many levels. First, Code is not infringing any of Honeywell’s patents. Second, Honeywell has over 3000 patents related to barcode reading, and the infringement suit only alleges infringement of 6 patents, 4 of which expired before the end of 2017. This press release also stated that Honeywell filed a lawsuit to “prevent Code from” using technology covered by six patents. This was misleading because (1) Honeywell could not have obtained, and did not obtain, injunctive relief for expired patents, and (2) two of the asserted patents had already expired, one would expire on February 27, 2017, and one would expire on March 24, 2017.



60. Honeywell's anticompetitive and deceptive statements permeated the market. For example, several non-US resellers for Honeywell and Code have reported that Honeywell disseminated the January 19, 2017 press release to all of its partners worldwide. In addition, on March 28, 2017, Jane Roe from Company A forwarded the Roe Email and asked if "it is something we should be concerned about." By way of further example, the Talking Points attached a 22-page list of end users to be contacted. Portions of the Talking Points appear in the emails of Code's end users, such as Company E. A March 9, 2017 email from Company E employee Richard Doe forwarded portions of the Talking Points and flagged a pending acquisition of Code readers.

61. Upon information and belief, Honeywell mislead numerous Code Customers in addition to the ones specifically named above.

62. As explained above, Honeywell pressured distributors and resellers, such as Company X, to convey Honeywell's messages as if those messages were their own. This ghostwriting created the misleading impression that messages attacking Code originated from neutral parties rather than a competitor of Code. Honeywell's coercion of distributors and resellers is a violation of U.S. antitrust laws separate and apart from Honeywell's unilateral conduct in violation of the antitrust laws.

### **Relevant Markets**

63. The market relevant to this Complaint is the market for hand held two-dimensional imaging based barcode readers for use in healthcare facilities. This market has been defined as the Healthcare Market in paragraph 24 above.

64. As explained above in n.1, the 2D scan engine market is a subset of the broader 2D barcode reader market. 2D scan engines are hardware components of 2D barcode readers that include 2D image sensor assembly which essentially photographs a barcode and a decoder

which translates a barcode into a digital format that computer processors can interpret and analyze.

65. Code's Healthcare Barcode Readers utilize a 2D scan engine to photograph a barcode and a decoder to translate the barcode into a digital format that computer processors can interpret and analyze, but also typically include the types of features set forth in paragraph 21, making them more useful in a healthcare environment and as an accurate data entry tool to a health care provider's electronic health records system. Honeywell's barcode readers do not offer such features as dual field optics and glare reduction.

66. Code and Honeywell compete in the Healthcare Market. For example, the Medical University of South Carolina and the Conway Medical Center are customers of both Code and Honeywell. The parties compete throughout the United States. Notably, the Healthcare Market is limited. There are only approximately 5,500 hospitals in the United States, and they often purchase complete replacement systems on a three to five year cycle. Once the system is purchased, a hospital will only purchase replacement units. Accordingly, if a competitor is unable to sell a complete system to a hospital or hospital group when the hospital is replacing or updating its barcode system, that competitor will likely be foreclosed from selling to that hospital for at least 3 years.

67. Despite Honeywell's \$1.7 Billion worth of acquisitions and Honeywell's massive footprint in the general 2D barcode reader market, Code has continued to compete with Honeywell in the Healthcare Market. In this Relevant Market, Code and Honeywell are the two leading providers. Currently over 40% of United States hospitals rely on Code's Healthcare Barcode Readers. Sales of these specialized products to the Healthcare Market is over 85% of Code's business. Honeywell also has over 40% market share in the Healthcare

Market. Honeywell also has significant market power in the larger 2D barcode reader market (estimated 30%).

68. Specifically, even though the parties have about equal market share in the Healthcare Market, Honeywell is a global conglomerate over 1,000 times larger than Code. Honeywell has \$39 billion in annual revenue and in excess of 30% of the market share in the broader 2D barcode market. It has virtually unlimited financial resources as compared to Code, a company less than a thousandth of the size of Honeywell.

69. Honeywell recognizes its dominant financial position and market power in the larger 2D barcode market, and hatched a scheme to use its dominant positions to eliminate Code as a competitor in the Healthcare Market, thus permitting Honeywell to effectively monopolize and control well over 80% of the Relevant Market.

70. Honeywell's products in the Relevant Market are part of the Honeywell Safety and Productivity business, which reported sales of \$1.173 billion in the third quarter of 2016.

### **Barriers to Entry**

71. Healthcare Barcode Readers are reliant on significant intellectual property in order to operate. Such intellectual property is protected by patents and trade secrets. A company wishing to enter into and compete in the Healthcare Market with its own Healthcare Barcode Readers need to either develop, acquire, or license the necessary technology.

72. Healthcare Barcode Readers must be certified as compatible with commonly used electronic-medical-record systems to be reasonably competitive. As shown above, larger competitors can pressure developers of electronic-medical-record systems, such as Company Z, and any favoritism by those developers can create an insurmountable network effect for competitors. Given the sturdy barriers to entry into the Healthcare Market, if Honeywell succeeds in its plan to "bury Code," Honeywell will be able to consolidate its dominant

position in the Healthcare Market, which will increase its ability to monopolize the Relevant Market through anticompetitive and unfair practices such as those described above.

73. Code is an innovator in the market as Honeywell concedes.

74. Thus, if Code is forced from the Healthcare Market, purchasers will lose high-end, high-quality, well-innovated products. There is no other such innovator in the Healthcare Market as Honeywell and others follow Code's lead on innovations.

75. If Code is forced from the market, upon information and belief, only Honeywell will have the capacity over the near term to fill the gap left by Code's departure in the Healthcare Market. Moreover, given the realities of the certification (e.g., validation) process with EHR records providers, it will be a significant time before new competitors could enter the market to compete with Honeywell. Thus, Honeywell's market share will, at minimum, exceed 50%, and Honeywell will have monopoly power.

76. As a direct and proximate result of Defendants' unlawful conduct, Code's sales and/or market has been impeded and frustrated. Code has suffered lost sales, lost profits, and a diminution in the value of its business and goodwill as a result of Defendants' anticompetitive actions and unfair business practices.

## **V. CAUSES OF ACTION**

### **Count One**

#### **Sherman Action Section 1 Violation against All Defendants**

77. Code incorporates by reference paragraphs 1 through 76 as if fully alleged herein.

78. Defendants and Company X and Y have agreed, or at least combined in a conscious commitment to a common scheme, to exert an unreasonable restraint on trade or commerce in the Healthcare Market, defined as the Relevant Market in paragraph 24 of this Complaint. Specifically, Defendants organized a group boycott against, and an agreed refusal to deal with,

Code in the Healthcare Market. Defendants misled and unfairly incentivized distributors and resellers to obtain their cooperation in a group boycott of Code in the Healthcare Market.

79. By way of example, Defendants' employee sent an email to Company X, a reseller for Code and Defendants, requesting that they contact end users of Code's products and use Defendants' Talking Points to question Code's viability as a company. In those Talking Points, Defendants, through Company X, falsely asserted that "Code has engaged in widespread infringement affecting a broad range of its current product portfolio," and stated that if end users "are concerned in any way we could introduce our Honeywell Xenon solution as an excellent alternative." Soon thereafter, a Company X employee sent an email to an employee of Company A, a Code customer, stating that Company A's use of Code's products "may mean you are doing so under patent infringement," and recommended Defendants' product "as an excellent competitive alternative." In fact, this email to Company A had been written by Defendants and sent by Company X. In exchange for Company X's agreement to disseminate this email, Defendants told Company X that it should anticipate picking up additional business.

80. As an example of Defendants' agreement and/or scheme with Company Z, Code's largest reseller Defendants falsely disparaged Code to Company Z and convinced Company Z to halt all internal marketing of Code products. This directly impacted Code's ability to market to Company Z sales representatives. As a result, salespeople at Company Z were less willing, and less motivated, to sell or offer to sell Code's products. This agreement between Code and Company Z directly caused Code's sales through Company Z to decline substantially in 2017. Upon information and belief, Company Z's actions were not based on product quality or concerns, but rather are directly traceable to Defendants' actions.

81. As a direct and proximate result of Defendants' past and continuing violations of Section 1 of the Sherman Act, Code has suffered injury and damages in an amount to be proved at trial. Specifically, Defendants' agreement and/or common scheme with resellers and distributors, namely Companies X and Y, to boycott Code products and unfairly discourage end users from purchase and/or continued use of Code products has directly and proximately caused, and continues to cause, Code to suffer lost sales, lost profits, and a diminution in the value of its business and goodwill as a result of anticompetitive actions and unfair business practices.

82. Code seeks money damages from Defendants jointly and severally for these violations. These actual damages should be trebled under Section 4 of the Clayton Act, 15 U.S.C. § 15.

83. Code also seeks injunctive relief. The violations set forth above are continuing and will continue unless injunctive relief is granted.

**Count Two**  
**Sherman Action Section 2 Violations against All Defendants**

84. Code incorporates by reference paragraphs 1 through 83 as if fully alleged herein.

85. At all times relevant to the Complaint, Defendants have willfully attempted to acquire monopoly power in the Healthcare Market, defined as the Relevant Market in paragraph 24 of this Complaint, and willfully acted to maintain monopoly power in the Healthcare Market through predatory and anticompetitive conduct.

86. In the Healthcare Market, Code and Honeywell are the two leading providers since Honeywell's 2013 acquisition of Intermec (and prior acquisition of other competing businesses) and accompanying establishment of significant market power in the overall 2D barcode market and a monopoly share of the Healthcare Market. As explained above,

Defendants' position in the market is not a consequence of a superior product, business acumen, or historic accident, but as a result of Defendants' anticompetitive conduct.

87. Even though the parties maintain approximately a 40% share in the Healthcare Market, Honeywell is a global conglomerate over 1,000 times larger than Code. Honeywell has \$39 billion in annual revenue and in excess of 30% of the market share in the broader 2D barcode market. It has virtually unlimited financial resources as compared to Code, a company less than a thousandth of the size of Honeywell.

88. With their dominant financial position and market power in the larger 2D barcode market, Defendants hatched a scheme with a specific intent to use their dominant position to eliminate Code as a competitor in the Healthcare Market, thereby illegally maintaining its monopoly power in the Healthcare Market and/or attempting to acquire monopoly power in the Healthcare Market.

89. Specifically, Defendants used their market power to coerce distributors and resellers into joining a campaign to attempt to exclude Code from the Healthcare Market and convert all Code sales into Defendants' sales. Defendants also leveraged their market power to attempt to extract confidential information, such as client lists, from companies that distributed both Code and Defendants' products. Furthermore, Defendants' instructed employees to put doubts in the minds of Customers about the viability of Code. In accordance with those instructions, Honeywell representatives used false and misleading statements to warn Code Customers that Code would be going out of business and that they should avoid Code. Honeywell also issued a false and misleading press release stating that "Code has engaged in widespread infringement affecting a broad range of its current product portfolio." This was misleading because (1) Honeywell could not have obtained, and did not obtain, injunctive

relief for expired patents, and (2) two of the asserted patents had already expired, one would expire on February 27, 2017, and one would expire on March 24, 2017.

90. Defendants' anticompetitive actions permeated the market. Even non-US resellers for Honeywell and Code have reported that Honeywell disseminated the above press release to all of its partners worldwide, with misleading details regarding the South Carolina patent infringement lawsuit and disparaging statements about Code and Code's products.

91. Defendants actions were taken with a specific intent to destroy competition in the Healthcare Market and to build a monopoly. Defendants continuing attempts to monopolize the Relevant Market have created a dangerous probability that Defendants will, in fact, eliminate Code from the Healthcare Market, thus permitting Defendants to monopolize and control well over 80% of the Healthcare Market.

92. As a direct and proximate result of Defendants' past and continuing violations of Section 2 of the Sherman Act, Code has suffered injury and damages in an amount to be proved at trial. Specifically, Defendants anticompetitive attempts to obtain monopoly power and/or maintain monopoly power in the Healthcare Market have directly caused, and continue to cause, Code to suffer lost sales, lost profits, and a diminution in the value of its business and goodwill.

93. Code seeks money damages from Defendants jointly and severally for these violations. These actual damages should be trebled under Section 4 of the Clayton Act, 15 U.S.C. § 15.

94. Code also seeks injunctive relief. The violations set forth above are continuing and will continue unless injunctive relief is granted.



**Count Three**  
**Clayton Act Section 3 Violation against All Defendants**

95. Code incorporates by reference paragraphs 1 through 94 as if fully alleged herein.

96. Defendants violated Section 3 of the Clayton Act by entering exclusive dealing arrangements with resellers and distributors of Defendants' and Code's products, namely Companies X and Y, to exclusively market and sell Defendants' products to end users in the Healthcare Market, defined as the Relevant Market in paragraph 24 of this Complaint. In an anticompetitive attempt to exclude Code from the Healthcare Market, Defendants misled and unfairly incentivized distributors and resellers to enter these exclusive dealing arrangements, to disseminate false and disparaging information about Code and its products, to stop internal marketing of Code products to end users, and to offer Defendants' products to end users as an alternative to Code products.

97. As a direct and proximate result of Defendants' past and continuing violations of Section 3 of the Clayton Act, Code has suffered injury and damages in an amount to be proved at trial. Specifically, Defendants exclusive dealing arrangements with Company X and Y directly caused, and continue to cause, Code to suffer lost sales, lost profits, and a diminution in the value of its business and goodwill.

98. Code seeks money damages from Defendants jointly and severally for these violations. These actual damages should be trebled under Section 4 of the Clayton Act, 15 U.S.C. § 15.

99. Code also seeks injunctive relief. The violations set forth above are continuing and will continue unless injunctive relief is granted.

**VI. JURY DEMAND**

100. Code demands a trial by jury pursuant to Fed. R. Civ. P. 38(b) of all issues triable of right by jury.

**VII. PRAYER FOR RELIEF**

WHEREFORE, Code requests that the Court:

- a. Adjudge and declare that Defendants have engaged in unlawful conduct in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1;
- b. Adjudge and declare that Defendants have engaged in unlawful conduct in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2;
- c. Adjudge and declare that Defendants have engaged in unlawful conduct in violation of Section 3 of the Clayton Act, 15 U.S.C. § 14;
- d. Preliminarily and permanently enjoin Defendants from violating Section 1 of the Sherman Act, 15 U.S.C. § 1, Section 2 of the Sherman Act, 15 U.S.C. § 2, and Section 3 of the Clayton Act, 15 U.S.C. § 14
- e. Against all Defendants, jointly and severally, award Code damages in an amount to be proved at trial, to be trebled with interest and the costs of this suit, including attorneys' fees;
- f. Award such other further relief as the Court deems just and proper.

Dated: January 9, 2018

Respectfully Submitted,

GREENBERG TRAURIG, LLP

By: Gregory J. Casas

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**ATTORNEYS FOR PLAINTIFF THE CODE  
CORPORATION**

JS 44 (Rev. 06/17)

**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 NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

THE CODE CORPORATION

(b) County of Residence of First Listed Plaintiff Salt Lake County, Utah  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Gregory J. Casas and Mark G. Davis  
Greenberg Traurig, LLP  
300 West 6th St., Ste. 2050, Austin, TX 78701; 512.320.7200

**DEFENDANTS**

Honeywell International, Inc., Hand Held Products, Inc., Intermec Technologies, Inc., Intermec IP Corp., Intermec, Inc.

County of Residence of First Listed Defendant Morris County, NJ  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**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)

- |   |                                       |                                       |   |                            |                            |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
| 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 checked="" type="checkbox"/> 2 | <input checked="" 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)

Click here for: [Nature of Suit Code Descriptions.](#)

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 (Excludes 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	<b>PERSONAL INJURY</b> <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 - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input checked="" 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"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<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"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**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 - Transfer
- 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. Sections 1 & 2, 15 U.S.C. Section 14

Brief description of cause:

Anticompetitive and deceptive practices

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/09/2018

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE