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XCENTIAL SUES AKIN GUMP FOR MISAPPROPRIATION OF TRADE SECRETS, BREACH OF CONTRACT AND SLANDER OF TITLE
Alleges Lobbying Giant Falsely Claimed Patent Rights to a Legislation-Drafting Software Product After Xcential Demo

“This litigation should be a warning to all innovative legal technology providers”

WASHINGTON D.C. -- Xcential Legislative Technologies, a small California-based technology firm devoted to modernizing the legislative process since its founding in 2002, has filed civil claims against a powerful Washington D.C.-based lobbying firm, Akin Gump, seeking damages for breach of contract, misappropriation of trade secrets, misappropriation of confidential information, breach of implied contract, and falsely claiming ownership of rights and property belonging to Xcential.

At issue is Xcential's 2019 patent application for a software prototype it named “Bill Synthesis.” Xcential's prototype was based on two of the firm's existing technologies: “Change Set” software; and another internal technology later dubbed as “Snapshot.” Both were developed out of Xcential's experience with the federal legislative process and were demoed to Akin Gump in 2019.

The technology firm's countersuit arises from a lawsuit and a petition to the U.S. Patent and Trademark Office, in which Akin Gump claimed “Bill Synthesis” was actually invented by one of its attorneys, Louis Agnello. According to Akin Gump's October 2022 lawsuit, Agnello claims he had “an idea that would forever change the complex process of drafting federal legislation” and lead to a “K Street Parade” among lobbying firms. Bill Synthesis is a highly technical invention, based on Xcential's LegisPro™ software, which automates certain aspects of federal bill drafting.

In its Answer and Counterclaim, filed Nov. 8 in D.C. Superior Court, Xcential categorically denies that “Bill Synthesis” was based on an idea presented to the firm by Agnello, who, on his Akin Gump profile, does not appear to have any technical background or direct experience with software development. “Defendants deny any suggestion or implication that Agnello is the first or only person to conceive of” the software concept for “Bill Synthesis.” Xcential not only designed and executed this idea, but also has been creating software products to streamline the process of drafting legislation, including federal legislation, in response to legislative drafting professionals' similar needs, for 20 years.

“Knowing how to draft a federal law is not a trade secret,” said Grant Vergottini, Xcential co-founder, chief executive officers and chief technical officer. “You'd get laughed off The Hill for claiming that. And you can't steal our technology to automate how you draft it.

“Only Xcential has created software that functions as described in the patent application for ‘Bill Synthesis,” Vergottini added. “We will not be intimidated into surrendering our know-how and intellectual property to a giant law firm like Akin Gump. This litigation should be a warning to all innovative legal technology providers.”

The dispute arose after a series of meetings and software demonstrations undertaken at Akin Gump's request, beginning in 2018. Agnello had contacted Xcential in pursuit of a way to modernize and make more efficient its process of drafting and amending federal legislation for its corporate clients. Akin Gump was recently ranked by the nonprofit Open Secrets organization as one of the top federal lobbying firms with nearly \$54 million in lobbying revenues in 2021.

Xcential is a world leader in developing and implementing software that facilitates the drafting and amending of legislation. On its website, Xcential markets its key LegisPro product as providing "drafters of legislation, regulations, and other essential rulemaking documents with a web-based authoring platform that delivers a seamless editing, amending, publishing, and codification process." Since 2002, Xcential and its technology "has been deployed for governments around the world, from California to Washington D.C., Canada to Hong Kong, helping lawmaking bodies modernize centuries-old processes and decades-old systems to match the challenges of a digital age."

Xcential, with 25 employees, is based in Encinitas, Calif. According to the National Law Journal's 2022 law firm rankings, Akin Gump, which is headquartered on K Street in Washington, has 863 attorneys and \$1.22 billion in gross revenues in 2021.

Between March and August 2019, Xcential and Akin Gump "operated under an implied-in-fact contract... whereby Xcential committed to contribute various resources to delivering updated Xcential software to (Akin Gump) that would meet the needs of Counterclaim Defendant Agnello, in exchange for financial compensation," according to Xcential's Answer and Counterclaim.

Relying on contractual protections that Akin Gump accepted, Xcential "provided hundreds of hours of services, disclosed its trade secrets and confidential information, and made capital contributions towards the launch of more advanced Xcential software." All of Xcential's work was performed at no cost to Akin Gump.

The result of Xcential's efforts was "Bill Synthesis." It was demonstrated to Agnello and Akin Gump personnel in August 2019 and to other potential clients who had earlier expressed a similar interest. However, Akin Gump "breached the implied contract by rejecting the project as soon as financial terms were discussed and tried to file a patent on the work Xcential performed." Two weeks after the Akin Gump demo, Xcential filed its patent application, which built on and extended a prior patent application by Xcential for "Change Sets."

In addition to its lawsuit against Xcential, Akin Gump has filed a rarely invoked Petition to Institute Derivation with the U.S. Patent and Trademark Office, in which it claims Xcential's patent application was derived from Akin Gump's claimed invention.

The Akin Gump petition, which repeats its narrative depicting Xcential's highly technical "Bill Synthesis" as "Agnello's K-Street parade bill-drafting invention," constitutes "slander of title and rights of and to property and assets of Xcential, including, without limitations, title and rights of and to the Invention, and the claim of inventorship of the same," according to Xcential's court filing.

By "falsely claiming to the United States Patent and Trademark Office that Agnello is a true inventor of the Invention...Xcential has been severely damaged and is entitled to damages in the amount to be determined at trial and punitive damages against Counterclaim Defendants," according to the Counterclaim. In addition to the slander of title claim, Xcential is seeking damages for Akin Gump's breach of the EULA contract, for its misappropriation of trade secrets, misappropriation of confidential information and breach of implied contract, and to permanently enjoin Akin Gump from representing Agnello as "an inventor" of Xcential's "Bill Synthesis."

"For Agnello to claim this invention is a little like him saying, 'If we had a rocket we could go to Mars,' and then telling the rocket scientists he invented the rocket," Vergottini said. "It's absurd – and, frankly, a little

embarrassing for him." According to the Akin Gump petition, Agnello had hoped to be named the firm's "Innovator of the Year."

"Through white papers and product demonstrations, we told them all about the technology of amendment generation – amending the law, creating amendments to bills – only to have them turn around and try to patent parts of our software application," Vergottini added. "We will aggressively defend our firm's reputation as innovators who keep our clients at the forefront of legislative technology."

Xcential is being represented by Holland & Knight. The case is No. 2022 CA 004744 B, filed in the Civil Division of the Superior Court of the District of Columbia.

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Xcential Legislative Technologies has been working at the forefront of legislative standards and technology innovation since 2002. Its leadership team has decades of experience in legislative document technology, open data standards, government modernization and transparency initiatives. Xcential's co-founders began work on modernizing the California Legislature's drafting system in 2002. That was the beginning of Xcential – and LegisPro. Starting in 2004, every legislative proposal moving through the California legislature has been drafted, amended and, if approved, published, and codified on systems and software designed by Xcential. Today Xcential has brought its consulting expertise and LegisPro product line to projects at the U.S. House, the U.S. Government Publishing Office, the U.K. and Scottish Parliaments, the Nova Scotia Registry of Regulations and other governments around the world. The company is based in Encinitas, Calif. See www.xcential.com for more information about the company.