

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT IN AND  
FOR LEON COUNTY, FLORIDA

FLORIDA DEPARTMENT LAW  
ENFORCEMENT AND FLORIDA  
DEPARTMENT OF STATE,

Petitioners,

vs.

CASE NO. 2008 CA 003619

CMI, INC, ET AL.,

Respondents.

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**REQUEST FOR ADMISSIONS TO CMI, INC.**

COMES NOW, Kyle Woods, Charles Harvey, Sharon Hatchett, William King, Stephen Lambert and Robert McGuirk, Respondents, by and through their undersigned attorney, request pursuant to Rule 1.370(a) that you, CMI Inc., Respondent, within 30 days, make the following admissions for the purposes of this action only:

Definitions:

**“State of Florida”** means: The State of Florida, including all state agencies and law enforcement agencies located in the State of Florida.

**“Software Version 8100.10”** means: the version of software installed in the Intoxilyzer 8000 when the Intoxilyzer 8000 was approved for use in the State of Florida by the Florida Department of Law Enforcement in 2002.

**“Software Version 8100.26”** means: the version of software installed in the Intoxilyzer 8000 used in the State of Florida in 2006 when the State of Florida started using the Intoxilyzer 8000 pursuant to Chapter 11D-8, Florida Administrative Code.

**“Software Version 8100.27”** means: the version of software currently installed in the Intoxilyzer 8000 used in the State of Florida pursuant to Chapter 11D-8, Florida Administrative Code.

1. CMI prepared Software Version 8100.10 for the State of Florida.
2. CMI has neither sold nor distributed an Intoxilyzer 8000 installed with Software Version 8100.10 to any entity other than the State of Florida.
3. CMI will neither sell nor distribute an Intoxilyzer 8000 installed with Software Version 8100.10 to any entity other than the State of Florida.
4. CMI has neither sold nor distributed Software Version 8100.10 for installation in an Intoxilyzer 8000 to any entity other than the State of Florida.
5. CMI will neither sell nor distribute Software Version 8100.10 for installation in an Intoxilyzer 8000 to any entity other than the State of Florida.

6. CMI prepared Software Version 8100.26 for the State of Florida.
7. CMI has neither sold nor distributed an Intoxilyzer 8000 installed with Software Version 8100.26 to any entity other than the State of Florida.
8. CMI will neither sell nor distribute an Intoxilyzer 8000 installed with Software Version 8100.26 to any entity other than the State of Florida.
9. CMI has neither sold nor distributed Software Version 8100.26 for installation in an Intoxilyzer 8000 to any entity other than the State of Florida.
10. CMI will neither sell nor distribute Software Version 8100.26 for installation in an Intoxilyzer 8000 to any entity other than the State of Florida.
11. CMI prepared Software Version 8100.27 for the State of Florida.
12. CMI has neither sold nor distributed an Intoxilyzer 8000 installed with Software Version 8100.27 to any entity other than the State of Florida.
13. CMI will neither sell nor distribute an Intoxilyzer 8000 installed with Software Version 8100.27 to any entity other than the State of Florida.
14. CMI has neither sold nor distributed Software Version 8100.27 for installation in an Intoxilyzer 8000 to any entity other than the State of Florida.
15. CMI will neither sell nor distribute Software Version 8100.27 for installation in an Intoxilyzer 8000 to any entity other than the State of Florida.

16. The first sale of an Intoxilyzer 8000 to the State of Florida occurred in 2005, pursuant to the purchase order attached to the Amended Petition in this cause.

17. At the time of CMI's initial sale of Intoxilyzer 8000's to the State of Florida, there were no written instrument(s), other than those attached to the Amended Petition, which addressed the ownership of either the software (or the source code to the software) installed on these Intoxilyzer 8000's.

18. At the time of the initial sale of the Intoxilyzer 8000's to the State of Florida, "The Standard Software License Agreement", attached as an exhibit to the Amended Petition, was not made a condition of the sale.

19. "The Standard Software license agreement", attached as an exhibit to the Amended Petition, was first provided to the State of Florida on the disc for the update to Software Version 8100.26.

20. CMI provided to the State of Florida the disc(s) for the update to Software Version 8100.26 in either December 2005 or January 2006.

21. The installation disc for Software Version 8100.26 required the State of Florida to agree to the terms of "The Standard Software License Agreement" in order to install the software.

22. Software Version 8100.10 is materially different from the software which was installed the Intoxilyzer 8000 submitted to the U.S. Department of

Transportation in order for the Intoxilyzer 8000 to be placed on the US DOT conforming products list in 2002.

23. Software Version 8100.26 is materially different from the software which was installed the Intoxilyzer 8000 submitted to the U.S. Department of Transportation in order for the Intoxilyzer 8000 to be placed on the US DOT conforming products list in 2002.

24. Software Version 8100.27 is materially different from the software which was installed the Intoxilyzer 8000 submitted to the U.S. Department of Transportation in order for the Intoxilyzer 8000 to be placed on the US DOT conforming products list in 2002.

25. Software Version 8100.10 is not subject to a Federal Copyright.

26. Software Version 8100.26 is not subject to a Federal Copyright.

27. Software Version 8100.27 is not subject to a Federal Copyright.

28. The software which was installed the Intoxilyzer 8000 submitted to the U.S. Department of Transportation in order for the Intoxilyzer 8000 to be placed on the US DOT conforming products list in 2002 is not subject to a Federal Copyright.

29. The mouth alcohol detect routine contained in Software Version 8100.10 is based on raw-raw comparison.

30. The mouth alcohol detect routine contained in Software Version 8100.26 is based on raw-raw comparison.

31. The mouth alcohol detect routine contained in Software Version 8100.27 is based on raw-raw comparison.

32. The mouth alcohol detect routine contained in the software which was installed the Intoxilyzer 8000 submitted to the U.S. Department of Transportation in order for the Intoxilyzer 8000 to be placed on the US DOT conforming products list in 2002 is based on raw-raw comparison.

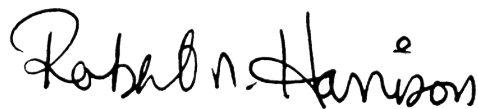
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been furnished by regular U.S. mail to the following counsel, this 26<sup>th</sup> day of March, 2009.

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