



**EQUITY NOTE**  
**May 20, 2011**

Paul Silver, 772-219-7525

<b>Symbol (OTCBB)</b>	<b>SMME</b>
Industry	Services
Sub-Industry:	Security
Risk Level:	Speculative
Share Price (5/19/11)	\$0.32
52 Week High	\$0.88
52 Week Low	\$0.05
Market Capitalization	\$29.98M
Shares Outstanding (2/14/11)	93.71M
Approximate Float (approx)	43.48M



**On May 18, 2011, the US District Court, Central District of California issued an order with respect to the *Markman* hearing that was held on March 11, 2011. The purpose of the order was to clarify and define language in the patent “Abstract”. The Abstract describes the patent as follows:**

“A computer system that allows a user to automatically access one of a plurality of Internet Service Providers which require information specific to the user and/or the ISP to be accessed. A smart card contains the information specific to the user and/or the ISP to be accessed, and a smart card reader reads the information contained on the smart card when inserted into the recess of the smart card reader. A computer is provided having a Central Processing Unit CPU that is in communication with the smart card reader and which is also adapted to be connected to the ISP via telephone line. An application program resides on the CPU and is configured to automatically retrieve the information contained on the smart card when it is inserted into the smart card reader and to use that information to gain access to one of the plurality of ISPs via the network by using one of a default access number indicating a designated ISP and a local access number from the database containing a list of access numbers for the plurality of ISPs along with corresponding location information for each access number in the list. The computer system may further comprise an online advertising server for serving advertising information to the user based on profile information of the information specific to the user contained on the smart card.”

Within this Abstract, SmartMetric (the Plaintiff) and Mastercard et al (the Defendants) disagreed about the specific meaning of certain phrases within the Abstract and sought the Court’s construction on the following five claim terms within the Abstract: (1) “insertion of said data card into said data card reader,” (2) “plurality of network service providers,” (3) “access number,” (4) “use said information to gain access to one of the plurality of network service providers,” (5) said application program is immediately triggered upon insertion of said data card into said data card reader” and “immediately triggering said application program upon insertion of said data card into said data card reader.”

With respect to claim 1, SmartMetric’s proposed construction was “to place into action a data card reader, as with a contactless data card” or “to place a data card into a recess of a data card reader, as with a contact data card.” Mastercard et al proposed “the data card is physically inserted into the recess of the data card reader.” The Court agreed with Mastercard’s proposed construction, finding that the phrase “insertion...into” means a physical insertion and that the meaning is readily apparent.

With respect the claim 2, , SmartMetric’s proposed construction was “more than one entity that provides services that are accessible/reachable over any network, public or private” Mastercard et al proposed “a plurality of entities that provide a gateway to a public general purpose network such as the internet.” The Court agreed with Mastercard’s proposed construction.

***Continued....***

With respect to claim 3, SmartMetric’s proposed construction was “a number that indicates a designated or selected network service provider” Mastercard et al proposed “a dialable telephone number” The Court agreed with SmartMetric’s proposed construction, ruling that Mastercard’s strict interpretation of “access number” impermissibly reads a limitation into the claim from the specification.

With respect to claim 4, SmartMetric’s proposed construction was “information from a data card is used to obtain entry to a network service provider” Mastercard et al proposed “information obtained from the microchip on the data card is used to establish permission or right to use one of the plurality of network service providers” The Court agreed with SmartMetric’s proposed construction, ruling that Mastercard’s construction impermissibly reads a limitation into the claim from the specification.

With respect to claim 5, the Court found that it wasn’t necessary to construe this claim as both parties’ proposed constructions impermissibly modify the term.

Bottom line: What does this mean for SmartMetric and its investors?

Based on the ruling, it appears that the Company’s patent does not cover the wireless transaction functionality protection that it had hoped. However, with respect to all the other “contactless” claims surrounding the smart data cards, it appears, based on this ruling, that SmartMetric’s patent is protected and that patent infringement by the Defendants has/continues to occur. We believe that this ruling will lead to further advanced discussions between SmartMetric and the Defendants about a negotiated settlement, which may lead to a cash settlement and/or a licensing agreement between one or both of the infringing defendants. Timing is uncertain, however we view this ruling as a positive step moving the Company closer to a resolution with respect to its patent infringement litigation.

We continue to monitor the situation very closely, and will update investors as the story continues to unfold.

For more information visit Smart Metric’s website at [www.smartmetric.com](http://www.smartmetric.com)

**For additional information, please contact:**



SmartMetric, Inc.  
1150 Kane Concourse, Suite 400  
Bay Harbor, FL 33154  
Phone: (305) 495-7190  
Fax: (917) 591-3226  
[www.smartmetric.com](http://www.smartmetric.com)



Wall Street Resources  
3557 SW Corporate Parkway  
Palm City, FL 34990  
Phone: 772-219-7525  
Fax: 772-219-3579  
[www.wallstreetresources.net](http://www.wallstreetresources.net)

This data sheet is for informational purposes only and is not an offer to sell securities or a solicitation of offers to purchase securities and should not be construed to be investment advice. Except for estimates and other opinions attributed to sources identified by name or category, which SmartMetric, Inc. (the “Company”) and Wall Street Resources neither adopt nor endorse, the information contained herein has been supplied to Wall Street Resources by the Company or has otherwise been obtained from publicly available sources that the Company and Wall Street Resources believe to be reliable. Forward looking statements contain herein, which involve risks, uncertainties, and other factors that may cause actual results to differ significantly from those anticipated in such statements, including those discussed in the Company’s reports filed with the SEC. Wall Street Resources has been retained by the Company as a consultant in the financial publishing and related services, and as such, Wall Street Resources has received or expects to receive \$15,000 in cash and 250,000 restricted shares of common stock for research and distribution. From time to time, Wall Street Resources and its officers and employees may own or acquire additional securities issued by the company or may dispose of securities issued by the company that they hold, which were not paid to Wall Street Resources as compensation. Wall Street Resources acts for its clients, including the Company, and does not provide investment advice. Wall Street Resources is not a registered investment advisor or broker-dealer.