

Lawrence C. Hersh
Attorney at Law
17 Sylvan Street
Suite 102B
Rutherford, New Jersey 07070
Tel: (201) 507-6300
Fax: (201) 507-6311
lh@hershlegal.com

Of Counsel
Theodore F. Shiells
Texas State Bar No. 00796087
Shiells Law Firm P.C.
1201 Main Street – Suite 2470
Dallas, Texas 75202
Tel: (214) 979-7312
Fax: (214) 979-7301
tfshiells@shiellslaw.com

Attorneys for Plaintiff Simon Nicholas Richmond

**IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEW JERSEY**

_____)	
SIMON NICHOLAS RICHMOND,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
SMART SOLAR, INC.)	_____
)	MLC-DEA
)	
Defendant.)	
_____)	

SEVERED FIRST AMENDED COMPLAINT AND JURY DEMAND

SEVERED FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff Simon Nicholas Richmond (“Richmond” or “Plaintiff”), for his claims against Defendant Smart Solar, Inc., (“STI” or “Defendant”) makes and files this Complaint and alleges as follows:

1. STATEMENT OF RELATED CASES AND PRIOR PROCEEDINGS

This case is related to *Simon Nicholas Richmond v. Smart Solar, Inc., et al.*, 13-cv-1960 (MLC-DEA), and alleges infringement of the same United States Patents that are at issue in the aforementioned case, i.e., United States Patent Nos. 7,196,477; 7,429,827; 8,362,700; 8,089,370; 7,967,465; and, 8,104,914. This case is further related to case docket nos. 13-cv-1944 (MLC-DEA), 13-cv-1949 (MLC-DEA), 13-cv-1950 (MLC-DEA), 13-cv-1951 (MLC-DEA), 13-cv-1952 (MLC-DEA), 13-cv-1953 (MLC-DEA), 13-cv-1954 (MLC-DEA), 13-cv-1957 (MLC-DEA), 13-cv-1959 (MLC-DEA), 13-cv-1960 (MLC-DEA), 13-cv-2916 (MLC-DEA), all of which have been consolidated with *Simon Nicholas Richmond v. Lumisol, et al.*, 13-cv-1944 (MLC-DEA).

The allegations contained in this Complaint against Defendant were originally filed in *Simon Nicholas Richmond v. Smart Solar, Inc., et al.*, 13-cv-1960 (MLC-DEA). In an Order dated July 3, 2014, the claims against Defendant

STI were severed, and Plaintiff was ordered to file a severed complaint against each individual defendant in Case No. 13-cv-1960 (MLC-DEA) by August 1, 2014. (Case No. 13-cv-1944, Dkt. 122, p.10).

2. THE PARTIES

A. Plaintiff Richmond.

1. Plaintiff Richmond is an individual and a resident of New Jersey.

B. Defendant.

2. Smart Solar, Inc. (STI) is a corporation organized and existing under the laws of the State of Wyoming, having a principal place of business at 1203 Loyola, Drive, Libertyville, Illinois 60048. STI may be served through its agent for service of process at Wyoming Corporate Services, Inc., 1712 Pioneer Ave. Suite 101, Cheyenne, WY 82001.

3. Service of the prior Original and First Amended Complaints in 13-cv-1960 (MLC-DEA) was previously properly effectuated on Defendant.

3. SUBJECT MATTER JURISDICTION

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331

and 1338(a).

4. PERSONAL JURISDICTION AND VENUE

A. General.

5. Personal jurisdiction over Defendant is proper pursuant to New Jersey Long-Arm Statute, N.J. CT. R. 4:4-4 and principles of due process.

6. STI has sufficient minimum contacts with New Jersey and this district and the maintenance of this suit does not offend traditional notions of fair play and substantial justice.

B. Specific Jurisdiction.

7. Personal jurisdiction over Defendant is proper under principles of specific jurisdiction.

8. Upon information and belief, Defendant has transacted and solicited business in New Jersey and in this district related to the subject matter of the claims alleged herein and, upon information and belief, has committed direct infringement in this state and district by importing, offering to sell and/or selling goods infringing one or more of the Patents-in-Suit, to customer(s) in this state.

9. Upon information and belief, Defendant has knowingly induced infringement in New Jersey by its customer(s) by offering to sell and/or selling

goods that infringe one or more of the Patents-in-Suit (as detailed in the Counts below) to customer(s) in New Jersey, with specific knowledge of Plaintiff's applicable patent(s), and with a specific intent and/or willful blindness to the fact that their infringing products will be imported into and offered for sale, sold and/or used in New Jersey by Defendant's customers.

10. The infringement by Defendant that is the subject of the claims alleged has caused Plaintiff to suffer damages and other losses in New Jersey and this district, a result that was reasonably foreseeable to Defendant at the time Defendant committed its misconduct.

C. General Jurisdiction.

11. Personal jurisdiction over Defendant is also proper under principles of general jurisdiction in that Defendant either resides in this state and district and/or has regularly and purposefully conducted business in New Jersey and this district.

D. Venue.

12. Venue also properly lies in this district pursuant to 28 U.S.C. § 1400(b) because Defendant has committed acts of infringement in this district.

13. Venue also properly lies in this district under 28 U.S.C. § 1391(b)(2) and/or (3) because, upon information and belief, either a substantial part of the

events or omissions giving rise to the claims recited below occurred in this district, or a substantial part of the property that is the subject of the action is in this district, or because there is no district in which the action may otherwise be brought as provided in 28 U.S.C. § 1391, and this court has personal jurisdiction over Defendant.

5. FACTUAL BACKGROUND

A. Plaintiff's Patents-in-Suit

14. For many years, Richmond has engaged in the development, manufacture, and sale of solar-powered garden lighting. Richmond has taken steps to protect his innovative inventions and designs. In particular, Richmond owns United States utility and design patents relating to his solar-powered garden lights.

15. Richmond is the inventor and owner of all right, title, and interest to the United States patent number 7,196,477 A1, entitled "Solar Powered Light Assembly to Produce Light of Varying Colors," ("477 Color-Changing Patent"), which duly and legally issued to Richmond on 3/27/2007.

16. Richmond is the inventor and owner of all right, title, and interest to the United States patent number 7,429,827 A1, entitled "Solar Powered Light Assembly to Produce Light of Varying Colors," ("827 Color-Changing Patent"),

which duly and legally issued to Richmond on 9/30/2008.

17. Richmond is the inventor and owner of all right, title, and interest to the United States patent number 8,362,700 A1, entitled “Solar Powered Light Assembly to Produce Light of Varying Colors,” (“700 Color-Changing Patent”), which duly and legally issued to Richmond on 1/29/2013.

18. Richmond is the inventor and owner of all right, title, and interest to the United States patent number 8,089,370 A1, entitled “Illuminated Wind Indicator,” (“370 Framed Patent”), which duly and legally issued to Richmond on 1/3/2012.

19. Richmond is the inventor and owner of all right, title, and interest to the United States patent number 7,967,465 A1, entitled “Light Device,” (“465 Try Me Patent”), which duly and legally issued to Richmond on 6/28/2011.

20. Richmond is the inventor and owner of all right, title, and interest to the United States patent number 8,104,914 A1, entitled “Light Device,” (“914 Try Me Patent”), which duly and legally issued to Richmond on 1/31/2012.

21. Plaintiff’s ‘477 Patent is valid and enforceable.

22. Plaintiff’s ‘827 Patent is valid and enforceable.

23. Plaintiff’s ‘700 Patent is valid and enforceable.

24. Plaintiff's '370 Patent is valid and enforceable.

25. Plaintiff's '465 Patent is valid and enforceable.

26. Plaintiff's '914 Patent is valid and enforceable.

27. On November 3, 2011, United States Patent Publication No. US 2011/0266953 A1 (the "'953 Published Application") was published. A copy of the '953 Published Application may be obtained for free from the official United States Patent and Trademark website, uspto.gov. The invention as claimed in the '700 Patent is substantially identical to the invention as claimed in the '953 Published Application.

28. On November 3, 2009, United States Patent Publication No. US 2009/0322495 A1 (the "'495 Published Framed Application") was published. A copy of the '495 Published Framed Application may be obtained for free from the official United States Patent and Trademark website, uspto.gov. The invention as claimed in the '370 Patent is substantially identical to the invention as claimed in the '495 Published Application.

29. On March 26, 2009, United States Patent Publication No. US 2009/0078604 A1 (the "'604 Published Application") was published. A copy of the '604 Published Application may be obtained for free from the official United

States Patent and Trademark website, uspto.gov. The invention as claimed in the ‘914 Try-Me Patent is substantially identical to the invention as claimed in the ‘604 Published Application.

30. Richmond continues to engage in the development and sale of solar-powered garden lighting and continues to take steps to protect his innovative inventions and designs and in this regard has applied for additional patent protection for his inventions. For example, on March 29, 2012, United States Patent Publication No. US 2012/0075104 A1 (the “’104 Published Application”) was published, and on April 5, 2012, United States Patent Publication No. US 2012/0081888 A1 (the “’888 Published Application”) was published. Copies of the ‘104 and ‘888 Published Applications may be obtained for free from the official United States Patent and Trademark website, uspto.gov.

31. At all times relevant to this action, Richmond has complied with any notice provisions of 35 U.S.C. § 287 as they may relate to the Patents-in-Suit.

B. Facts relevant to Defendant

32. SSI sometimes acts as a sales agent on behalf of UK entity Smart Solar Ltd (“SSL”). In that role, SSI presents pre-existing SSL designs to United States-based buyers for possible purchase of SSL’s products. In so acting as SSL's

Agent to US based customers, SSI receives a commission from SSL. SSI sells accused products using the "Smart Solar" trademark under license from SSL and sell many of the same products as SSL. It cannot be determined in every instance whether an accused product is sold by SSI or SSL by examination of the product alone.

33. SSI has acted as SSL's agent with respect to SSL's sales to Kmart Corporation (or one of its subsidiaries).

34. STI's products specifically accused of infringement in this lawsuit are being or were offered for sale by New Jersey internet retailers Unbeatable.com, Inc., based in Lakewood, New Jersey, Qudsi.com, Inc., based in Jersey City, New Jersey, and Comforthouse.com (owned by J.G. Ventures, Inc.) based in Newark, New Jersey. In particular, Comforthouse.com resells or has resold STI products, using STI's "Sales Order" form, and then shipped by STI directly to the Comforthouse.com's customer(s) in New Jersey.

35. STI actively participates in the sale of its products on the homedepot.com website, by drop shipping such products directly from its warehouse to consumers in New Jersey.

36. Sdf Defendant has imported, sold, exposed for sale or offered for sale

accused solar lighting products supplied by vendors other than the named defendants in the cases consolidated under Case No. 13-cv-1944 (D.N.J.).

37. Since issuance of one or more of the foregoing Richmond patents, Defendant has or has been importing, exposing for sale, offering for sale, or selling the following products:

- a) Aquarius Solar Birdbath Stake 3058MRM1
- b) Chameleon Cracked Glass Orb Solar Stake Light Assortment, product code 3067MRM12
- c) Model: STI3047MRM12SET Chameleon Solar Stake Set of 3
- d) Solar String Lights - 20 LED Color Changing Dragonflies with 'Try Me' retail box
- e) Solar String Lights - 30 LED White Crystal Balls 3732WR30 with 'Try Me' retail box

38. In addition to the products identified in the preceding paragraph, Defendant has or has been importing, exposing for sale, offering for sale, and selling the solar lighting products identified in Exhibit A.

6. INFRINGEMENT OF PLAINTIFF'S PATENTS

Count 1 – STI's Direct Infringement of '477 Patent

39. The allegations of Paragraphs 1-38 are incorporated by reference as if fully set forth again herein.

40. STI has notice of Plaintiff's rights in the '477 Patent.

41. Upon information and belief, STI directly infringes, and has infringed, Plaintiff's '477 Color-Changing Patent by, at-least, importing, exposing for sale, offering to sell, and selling one or more solar-powered garden light products that infringe '477 Patent. Upon information and belief, those solar-powered garden lights include, at least, the following products:

- a) Chameleon Cracked Glass Orb Solar Stake Light Assortment,
product code 3067MRM12
- b) Solar String Lights - 20 LED Color Changing Dragonflies with
'Try Me' retail box
- c) Model: STI3047MRM12SET Chameleon Solar Stake Set of 3.

42. The attached "Preliminary Product List - STI, attached as Exhibit A, contains a non-comprehensive list of products that, upon information and belief, are believed to constitute infringement of Richmond's patents, where a "Y" under the column labeled '477 Patent indicates that the product identified in the

corresponding row is believed to be an infringement of Plaintiff's '477 Color-Changing Patent.

43. Upon information and belief, STI has and is importing, exposing for sale, offering to sell, and selling other solar-powered garden light products which infringe Plaintiff's '477 Color-Changing Patent and will continue to do so unless restrained by this Court.

Count 2 – STI's Direct Infringement of '827 Patent

44. The allegations of Paragraphs 1-43 are incorporated by reference as if fully set forth again herein.

45. STI has notice of Plaintiff's rights in the '827 Patent.

46. Upon information and belief, STI directly infringes, and has infringed, Plaintiff's '827 Color-Changing Patent by, at-least, importing, exposing for sale, offering to sell, and selling one or more solar-powered garden light products that infringe the '827 Patent. Upon information and belief, those solar-powered garden lights include, at least, the following products:

- a) Chameleon Cracked Glass Orb Solar Stake Light Assortment,
product code 3067MRM12
- b) Solar String Lights - 20 LED Color Changing Dragonflies with

‘Try Me’ retail box

c) Model: STI3047MRM12SET Chameleon Solar Stake Set of 3.

47. The attached ‘Preliminary Product List - STI, attached as Exhibit A, contains a non-comprehensive list of products that, upon information and belief, are believed to constitute infringement of Richmond’s patents, where a ‘Y’ under the column labeled ‘827 Patent indicates that the product identified in the corresponding row is believed to be an infringement of Plaintiff’s ‘827 Color-Changing Patent.

48. Upon information and belief, STI has and is importing, exposing for sale, offering to sell, and selling other solar-powered garden light products which infringe Plaintiff’s ‘827 Color-Changing Patent and will continue to do so unless restrained by this Court.

Count 3 – STI’s Direct Infringement of ‘700 Patent

49. The allegations of Paragraphs 1-48 are incorporated by reference as if fully set forth again herein.

50. STI has notice of Plaintiff’s rights in the ‘700 Patent.

51. Upon information and belief, STI directly infringes, and has infringed, Plaintiff’s ‘700 Color-Changing Patent by, at-least, importing, exposing for sale,

offering to sell, and selling one or more solar-powered garden light products that infringe the '700 Patent. Upon information and belief, those solar-powered garden lights include, at least, the following products:

- a) Chameleon Cracked Glass Orb Solar Stake Light Assortment,
product code 3067MRM12
- b) Solar String Lights - 20 LED Color Changing Dragonflies with
'Try Me' retail box
- c) Model: STI3047MRM12SET Chameleon Solar Stake Set of 3.

52. The attached "Preliminary Product List - STI, attached as Exhibit A, contains a non-comprehensive list of products that, upon information and belief, are believed to constitute infringement of Richmond's patents, where a "Y" under the column labeled 'indicates that the product identified in the corresponding row is believed to be an infringement of Plaintiff's '700 Color-Changing Patent.

53. Upon information and belief, STI has and is importing, exposing for sale, offering to sell, and selling other solar-powered garden light products which infringe Plaintiff's '700 Color-Changing Patent and will continue to do so unless restrained by this Court.

Count 4 – STI's Direct Infringement of '370 Patent

54. The allegations of Paragraphs 1-53 are incorporated by reference as if fully set forth again herein.

55. STI has notice of Plaintiff's rights in the '370 Patent.

56. Upon information and belief, STI directly infringes, and has infringed, Plaintiff's '370 Framed Patent by, at-least, importing, exposing for sale, offering to sell, and selling one or more solar-powered garden light products that infringe the '370 Patent. Upon information and belief, those solar-powered garden lights include, at least, the following products:

a) Aquarius Solar Birdbath Stake 3058MRM1.

57. The attached "Preliminary Product List - STI, attached as Exhibit A, contains a non-comprehensive list of products that, upon information and belief, are believed to constitute infringement of Richmond's patents, where a "Y" under the column labeled '370 Patent indicates that the product identified in the corresponding row is believed to be an infringement of Plaintiff's '370 Framed Patent.

58. Upon information and belief, STI has and is importing, exposing for sale, offering to sell, and selling other solar-powered garden light products which

infringe Plaintiff's '370 Framed Patent and will continue to do so unless restrained by this Court.

Count 5 – STI's Direct Infringement of '465 Patent

59. The allegations of Paragraphs 1-58 are incorporated by reference as if fully set forth again herein.

60. STI has notice of Plaintiff's rights in the '465 Patent.

61. Upon information and belief, STI directly infringes, and has infringed, Plaintiff's '465 Try Me Patent by, at-least, importing, exposing for sale, offering to sell, and selling one or more solar-powered garden light products that infringe the '465 Patent. Upon information and belief, those solar-powered garden lights include, at least, the following products:

- a) Solar String Lights - 20 LED Color Changing Dragonflies with 'Try Me' retail box
- b) Solar String Lights - 30 LED White Crystal Balls 3732WR30 with 'Try Me' retail box.

62. The attached "Preliminary Product List - STI, attached as Exhibit A, contains a non-comprehensive list of products that, upon information and belief, are believed to constitute infringement of Richmond's patents, where a "Y" under

the column labeled indicates that the product identified in the corresponding row is believed to be an infringement of Plaintiff's '465 Try Me Patent.

63. Upon information and belief, STI has and is importing, exposing for sale, offering to sell, and selling other solar-powered garden light products which infringe Plaintiff's '465 Try Me Patent and will continue to do so unless restrained by this Court.

Count 6 – STI's Direct Infringement of '914 Patent

64. The allegations of Paragraphs 1-63 are incorporated by reference as if fully set forth again herein.

65. STI has notice of Plaintiff's rights in the '914 Patent.

66. Upon information and belief, STI directly infringes, and has infringed, Plaintiff's '914 Try Me Patent by, at-least, importing, exposing for sale, offering to sell, and selling one or more solar-powered garden light products that infringe the '914 Patent. Upon information and belief, those solar-powered garden lights include, at least, the following products:

- a) Solar String Lights - 20 LED Color Changing Dragonflies with
 'Try Me' retail box
- b) Solar String Lights - 30 LED White Crystal Balls 3732WR30

with 'Try Me' retail box.

67. The attached "Preliminary Product List - STI, attached as Exhibit A, contains a non-comprehensive list of products that, upon information and belief, are believed to constitute infringement of Richmond's patents, where a "Y" under the column labeled indicates that the product identified in the corresponding row is believed to be an infringement of Plaintiff's '914 Try Me Patent.

68. Upon information and belief, STI has and is importing, exposing for sale, offering to sell, and selling other solar-powered garden light products which infringe Plaintiff's '914 Try Me Patent and will continue to do so unless restrained by this Court.

Count 7 – STI's Inducement of Unbeatable.com, Inc., Quidsi.com, Inc., and Comforthouse.com (owned by J.G. Ventures, Inc.) based in Newark, New Jersey's Infringement

69. The allegations of Paragraphs 1-68 are incorporated by reference as if fully set forth again herein.

70. Upon information and belief, STI has had actual knowledge of Plaintiff's 7,196,477; 7,429,827; 8,362,700; 8,089,370; 7,967,465; and, 8,104,914 Patents, and knowledge that its solar-powered garden lights as accused of infringement earlier in this Complaint ("Accused Infringing Products") would

infringe Plaintiff's 7,196,477; 7,429,827; 8,362,700; 8,089,370; 7,967,465; and, 8,104,914 Patents if imported into, offered for sale or sold in the United States.

STI has had such knowledge of Plaintiff's Patents, as alleged in this Complaint and no later than on or about 6/12/2013, by means of service of the First Amended Complaint on STI.

71. STI has an ongoing, intentional relationship with its customers, including at least Unbeatable.com, Inc., Quidsi.com, Inc., and Comforthouse.com (owned by J.G. Ventures, Inc.) based in Newark, New Jersey, with the clear aim of inducing their nationwide distribution and sale in the United States. Upon information and belief, the quantity of purchase would indicate to STI that its products would be shipped to all of its customers' retail stores, including Unbeatable.com, Inc., Quidsi.com, Inc., and Comforthouse.com (owned by J.G. Ventures, Inc.) based in Newark, New Jersey's New Jersey stores, in accordance with Unbeatable.com, Inc., Quidsi.com, Inc., and Comforthouse.com (owned by J.G. Ventures, Inc.) based in Newark, New Jersey's customary practice, something that is well known to STI. Upon information and belief, STI follows a similar practice with its other customers having retail stores in the United States. As such, STI knew and intended, or was willfully blind to the

fact that its Accused Infringing Products would be imported into the United States, and then offered for sale and sold by its customers in the United States, including in New Jersey.

72. Based upon the foregoing facts, and reasonable inferences therefrom, upon information and belief, STI has, with knowledge of Plaintiff's 7,196,477; 7,429,827; 8,362,700; 8,089,370; 7,967,465; and, 8,104,914 Patents and specific intent to infringe, and/or willful blindness to the infringement, actively induced and is inducing infringement of Plaintiff's 7,196,477; 7,429,827; 8,362,700; 8,089,370; 7,967,465; and, 8,104,914 Patents by the direct infringement of its customers in the United States, including but not limited to, Unbeatablesale.com, Inc., Quidsi.com, Inc., and Comforthouse.com (owned by J.G. Ventures, Inc.) based in Newark, New Jersey, and will continue to do so unless restrained by this Court.

Count 9 – Willfulness of STI's Infringement

73. The allegations of Paragraphs 1-72 are incorporated by reference as if fully set forth again herein.

74. Upon information and belief, STI has had actual knowledge of Plaintiff's '477, '827, '465, and, '914 Patents, and knowledge that its solar-powered garden lights as accused of infringement of these patents earlier in this Complaint

(“Accused Infringing Products”) would infringe Plaintiff’s ‘477, ‘827, ‘465, and, ‘914 Patents if imported into, offered for sale or sold in the United States. STI is believed to have had such knowledge long prior to the filing of Plaintiff’s Original Complaint against STI in Case No. 13-cv-1960 (D.N.J.).

75. As a result of Richmond’s activities, Defendant is believed to have long had knowledge of Plaintiff’s ‘477, ‘827, ‘465 and ‘914 Patents and knowledge that one or more of Defendant’s previously identified products infringe Richmond’s aforementioned patents. As a result, Defendant’s infringement of Plaintiff’s Patent is willful.

76. The allegations and factual contentions set forth in this Count are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. See Fed. R. Civ. P. 11(b)(3).

7. PLAINTIFF’S DAMAGES AND IRREPARABLE HARM

77. Plaintiff has been damaged as a result of Defendant’s infringing activities and will continue to be damaged unless such activities are enjoined by this Court. Pursuant to 35 U.S.C. § 284, Plaintiff is entitled to damages adequate to compensate for the infringement of Plaintiff’s Patents, including, *inter alia*, lost profits and/or a reasonable royalty.

78. Plaintiff will be irreparably harmed if Defendant's patent infringement continues. Plaintiff relies upon his patents for protection of his business' intellectual property and the rampant infringement of his patents by Defendant robs Plaintiff's business of its intellectual assets and denies Plaintiff the exclusivity in the marketplace for offering and selling his products to which he is entitled under the Patent Laws. This seriously damages Plaintiff in a manner that cannot be adequately compensated by money alone. Plaintiff is entitled to a permanent injunction prohibiting Defendant, its directors, officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert or participation with them, from taking any other actions that would infringe Plaintiff's Patents.

**8. RIGHT TO ROYALTIES FOR VIOLATION OF
PROVISIONAL RIGHTS IN THE '914 Patent**

79. On information and belief, Defendant STI had actual notice of the '604 Published Application, which matured into the '914 Patent, including its specification and claims.

80. On information and belief, pursuant to 35 U.S.C. § 154(d), since having actual notice of the '604 Published Application, Defendant at least used the invention as claimed in one or more claims of the '604 Published Application and

the later issued '914 Patent, by making, using, offering for sale, selling and/or importing into the United States one or more models of solar-powered garden lights, including the models identified in Exhibit A as infringing the '914 Patent.

81. As a result of violation of Plaintiff's provisional rights in the '604 Published Application by Defendant STI, Plaintiff is entitled to recover a reasonable royalty pursuant to 35 U.S.C. § 154(d)(1), in addition to Plaintiff's other rights provided by the Patent Statute.

9. JURY DEMAND

82. Plaintiff hereby demands a trial by jury, pursuant to Fed. R. Civ. Proc. 38(b), for all issues so triable.

10. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the court enter judgment granting Plaintiff the following relief:

a. Awarding Plaintiff his damages adequate to compensate for Defendant's infringement of Plaintiff's Patents, including, inter alia, lost profits and/or a reasonable royalty;

b. Awarding treble of the damages and/or reasonable royalty on account of the willful nature of the infringement, pursuant to 35 U.S.C. § 284;

- c. Declaring this case to be exceptional under 35 U.S.C. §285 and awarding Plaintiff his attorneys' fees, costs and expenses related to bringing this action;
- d. Enjoining Defendant from infringing Plaintiff's Patents; and
- e. Awarding Plaintiff such further and other relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Lawrence C. Hersh
Lawrence C. Hersh
Attorney at Law
17 Sylvan Street
Suite 102B
Rutherford, New Jersey 07070
Tel: (201) 507-6300
Fax: (201) 507-6311
lh@hershlegal.com
Attorneys for Plaintiff
Simon Nicholas Richmond

Of Counsel

Theodore F. Shiells
Texas State Bar No. 00796087
Shiells Law Firm P.C.
1201 Main Street – Suite 2470
Dallas, Texas 75202
Tel: (214) 979-7312
Fax: (214) 979-7301
tfshiells@shiellslaw.co