

**FILED**

**AUGUST 15, 2007**

**MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JOHN T. ("TOM") MINEMYER,	)	
	)	
Plaintiff,	)	Case No. 07 C 1763
	)	
vs.	)	Judge Coar
	)	
R-BOC REPRESENTATIVES, INC.,	)	Magistrate Judge Cole
DURA-LINE CORPORATION,	)	
CAROLYN LUNDEEN,	)	
ROBERT LUNDEEN,	)	
TIMOTHY A. GRIMSLEY	)	
PRECISION CUSTOM MOLDERS, INC.,	)	
EDWARD KRAJECKI,	)	
SANDRA KRAJECKI,	)	
LeBAC PLASTIC MOLD CO., INC., and	)	
RONALD BACKMAN,	)	
	)	
Defendants.	)	

**SECOND AMENDED COMPLAINT**

Plaintiff JOHN T. ("TOM") MINEMYER ("MINEMYER), doing business as Lozon , as his COMPLAINT against Defendants R-BOC REPRESENTATIVES, INC., ("R-BOC "), doing business as B&C Distribution, DURA-LINE CORPORATION, ("DURA-LINE") ROBERT LUNDEEN, CAROLYN LUNDEEN, TIMOTHY A. GRIMSLEY ("GRIMSLEY"), PRECISION CUSTOM MOLDERS, INC., ("PRECISION MOLDERS"), EDWARD KRAJECKI, SANDRA KRAJECKI, LeBAC PLASTIC MOLD CO., INC., ("LeBAC") and RONALD BACKMAN ("BACKMAN"), state the following:

1. In this COMPLAINT, MINEMYER seeks equitable and monetary relief for acts in violation of federal and state law. This COMPLAINT arises under the federal patent act (Title

35, U.S.C. §§ 1 *et seq.*), section 43(a) of the federal Lanham Act (Title 15, U.S.C. § 1125(a)), the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*, the Illinois Consumer Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.*, the Illinois Trade Secrets Act, 765 ILCS 1065/1 *et seq.*, and Illinois state common law forbidding palming and passing off, tortious interference with and misappropriation of commercial advantage, breach of fiduciary duty, unjust enrichment, breach of the implied duty of good faith and fair dealing, and unfair competition.

### **THE PARTIES**

2. Plaintiff MINEMYER is an individual residing in Casper, Wyoming. He is the inventor of the invention disclosed and claimed in as well as the owner of the United States patent 6,851,726 issued on February 8, 2005, relating to Radial Conduit Coupling System and Method (the "Patent"). This Patent relates to plastic couplers used in the telecommunications and other industries. Plaintiff MINEMYER, through his sole proprietorship Lozon, also manufactures and has manufactured plastic couplers covered by the Patent.

3. Defendant R-BOC is a corporation of the State of Illinois having its principal place of business in St. Charles, Illinois, and does business as B&C Distributing ("B&C"). R-BOC was in the business of representing manufacturers and is now in the business, *inter alia*, of producing, having produced, and distributing couplers used in the telecommunications and other industries. B&C is a distributor of various items for the telecom and other industries.

4. Defendants ROBERT LUNDEEN and CAROLYN LUNDEEN are residents of the State of Illinois and have, at all times relevant to the present Complaint, been owners, officers and principals of Defendant R-BOC.

5. Defendant DURA-LINE is a corporation of the state of Tennessee with its principal place of business in the Knoxville, Tennessee. DURA-LINE is in the business of, *inter alia*, manufacturing plastic pipe and distributing conduit couplers manufactured by Defendant R-BOC.

6. Defendant GRIMSLEY is a resident of the state of Tennessee and has, at all times relevant to the present Complaint, been an officer of Defendant DURA-LINE.

7. Defendant PRECISION MOLDERS is a plastics molder making couplers covered by the Patent. Defendant PRECISION MOLDERS is a corporation of the state of Illinois with its principal place of business in Spring Grove, Illinois. Defendants EDWARD KRAJECKI and SANDRA KRAJECKI are residents of the state of Illinois and are the owners, officers, and operators of Defendant PRECISION MOLDERS.

8. Defendant LeBAC is a mold maker who made a mold utilized by Defendants PRECISION MOLDERS and EDWARD and SANDRA KRAJECKI to make couplers covered by the Patent. Defendant LeBAC is a corporation of the state of Illinois with its principal place of business in Addison, Illinois. Defendant BACKMAN is a resident of the state of Illinois and is the president, secretary, and registered agent of Defendant LeBAC and, on information and belief, is the operator of Defendant LeBAC.

#### **JURISDICTION AND VENUE**

9. Counts I to III allege violations of the federal patent act (Title 35, U.S.C. §§ 1 *et seq.*). The Court has exclusive jurisdiction of these counts under Title 18, U.S.C., § 1338. Count IV alleges violations of the federal Lanham Act (Title 15, U.S.C. § 1125(a)). The Court has jurisdiction of this count pursuant to Title 18, U.S.C., § 1331. The Court has jurisdiction of the remaining counts under its supplemental jurisdiction of Title 18, U.S.C., § 1367.

10. Plaintiff Minemyer is a citizen of the State of Wyoming. Defendants R-BOC, ROBERT LUNDEEN, and CAROLYN LUNDEEN are citizens of the state of Illinois. Defendants DURA-LINE and GRIMSLEY are citizens of the state of Tennessee. Defendants PRECISION MOLDERS, EDWARD KRAJECKI and SANDRA KRAJECKI are citizens of the state of Illinois. Defendants LeBAC and BACKMAN are citizens of the state of Illinois. Thus, the plaintiff is a citizen of a different state from all of the defendants. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Accordingly, this Court has jurisdiction of this litigation under Title 28, U. S. C., § 1332.

11. A substantial part of the events and omissions giving rise to these claims occurred in this district. Further, Defendants. R-BOC, ROBERT LUNDEEN, CAROLYN LUNDEEN, PRECISION MOLDERS, EDWARD KRAJECKI, SANDRA KRAJECKI, LeBAC, and BACKMAN are located in this district. Accordingly, venue lies in this district under Title 28, U. S. C., § 1391(a).

**COUNT I: PATENT INFRINGEMENT  
(R-BOC, and ROBERT and CAROLYN LUNDEEN)**

12. On February 8, 2005, Plaintiff Minemyer received United States patent 6,851,726 for Radial Conduit Coupling System and Method. That Patent has an entitlement to an effective filing date of August 25, 1998. A copy of the Patent is attached as Exhibit A.

13. Defendant R-BOC, under the guidance and direction of its principals and officers, Defendants ROBERT and CAROLYN LUNDEEN, in the years 2003 to 2006, purchased couplers covered by the Patent from Plaintiff MINEMYER's sole proprietorship company Lozon. Defendant R-BOC then resold the couplers to Defendant DURA-LINE, which then sold

them to businesses in the telecommunications industry. However, R-BOC stopped purchasing the patented couplers from Lozon in 2006.

14. Since 2006, Defendant R-BOC, under the guidance and direction of its principals, owners, and officers, Defendants ROBERT and CAROLYN LUNDEEN, has purchased and had made couplers substantially similar to, in fact exactly the same as, the Lozon couplers from sources other than Lozon. The couplers thus purchased by R-BOC were neither made, licensed, nor approved by MINEMYER or Lozon. R-BOC has sold these unapproved couplers to others. While engaging in these activities, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN have had actual notice of MINEMYER's Patent. By engaging in these activities, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN have knowingly and intentionally infringed claims 1 to 6 and 10 to 15 of MINEMYER's Patent under Title 35, U.S.C., § 271(a).

15. With actual notice of Minemyer's Patent, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN induced Defendants PRECISION MOLDERS and EDWARD and SANDRA KRAJECKI to mold couplers that infringe the Patent and induced Defendants LeBAC and BACKMAN to make a mold for making infringing couplers. Accordingly, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN have induced the direct infringement of claims 1 to 6 of and 10 to 15 of the Patent by PRECISION MOLDERS and EDWARD and SANDRA KRAJECKI and the contributory infringement by LeBAC and BACKMAN under Title 35, U.S.C., § 271(b).

16. Further, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN have sold couplers covered by claims 1 to 6 and 10 to 15 of the Patent to Defendant DURA-LINE knowing that the only purpose DURA-LINE would have for such couplers is to resell them to others for

such others to actually use. Accordingly, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN have, in violation of Title 35, U.S.C., § 271(b), induced the direct infringement of claims 1 to 6 and 10 to 15 of the Patent by Defendant DURA-LINE and DURA-LINE's customers.

17. Plaintiff MINEMYER has demanded that Defendants R-BOC and ROBERT and CAROLYN LUNDEEN cease and desist their infringement of Plaintiff's Patent. Defendants R-BOC and ROBERT and CAROLYN LUNDEEN have refused this demand.

18. Clearly, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN will continue to infringe Plaintiff's Patent unless this Court enjoins them from this activity.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC and ROBERT and CAROLYN LUNDEEN under Title 35, U.S.C., § 283 from directly infringing the Patent by making, having made, using, selling, or offering for sale couplers covered by Plaintiff's Patent and from inducing the infringement of the Patent by having made a mold for making couplers covered by the Patent and having such couplers made or sold by others. Furthermore, Plaintiff seeks an award of compensatory and trebled damages and his attorney's fees and costs in pursuing this action pursuant to Title 35, U.S.C., §§ 284 and 285, respectively.

**COUNT II: PATENT INFRINGEMENT  
(DURA-LINE and GRIMSLEY)**

19. Plaintiff restates and realleges paragraphs 12 to 18 above.

20. Defendant DURA-LINE, in the years 2003 to 2006, under the direction of Defendant GRIMSLEY, purchased couplers covered by the Patent from Defendants R-BOC and ROBERT and CAROLYN LUNDEEN.

21. Since 2006, Defendant DURA-LINE, under the direction of Defendant GRIMSLEY, has purchased couplers that infringe the Patent from Defendants R-BOC and ROBERT and CAROLYN LUNDEEN and then sold and offered to sell the infringing couplers to the public.

22. Defendant DURA-LINE, under the direction of Defendant GRIMSLEY, has sold couplers that infringe the Patent to the public with the intent and knowing that purchasers would then use such couplers in violation of Title 35, U.S.C., § 271(a)

23. The actions Defendants DURA-LINE and GRIMSLEY, enumerated in the prior three paragraphs constitute the unlawful selling and offering to sell couplers that infringe the Patent. They also constitute the unlawful inducement of others to directly infringe the Patent. These actions constitute violations of Title 35, U.S.C., § 271(a) and (b).

24. Plaintiff has demanded that Defendants DURA-LINE and GRIMSLEY cease and desist their infringing activities set forth in this count. Defendants DURA-LINE and GRIMSLEY have refused to do so and will continue its infringing activities unless enjoined by this Court.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendant DURA-LINE under Title 35, U.S.C., § 283 from directly infringing the Patent by selling, or offering for sale couplers covered by Plaintiff's Patent and from inducing the infringement of the Patent by providing infringing couplers to others with the intent and knowledge that such others will use the infringing couplers. Furthermore, Plaintiff seeks an award of compensatory and trebled damages and his attorney's fees and costs in pursuing this action pursuant to Title 35, U.S.C., §§ 284 and 285, respectively.

**COUNT III: PATENT INFRINGEMENT**  
**(R-BOC, ROBERT and CAROLYN LUNDEEN, PRECISION**  
**MOLDERS, EDWARD and SANDRA KRAJECKI, LeBAC, and BACKMAN)**

25. Plaintiff restates and realleges paragraphs 12 to 24 above.

26. On information and belief, Defendants PRECISION MOLDERS and EDWARD and SANDRA KRAJECKI, under the direction of Defendants R-BOC and ROBERT and CAROLYN LUNDEEN, has made and sold couplers that infringe the Patent. These actions constitute violations of Title 35, U.S.C., § 271(a).

27. On information and belief, Defendants LeBAC and BACKMAN, under the direction of one or more of Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, PRECISION MOLDERS, and EDWARD and SANDRA KRAJECKI has made one or more molds for making couplers that infringe the Patent and sold such molds to one or more of Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, PRECISION MOLDERS, and EDWARD and SANDRA KRAJECKI or the designee of such defendants. The mold or molds made by Defendants LeBAC and BACKMAN are especially made and especially adapted for use in an infringement of the Patent and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

28. Accordingly, one or more of Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, PRECISION MOLDERS, EDWARD and SANDRA KRAJECKI, LeBAC and BACKMAN has contributed to the infringement of the Patent in violation of Title 35, U.S.C., § 271(c).

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants PRECISION MOLDERS, EDWARD and SANDRA KRAJECKI, LeBAC and BACKMAN, under Title 35, U.S.C., § 283, from directly or contributory infringing the



Patent by making, selling offering for sale or making molds for making couplers covered by Plaintiff's Patent. Furthermore, Plaintiff seeks an award of compensatory and trebled damages and his attorney's fees and costs in pursuing this action pursuant to Title 35, U.S.C., §§ 284 and 285, respectively.

**COUNT IV: LANHAM ACT VIOLATION – PALMING AND PASSING OFF  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY)**

29. Plaintiff restates and realleges paragraphs 12 to 28 above.

30. Plaintiff MINEMYER sells and ships his couplers in interstate commerce.

31. The couplers covered by Plaintiff's Patent have been advertised in catalogs (a copy of which is attached as Exhibit B) and shown on the website with the domain name of "www.lozonsolutions.com/couplers1.asp" of Plaintiff Minemyer (shown in Exhibit C).

32. The couplers covered by Plaintiff's Patent and sold in interstate commerce have distinctive, nonfunctional, trade-dress features including their shape, color, and surface design and others. These features have acquired a secondary meaning to indicate the source or origin of such couplers with Plaintiff MINEMYER's company, Lozon. Further distinctive features identifying the origin of the couplers include their included instructions and packaging.

33. The couplers by Plaintiff's Patent and incorporating the distinctive, nonfunctional, trade dress features have undergone and passed substantial testing by the ultimate users of such couplers and found suitable for their intended use. Thus, the referenced trade dress features indicates to the ultimate users that such couplers have their origin with a provider who has demonstrated that its couplers have passed tests and are suitable for their intended use.

34. Defendant R-BOC, under the direction of Defendants ROBERT and CAROLYN LUNDEEN, similarly sells and ships its couplers in interstate commerce. Defendant DURA-LINE sells and ships the couplers it receives from Defendant R-BOC in interstate commerce

35. Up until about October, 2006, Defendant R-BOC, under the direction of Defendants ROBERT and CAROLYN LUNDEEN, and Defendant DURA-LINE, under the direction of Defendant GRIMSLEY, had purchased and sold couplers from Plaintiff MINEMYER's company Lozon. The couplers provided to Defendant R-BOC were covered by Plaintiff's Patent and incorporated the distinctive, nonfunctional features referenced in paragraph 32. For a brief while, after October, 2006, Defendants ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY continued purchasing one model of coupler from Plaintiff MINEMYER's company Lozon. On information and belief, Defendants did so because they had not yet started manufacturing their rip-off version of that model themselves.

36. Defendant R-BOC, ROBERT and CAROLYN LUNDEEN and Defendant DURA-LINE, under the direction of Defendant GRIMSLEY, then stopped purchasing couplers from Plaintiff and obtained and sold identical couplers with identical distinctive, nonfunctional features.

37. Additionally, Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY included directions and employed packaging that virtually duplicated that of Plaintiff MINEMYER's Lozon couplers, thus purposefully leading to further confusion on the part of purchasers of Defendants' infringing couplers as to the couplers' origin, sponsorship, or approval.

38. However, Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY never informed their ultimate purchasers of couplers that the couplers

that Defendants were selling and supplying, although incorporating the distinctive, nonfunctional features referenced in paragraph 32, had a different source and origin. Further, these Defendants never informed their ultimate purchasers that the couplers that they were supplying to them, although identical in appearance to those previously supplied, had not passed the same tests that the couplers obtained from Plaintiff had.

39. Defendants' actions of obtaining and selling distinctive couplers identical to those it had previously obtained from Plaintiff MINEMYER and filling orders thus obtained had the intent and effect of causing purchasers to believe that the couplers had their origin with Plaintiff MINEMYER. Thus, the couplers sold by Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY would thus appear virtually identical to those Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY sold when it had purchased them from Plaintiff MINEMYER. The virtually identical packaging and instructions used by Defendants would only reinforce this false belief.

40. Plaintiff MINEMYER has suffered from the confusion created by Defendants R-BOC's, ROBERT and CAROLYN LUNDEEN's, DURA-LINE's and GRIMSLEY's actions enumerated above.

41. Plaintiff MINEMYER now finds itself unable to control the quality of the goods that purchasers believe had their origin with MINEMYER. Plaintiff MINEMYER has suffered this expectable result since Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY are supplying couplers that have not passed the required tests and may well be of inferior quality to purchasers believing that they are obtaining couplers having their origin with MINEMYER. This situation could well ruin the reputation of Plaintiff's couplers because of the virtually same appearance of the untested couplers to those of Plaintiff.

42. The actions of Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY in creating confusion as to the origin of their couplers constitutes a violation of section 43(a) of the Lanham Act, Title 15, U.S.C, § 1125(a).

43. Plaintiff has demanded that Defendants cease and desist their activities that have the effect of creating confusion as to the source and approval of their couplers as set forth above. Defendants have refused to do so and will continue their infringing activities unless enjoined by this Court.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from creating the likelihood of confusion of the source and origin of their couplers under Title 15, U.S.C, § 1116(a). Furthermore, Plaintiff seeks an award of compensatory and punitive damages and his attorney's fees and costs in pursuing this action pursuant to Title 15, U.S.C, § 1117(a).

**COUNT V: VIOLATION OF THE ILLINOIS CONSUMER  
FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY)**

44. Plaintiff restates and realleges paragraphs 12 to 43 above.

45. The actions complained of Counts VI to VIII above constitute violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seqq.*

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY, under 815 ILCS 505/10a, from repeating their violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seqq.* Furthermore, Plaintiff

seeks an award, under 815 ILCS 505/10a, of compensatory and punitive damages and his attorney's fees and costs in pursuing this action.

**COUNT VI: VIOLATION OF THE ILLINOIS  
DECEPTIVE TRADE PRACTICES ACT  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY)**

46. Plaintiff restates and realleges paragraphs 12 to 45 above.

47. The actions complained of Counts IV and V above constitute violations of the Illinois Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.*

Accordingly, Plaintiff MINEMYER requests this Court, under 815 ILCS 510/3 to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from repeating their violations of the Illinois Consumer Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.* Furthermore, Plaintiff seeks an award under 815 ILCS 510/3 of compensatory and punitive damages and his attorney's fees and costs in pursuing this action.

**COUNT VII: VIOLATION OF THE ILLINOIS  
TRADE SECRETS ACT  
(R-BOC, ROBERT and CAROLYN LUNDEEN)**

48. Plaintiff restates and realleges paragraphs 12 to 47 above.

49. Defendants R-BOC, ROBERT and CAROLYN LUNDEEN agreed with Plaintiff MINEMYER to keep confidential and secret information belonging to MINEMYER that was secret or otherwise confidential. Such confidential and secret information constituted trade secret information of Plaintiff MINEMYER

50. Pursuant to the agreement set forth in the prior paragraph, Plaintiff MINEMYER disclosed trade secret and other confidential information to Defendants R-BOC, ROBERT and CAROLYN LUNDEEN.

51. Defendants R-BOC and ROBERT and CAROLYN LUNDEEN, for their own benefit and to the detriment of Plaintiff MINEMYER, have used or otherwise disclosed trade secrets of Plaintiff MINEMYER.

52. Plaintiff MINEMYER has taken reasonable steps and made reasonable efforts to maintain the secrecy of its trade secrets. Plaintiff MINEMYER does not publish or otherwise disclose its trade secrets.

53. The Illinois Trade Secrets Act, 765 ILCS § 1068/1 *et seq.*, prohibits the misappropriation and unauthorized use of another's trade secrets.

54. The conduct of Defendants R-BOC, and ROBERT and CAROLYN LUNDEEN set forth above constitutes a violation of the Illinois Trade Secrets Act, 765 ILCS § 1065/1 *et seq.*

55. Plaintiff MINEMYER has demanded that Defendants R-BOC and ROBERT and CAROLYN LUNDEEN cease their use of his trade secrets. However, they have refused to do so and will continue using Plaintiff MINEMYER's trade secrets to Plaintiff's irreparable injury unless enjoined by this Court.

Accordingly, Plaintiff MINEMYER requests this Court, under 765 ILCS 1065/3 to temporarily and permanently enjoin Defendants R-BOC and ROBERT and CAROLYN LUNDEEN from further misappropriation of Plaintiff MINEMYER's trade secrets and repeating their violations of the Illinois Trade Secrets Act, 765 ILCS § 1065/1 *et seq.* Furthermore,

Plaintiff, under 765 ILCS 1065/4, seeks an award of compensatory and punitive damages and, under 765 ILCS 1065/5, his attorney's fees and costs in pursuing this action.

**COUNT VIII: VIOLATION OF THE ILLINOIS  
COMMON LAW OF BREACH OF FIDUCIARY DUTY  
AND CONSPIRACY TO BREACH FIDUCIARY DUTY  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY)**

56. Plaintiff restates and realleges paragraphs 12 to 55 above.

57. In 2003, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN became the exclusive sales agents and marketing representatives of Plaintiff MINEMYER for couplers produced by MINEMYER's company Lozon. As such, Defendants R-BOC and ROBERT and CAROLYN LUNDEEN had a fiduciary duty to Plaintiff MINEMYER.

58. Defendant DURA-LINE, under the direction of Defendant GRIMSLEY, vice president of Defendant DURA-LINE, has acted as a sales agent and distributor of couplers obtained from Plaintiff MINEMYER's company Lozon. Defendant DURA-LINE, under the direction of Defendant Grimsley, sent shipping information and orders directly to MINEMYER. With the knowledge and approval of Defendants R-BOC and ROBERT and CAROLYN LUNDEEN, Plaintiff MINEMYER filled the orders and complied with the shipping instructions it received from Defendants DURA-LINE and GRIMSLEY.

59. Further, in 2006, when Plaintiff MINEMYER began to suspect that Defendants R-BOC and ROBERT and CAROLYN LUNDEEN were acting unfaithfully to him, Plaintiff MINEMYER discussed this matter with Defendant GRIMSLEY. In particular, Plaintiff MINEMYER suggested that his company Lozon should bid its couplers directly to Defendant DURA-LINE. Defendant GRIMSLEY of Defendant DURA-LINE, however, told Plaintiff MINEMYER, "Don't rock the boat." Defendant GRIMSLEY specifically informed Plaintiff

MINEMYER that Defendant DURA-LINE. would only bid Lozon couplers to its customers. As a result, Defendants DURA-LINE and GRIMSLEY also had a fiduciary relationship with Plaintiff MINEMYER.

60. However, Defendant DURA-LINE, under the direction of Defendant GRIMSLEY, at the very time that Defendant GRIMSLEY was making such representations to Plaintiff MINEMYER, was actually engaged in an effort, by itself and in conspiracy with Defendants R-BOC and ROBERT and CAROLYN LUNDEEN, to replace the couplers produced by Plaintiff MINEMYER's company Lozon with those made by Defendants R-BOC and ROBERT and CAROLYN LUNDEEN.

61. At the very time that they were acting as Plaintiff MINEMYER's sales agent and manufacturer's representatives with its concomitant fiduciary relationship, and also in conspiracy with each other, Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY breached that relationship.

62. Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY engaged in the activities set forth in the prior paragraphs for the purpose of improperly obtaining for themselves the substitution of the couplers produced by Defendants R-BOC, ROBERT and CAROLYN LUNDEEN for those made by Plaintiff MINEMYER They did so by violating their fiduciary duty to Plaintiff MINEMYER, acting unfaithfully to him, leading him to believe that they were representing him as his agent, all the while secretly undertaking to sell couplers produced by them as a secret substitute for those of Plaintiff MINEMYER that they had promised to be selling at this very time. In fact, Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY engaged in these activities at the very



time that they were in fact agents for Plaintiff MINEMYER and without informing him that they would no longer be his agents or representatives.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from benefiting from their breaches of their fiduciary duties to Plaintiff MINEMYER. Plaintiff seeks an award of compensatory and punitive damages and his attorney's fees and costs in pursuing this suit.

**COUNT IX: VIOLATION OF THE ILLINOIS COMMON  
LAW OF TORTIOUS INTERFERENCE WITH AND  
MISAPPROPRIATION OF COMMERCIAL ADVANTAGE  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY)**

63. Plaintiff restates and realleges paragraphs 12 to 62 above.

64. Plaintiff MINEMYER achieved a high degree of acceptance of his (i.e., Lozon's) couplers in the marketplace because of the coupler's innovative, patented construction that has proved especially useful in the extreme conditions in which they would find use.

65. The unique appearance of Plaintiff MINEMYER's couplers served to identify them to the purchasing public which has come to recognize this appearance as an indication of the couplers' quality, source, and origin and having Plaintiff MINEMYER's approval. The appearance also gave assurances that the couplers had unique properties and had passed vigorous testing required by their ultimate purchasers and users.

66. Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY previously promoted and sold to others Plaintiff MINEMYER's couplers incorporating their patented features and unique, identifying design.

67. Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY then substituted “knock-off” couplers that they had made incorporating Lozon’s unique design features and patented improvements, thus duplicating the couplers from Plaintiff MINEMYER that they had previously sold to their customers.

68. Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY engaged in the activities set forth in the prior paragraphs and in the prior counts for the purpose of improperly obtaining for themselves the commercial advantage achieved by Plaintiff MINEMYER through the sale of his distinct and patented couplers that had undergone and passed vigorous testing.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from repeating their violations of the Illinois common law of misappropriation of commercial advantage. Furthermore, Plaintiff seeks an award of compensatory and punitive damages and his attorney’s fees and costs in pursuing this suit.

**COUNT X: UNJUST ENRICHMENT  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY)**

69. Plaintiff restates and realleges paragraphs 12 to 68 above.

70. Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY have unjustly benefited and been enriched to Plaintiff MINEMYER’s detriment.

71. Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY have deliberately and wrongfully made couplers covered by Plaintiff MINEMYER’s patent, used Plaintiff MINEMYER’s trade secret and other confidential information to make such couplers, and made couplers strikingly similar to and displaying the

nonfunctional trade-dress features of Plaintiff MINEMYER's couplers. Defendants did so to make purchasers and users believe that such couplers had their origin with Plaintiff MINEMYER and had passed the tests that the couplers from Plaintiff MINEMYER had. Further, they did so by breaching their fiduciary duty to Plaintiff MINEMYER.

72. Defendants' retention of such benefits would be manifestly unjust.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from (1) engaging in any further conduct that would lead customers to believe that couplers they are selling have their origin or approval from Plaintiff MINEMYER or (2) misappropriating Plaintiff MINEMYER's trade secrets. Additionally, Plaintiff MINEMYER seeks an order of this Court directing Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY to disgorge the value of the benefits they wrongfully obtained by engaging in the foregoing misconduct. Furthermore, Plaintiff seeks an award of compensatory and punitive damages and his attorney's fees and costs in pursuing this suit.

**COUNT XI: VIOLATION OF THE ILLINOIS  
COMMON LAW OF BREACH OF IMPLIED DUTY  
OF GOOD FAITH AND FAIR DEALING  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY)**

73. Plaintiff restates and realleges paragraphs 12 to 72 above.

74. A duty of good faith and fair dealing is implied in every contract.

75. Defendants R-BOC ROBERT and CAROLYN LUNDEEN entered into manufacturer's representative and sales agent contracts with Plaintiff MINEMYER. Further,

Defendants DURA-LINE and GRIMSLEY also agreed to serve as a manufacturer's representative and sales agent for Plaintiff MINEMYER.

76. While under their respective contracts with Plaintiff MINEMYER, Defendants R-BOC ROBERT and CAROLYN LUNDEEN and Defendants DURA-LINE and GRIMSLEY commenced to secretly copy Plaintiff MINEMYER's couplers covered by the Patent and then sell the knock-off couplers to the same customers who had previously purchased the couplers from Plaintiff MINEMYER's company Lozon.

77. The wrongful conduct set forth in this count constitutes a breach Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY of their respective duties of good faith and fair dealing implied in the manufacturer's representative and sales agent contracts they had with Plaintiff MINEMYER.

78. The breaches of the implied duty of good faith and fair dealing implied in the contracts set forth above have cause actual damage and irreparable harm to Plaintiff MINEMYER.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from repeating their breaches of the implied duty of good faith and fair dealing implied in their contracts with Plaintiff MINEMYER. Furthermore, Plaintiff seek an award of compensatory and punitive damages and his attorney's fees and costs in pursuing this suit.

**COUNT XII: VIOLATION OF THE ILLINOIS  
COMMON LAW OF UNFAIR COMPETITION  
(R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE and GRIMSLEY)**

79. Plaintiff restates and realleges paragraphs 12 to 78 above.

80. The actions complained of Counts IV to XI above constitute violations of the Illinois common law of unfair competition.

Accordingly, Plaintiff MINEMYER requests this Court to temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from repeating their violations of the Illinois common law of unfair competition. Furthermore, Plaintiff seek an award of compensatory and punitive damages and his attorney's fees and costs in pursuing this suit.

### **REQUESTED RELIEF**

Accordingly, Plaintiff MINEMYER respectfully requests this Court to:

(a) Temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, GRIMSLEY, PRECISION MOLDERS, EDWARD and SANDRA KRAJECKI, LeBAC and BACKMAN from directly or contributorily infringing or inducing the infringement of the Patent of Plaintiff MINEMYER under Title 35, U.S.C., § 283;

(b) Temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from palming and passing off couplers as couplers having their source or origin with Plaintiff MINEMYER pursuant to Title 15, U.S.C, § 1116(a);

(d) Temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from further violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seqq*;

(e) Temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from further violations of the Illinois Deceptive Trade Practices Act, 815 ILCS 510/1 *et seqq*;

(e) Temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from further violations of the Illinois Trade Secrets Act, 765 ILCS 1065/1 *et seqq.*

(f) Temporarily and permanently enjoin Defendants R-BOC, ROBERT and CAROLYN LUNDEEN, DURA-LINE, and GRIMSLEY from further violations of the Illinois common law of breach of fiduciary duty, tortious interference with and misappropriation of commercial advantage, unjust enrichment, breach of the implied duty of good faith and fair dealing, and unfair competition.

(g) Direct that an accounting be undertaken to determine Plaintiff's damages including Defendants' profits;

(h) Pay Plaintiff MINEMYER exemplary and punitive damages in an as yet undetermined amount;

(i) Pay Plaintiff MINEMTER his costs and attorney fees for this action; and

(j) Grant such other relief as is just and appropriate.

Plaintiff demands a jury trial in this matter on all issues triable to a jury.

Respectfully submitted,

/s/ Eugene F. Friedman  
One of Plaintiff's Attorneys

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