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10 Attorneys for Plaintiff

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 Rillito River Solar, LLC dba EcoFasten Solar, an
14 Arizona limited liability company,

Case No. 2:16-cv-03245-DLR

15 Plaintiff,

FIRST AMENDED COMPLAINT

16 v.

17 Wencon Development, Inc. dba Quick Mount PV,
18 a California corporation,

19 Defendant.

20 Plaintiff Rillito River Solar LLC, doing business as EcoFasten Solar (“EcoFasten”), for
21 its first amended complaint against defendant Wencon Development Inc., doing business as
22 Quick Mount PV (“Quick Mount”), alleges as follows:

NATURE OF THE ACTION

23 This is a patent infringement action. EcoFasten and Quick Mount manufacture and
24 market roof mounts for solar panels. In the relatively new residential solar panel market, Plaintiff
25 EcoFasten is the market leader. EcoFasten has developed unique, novel, and innovative
26 inventions that allow solar panels to be installed on roofs while avoiding roof leaks and roof
27 degradation that are associated with other solar panel roof mounts. EcoFasten holds U.S. Patents,
28 issued as early as 2003, protecting its roof mount inventions.

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1 Defendant Quick Mount willfully infringes, induces infringement, and contributes to
2 infringement of EcoFasten’s patents by making, using, selling, and offering to sell roof mounts
3 that misappropriate EcoFasten’s novel and innovative patented inventions. EcoFasten brings this
4 action to enjoin Quick Mount from infringing its patents and to recover damages adequate to
5 compensate for infringement, including but not limited to a reasonable royalty, and treble
6 damages for Quick Mount’s willful infringement. Further, Quick Mount should be made to
7 disgorge its illegal profits made through infringing EcoFasten’s patents.

8 **PARTIES**

9 1. EcoFasten is an Arizona limited liability company with its principal place of
10 business in Maricopa County, Arizona.

11 2. Quick Mount is a California corporation with its principal place of business in
12 Contra Costa County, California.

13 **JURISDICTION**

14 3. This Court has subject matter jurisdiction over EcoFasten’s claims under 28 U.S.C.
15 §§ 1331 and 1338(a) because this action is for patent infringement and arises under the patent
16 laws of the United States, Title 35, Sections 271 *et seq.* of the United States Code.

17 4. Quick Mount ships and sells products nationwide, including in Arizona.

18 5. Quick Mount advertises its products nationwide, including in Arizona.

19 6. Quick Mount maintains a network of distributors nationwide that stock its products,
20 including at least three distributors in Arizona.

21 7. As a result, this Court has personal jurisdiction over Quick Mount.

22 8. Venue is proper in this district under 28 U.S.C. § 1391(b)-(c) because a substantial
23 part of the events or omissions giving rise to EcoFasten’s claims occurred in this District.

24 **FACTS**

25 **EcoFasten’s principal invents novel roof mounts for snow guards and solar panels.**

26 9. In the 1990s, Brian C. Stearns was a roofer specializing in slate roofs, working
27 primarily in New England.
28

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1 10. Mr. Stearns frequently installed snow guards on roofs to prevent snow from falling
2 off roofs in large quantities, which can cause property damage and personal injury.

3 11. Installation of snow guards typically involves drilling holes in the roof in order to
4 mount the guard. Holes naturally increase a roof's susceptibility to leaks.

5 12. Mr. Stearns observed a need for a new kind of roof mount that would be
6 substantially leak proof. He began experimenting with possible solutions.

7 13. Ultimately, Mr. Stearns (along with Alan L. Stearns) developed a unique leak-proof
8 roof mount. The invention includes in relevant part (but is not limited to): a roof mount
9 comprising: (1) a base member including a protrusion extending from a first surface of the base
10 member, the base member including a connecting element; (2) an attachment mount defining a
11 hollowed region for receiving the protrusion to form a compression fitting, wherein a
12 substantially leak proof assembly is formed when the attachment mount is coupled to the base
13 member by the connecting element with a sealing material placed between the attachment mount
14 and the base member and the connecting element extends through the sealing material; and (3) a
15 spacer for extending the base member to a roof surface, the spacer including a hollow base stand.

16 14. The Stearns' invention is described in the duly and legally issued U.S. Patent No.
17 6,526,701 (the "'701 Patent").

18 15. In the mid-2000s, solar panel installers started calling Mr. Stearns to ask if his roof
19 mounts and flashings could be used for installing rooftop solar arrays.

20 16. Mr. Stearns responded to the market need by forming EcoFasten and marketing his
21 mounts to the solar industry. The '701 Patent has been validly assigned to the company.

22 17. Meanwhile, Mr. Stearns continued to innovate superior roof mounts for snow
23 guards and solar panels.

24 18. Working with Alexander G. Bornemann, Mr. Stearns developed a new tile roof
25 mount. The invention includes in relevant part (but is not limited to): a roof mounting system
26 mounted to roofing tile, operable to support one or more components on the roof, comprising (1)
27 a first bracket portion including a first elongate portion, a first hook portion and a first leg
28 opposite the first hook portion, the first hook portion configured to engage a first side of the

1 roofing tile, (2) a second bracket portion including a second elongate portion, a second hook
2 portion and a second leg opposite the second hook portion, the second hook portion configured
3 to engage a second side of the roofing tile; (3) a slotted plate engageable with the first and the
4 second legs to connect the first and the second bracket portions, and (4) a standoff configured to
5 support one or more components on the roof.

6 19. Mr. Stearns and Mr. Bornemann's invention is described in the duly and legally
7 issued U.S. Patent No. 9,010,038 (the "'038 Patent").

8 20. Like the '701 Patent, the '038 Patent has been validly assigned to EcoFasten.

9 21. Mr. Stearns also worked with Douglas Lounsbury to develop another new roof
10 mount iteration. This invention includes in relevant part (but is not limited to): a roof mount
11 assembly for mounting a structure to a roof, the roof comprising at least one rafter and a
12 substrate at least partially covering at least one rafter, the roof mount assembly comprising (1)
13 flashing configured to be positioned on the substrate, the flashing including a first surface
14 configured to be located adjacent the substrate and a second surface opposite the first surface, the
15 first and second surfaces defining a projection that is configured to extend away from the
16 substrate in response to being positioned on the substrate, the projection including an aperture
17 extending therethrough, (2) a bracket configured to be positioned on the second surface with the
18 projection received by an aperture of the bracket, the bracket is configured to be coupled to the
19 structure, (3) a fastener extending through the apertures of the bracket and the flashing, the
20 fastener configured to secure the bracket to the flashing and the substrate, (4) a washer
21 configured to form a water-tight seal to inhibit flow of fluid through the aperture of the flashing
22 to the substrate, the washer including a first portion, a second portion, and an aperture extending
23 through the first and second portions, and (5) the fastener extends through the aperture of the
24 washer such that the washer is positioned between the fastener and the bracket.

25 22. The invention also includes in relevant part (but is not limited to): a method of
26 mounting a roof mount assembly to a roof, the roof including at least one rafter and a substrate at
27 least partially covering the at least one rafter, comprising: (1) positioning flashing and a bracket
28 on the roof such that the flashing is positioned between the roof and the bracket, the flashing

1 including a projection that extends away from the roof in response to the positioning and the
2 bracket includes an aperture of the bracket that receives the projection in response to the bracket
3 being positioned on the flashing; (2) extending a fastener through the flashing and the bracket
4 and into the at least one rafter; (3) positioning a washer between a portion of the fastener and the
5 bracket, wherein the washer includes a first portion, a second portion, and an aperture of the
6 washer extending through the first portion and the second portion; (4) retaining the flashing, the
7 bracket, and the washer on the roof with the fastener; and (5) compressing the first portion of the
8 washer against a surface of the bracket with the fastener to form a seal therebetween inhibiting
9 fluid flow through the flashing.

10 23. Mr. Stearns and Mr. Lounsbury's invention is described in the duly and legally
11 issued U.S. Patent No. 9,422,723 (the "'723 Patent").

12 24. Like the '701 Patent and the '038 Patent, the '723 Patent has been validly assigned
13 to EcoFasten. The '701 Patent, the '038 Patent, and the '723 Patent are collectively referenced
14 herein as "the EcoFasten Patents."

15 25. EcoFasten currently manufactures and sells products embodying each of its novel
16 and innovative patented inventions. These products are marked with the relevant patent number,
17 providing notice to the public (including defendant Quick Mount) of EcoFasten's patented
18 inventions.

19 **Quick Mount infringes the EcoFasten Patents.**

20 26. Quick Mount is a competitor of EcoFasten. It started selling roof mounts in the mid-
21 2000s, after Mr. Stearns had already patented his first novel, innovative, and unique roof mount.

22 27. Among Quick Mount's products is the QBlock line of products.

23 28. The QBlock line (and other similar products offered under different names) uses all
24 of the same elements as the apparatus patented in the '701 Patent, including (but not limited to)
25 the fact that it is a roof mount, comprising: (1) a base member including a protrusion extending
26 from a first surface of the base member, the base member including a connecting element; (2) an
27 attachment mount defining a hollowed region for receiving the protrusion to form a compression
28 fitting, wherein a substantially leak proof assembly is formed when the attachment mount is

1 coupled to the base member by the connecting element with a sealing material placed between
2 the attachment mount and the base member and the connecting element extends through the
3 sealing material; and (3) a spacer for extending the base member to a roof surface, the spacer
4 including a hollow base stand.

5 29. Quick Mount also manufactures the Conduit Mount for Tile.

6 30. The Conduit Mount for Tile (and other similar products offered under different
7 names) uses all of the same elements as the apparatus patented in the '038 Patent, including (but
8 not limited to) the fact that it is a roof mounting system mounted to roofing tile, operable to
9 support one or more components on the roof, comprising (1) a first bracket portion including a
10 first elongate portion, a first hook portion and a first leg opposite the first hook portion, the first
11 hook portion configured to engage a first side of the roofing tile, (2) a second bracket portion
12 including a second elongate portion, a second hook portion and a second leg opposite the second
13 hook portion, the second hook portion configured to engage a second side of the roofing tile; (3)
14 a slotted plate engageable with the first and the second legs to connect the first and the second
15 bracket portions, and (4) a standoff configured to support one or more components on the roof.

16 31. Also among Quick Mount's products is the Quick Rack Rail-Free Mounting
17 System.

18 32. The Quick Rack Rail-Free Mounting System (and other similar products offered
19 under different names) uses all of the same elements as the apparatus patented in the '723 Patent,
20 including (but not limited to) the fact that it is a roof mount assembly for mounting a structure
21 to a raftered roof with substrate at least partially covering the at least one rafter, comprising (1) a
22 flashing configured to be positioned on the substrate, the flashing including a first surface
23 configured to be located adjacent the substrate and a second surface opposite the first surface, the
24 first and second surfaces defining a projection that is configured to extend away from the
25 substrate in response to being positioned on the substrate, the projection including an aperture
26 extending therethrough, (2) a bracket configured to be positioned on the second surface with the
27 projection received by an aperture of the bracket, the bracket is configured to be coupled to the
28 structure, (3) a fastener extending through the apertures of the bracket and the flashing, the

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1 fastener configured to secure the bracket to the flashing and the substrate, (4) a washer
2 configured to form a water-tight seal to inhibit flow of fluid through the aperture of the flashing
3 to the substrate, the washer including a first portion, a second portion, and an aperture extending
4 through the first and second portions, and (5) the fastener extends through the aperture of the
5 washer such that the washer is positioned between the fastener and the bracket.

6 **Quick Mount induces and contributes to infringement of the EcoFasten Patents.**

7 33. Quick Mount sells most of its products through distributors, who in turn sell
8 primarily to contractors that install the products on property owners' roofs.

9 34. Quick Mount has actual notice of the '701 Patent. This notice was provided on each
10 and every EcoFasten product that embodies the patented invention.

11 35. In addition, Quick Mount received actual notice that the sale of the QBlock line of
12 products (and other similar products offered under different names) infringe the '701 Patent on
13 September 23, 2016, when it received a copy of the initial complaint in this action.

14 36. Despite having notice of the '701 Patent and that the sale of the QBlock line of
15 products (and other similar products offered under different names) infringes that patent, Quick
16 Mount has continued to sell these products for re-sale and use by others.

17 37. Quick Mount has actual notice of the '038 Patent. This notice was provided no later
18 than September 23, 2016 when Quick Mount received a copy of the initial complaint in this
19 action.

20 38. In addition, Quick Mount received actual notice that the sale of the Conduit Mount
21 for Tile (and other similar products offered under different names) infringe the '038 Patent on
22 September 23, 2016, when it received a copy of the initial complaint in this action.

23 39. Despite having notice of the '038 Patent and that the sale of the Conduit Mount for
24 Tile (and other similar products offered under different names) infringes that patent, Quick
25 Mount has continued to sell these products for re-sale and use by others.

26 40. Quick Mount has actual notice of the '723 Patent. This notice was provided no later
27 than September 23, 2016 when Quick Mount received a copy of the initial complaint in this
28 action.

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1 41. When installed, the Quick Rack Rail-Free Mounting System (and other similar
2 products offered under different names) practices all the same elements as the method patented
3 in the '723 Patent, including (but not limited to) the fact that it is a method of mounting a roof
4 mount assembly to a roof, the roof including at least one rafter and a substrate at least partially
5 covering the at least one rafter, comprising: (1) positioning flashing and a bracket on the roof
6 such that the flashing is positioned between the roof and the bracket, the flashing including a
7 projection that extends away from the roof in response to the positioning and the bracket includes
8 an aperture of the bracket that receives the projection in response to the bracket being positioned
9 on the flashing; (2) extending a fastener through the flashing and the bracket and into the at least
10 one rafter; (3) positioning a washer between a portion of the fastener and the bracket, wherein the
11 washer includes a first portion, a second portion, and an aperture of the washer extending
12 through the first portion and the second portion; (4) retaining the flashing, the bracket, and the
13 washer on the roof with the fastener; and (5) compressing the first portion of the washer against a
14 surface of the bracket with the fastener to form a seal therebetween inhibiting fluid flow through
15 the flashing.

16 42. Quick Mount has actual notice that the sale and installation of the Quick Rack Rail-
17 Free Mounting System (and other similar products offered under different names) infringes the
18 '723 Patent since at least September 23, 2016 when it received a copy of the initial complaint in
19 this action.

20 43. Despite having notice of the '723 Patent and that the sale and installation of the
21 Quick Rack Rail-Free Mounting System (and other similar products offered under different
22 names) infringes that patent, Quick Mount has continued to sell these products for re-sale,
23 installation, and use by others.

24 44. Quick Mount has actual knowledge that its products are installed in a manner that
25 infringes the method set forth in the '723 Patent.

26 45. There are no substantial non-infringing uses of the Quick Rack Rail-Free Mounting
27 System, Conduit Mount, or QBlock line of products.
28

COUNT ONE: INFRINGEMENT OF THE '701 PATENT

1
2 46. EcoFasten incorporates by reference the previous allegations in the complaint.

3 47. The '701 Patent is valid and enforceable.

4 48. Quick Mount has, without authority, consent, right, or license, and in direct
5 infringement of the '701 Patent, made, used, offered for sale, and/or sold apparatus protected by
6 the '701 Patent.

7 49. Quick Mount has actual notice of the '701 Patent. This notice was provided on each
8 and every EcoFasten product that embodies the patented invention. Despite having notice of the
9 Patent, Quick Mount continues to manufacture and sell its infringing products. Quick Mount's
10 infringing conduct is therefore: willful, intentional, unlawful and, upon information and belief,
11 will continue unless enjoined by this Court.

12 50. EcoFasten has no adequate remedy at law for the harm caused by Quick Mount's
13 acts.

14 51. EcoFasten has suffered monetary damages in an amount to be proven at trial.

15 52. EcoFasten is entitled to an accounting by Quick Mount of funds comprising all
16 revenues received through the commercial exploitation of its infringing products, the imposition
17 of a constructive trust for the benefit of EcoFasten for all such funds in the custody or control of
18 Quick Mount, the assessment of a reasonable royalty for Quick Mount's use of EcoFasten's
19 invention, and to all other damages to which EcoFasten may be entitled.

20 **COUNT TWO: INFRINGEMENT OF THE '038 PATENT**

21 53. EcoFasten incorporates by reference the previous allegations in the complaint.

22 54. The '038 Patent is valid and enforceable.

23 55. Quick Mount has, without authority, consent, right, or license, and in direct
24 infringement of the '038 Patent, made, used, offered for sale, and/or sold apparatus protected by
25 the '038 Patent.

26 56. Quick Mount has actual notice of the '038 Patent. This notice was provided no later
27 than September 23, 2016 when Quick Mount received a copy of the initial complaint in this
28 action. Despite having notice of the Patent, Quick Mount continues to manufacture and sell its

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1 infringing products. Quick Mount’s infringing conduct is therefore: willful, intentional, unlawful
2 and, upon information and belief, will continue unless enjoined by this Court.

3 57. EcoFasten has no adequate remedy at law for the harm caused by Quick Mount’s
4 acts.

5 58. EcoFasten has suffered monetary damages in an amount to be proven at trial.

6 59. EcoFasten is entitled to an accounting by Quick Mount of funds comprising all
7 revenues received through the commercial exploitation of its infringing products, the imposition
8 of a constructive trust for the benefit of EcoFasten for all such funds in the custody or control of
9 Quick Mount, the assessment of a reasonable royalty for Quick Mount’s use of EcoFasten’s
10 invention, and to all other damages to which EcoFasten may be entitled.

11 **COUNT THREE: INFRINGEMENT OF THE ’723 PATENT**

12 60. EcoFasten incorporates by reference the previous allegations in the complaint.

13 61. The ’723 Patent is valid and enforceable.

14 62. Quick Mount has, without authority, consent, right, or license, and in direct
15 infringement of the ’723 Patent, made, used, offered for sale, and/or sold apparatus protected by
16 the ’723 Patent.

17 63. Quick Mount has actual notice of the ’723 Patent. This notice was provided no later
18 than September 23, 2016 when Quick Mount received a copy of the initial complaint in this
19 action. Despite having notice of the Patent, Quick Mount continues to manufacture and sell its
20 infringing products. Quick Mount’s infringing conduct is therefore: willful, intentional, unlawful
21 and, upon information and belief, will continue unless enjoined by this Court.

22 64. EcoFasten has no adequate remedy at law for the harm caused by Quick Mount’s
23 acts.

24 65. EcoFasten has suffered monetary damages in an amount to be proven at trial.

25 66. EcoFasten is entitled to an accounting by Quick Mount of funds comprising all
26 revenues received through the commercial exploitation of its infringing products, the imposition
27 of a constructive trust for the benefit of EcoFasten for all such funds in the custody or control of
28

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1 Quick Mount, the assessment of a reasonable royalty for Quick Mount's use of EcoFasten's
2 invention, and to all other damages to which EcoFasten may be entitled.

3 **COUNT FOUR: INDUCED INFRINGEMENT OF THE '701 PATENT**

4 67. EcoFasten incorporates by reference the previous allegations in the complaint.

5 68. The '701 Patent is valid and enforceable.

6 69. Quick Mount has actual notice of the '701 Patent and actual notice that its products
7 infringe that Patent.

8 70. Despite having notice of the Patent, Quick Mount continues to sell its infringing
9 products to others for resale and use, which in turn infringes the '701 Patent. Quick Mount's
10 conduct is therefore: willful, intentional, unlawful and, upon information and belief, will
11 continue unless enjoined by this Court.

12 71. EcoFasten has no adequate remedy at law for the harm caused by Quick Mount's
13 acts.

14 72. EcoFasten has suffered monetary damages in an amount to be proven at trial.

15 **COUNT FIVE: INDUCED INFRINGEMENT OF THE '038 PATENT**

16 73. EcoFasten incorporates by reference the previous allegations in the complaint.

17 74. The '038 Patent is valid and enforceable.

18 75. Quick Mount has actual notice of the '038 Patent and actual notice that its products
19 infringe that Patent.

20 76. Despite having notice of the Patent, Quick Mount continues to sell its infringing
21 products to others for resale and use, which in turn infringes the '038 Patent. Quick Mount's
22 conduct is therefore: willful, intentional, unlawful and, upon information and belief, will
23 continue unless enjoined by this Court.

24 77. EcoFasten has no adequate remedy at law for the harm caused by Quick Mount's
25 acts.

26 78. EcoFasten has suffered monetary damages in an amount to be proven at trial.

27 **COUNT SIX: INDUCED INFRINGEMENT OF THE '723 PATENT**

28 79. EcoFasten incorporates by reference the previous allegations in the complaint.

1 80. The '723 Patent is valid and enforceable.

2 81. Quick Mount has actual notice of the '723 Patent and actual notice that its products
3 infringe that Patent.

4 82. Despite having notice of the Patent, Quick Mount continues to sell its infringing
5 products to others for resale and use, which in turn infringes the '723 Patent. Quick Mount's
6 conduct is therefore: willful, intentional, unlawful and, upon information and belief, will
7 continue unless enjoined by this Court.

8 83. EcoFasten has no adequate remedy at law for the harm caused by Quick Mount's
9 acts.

10 84. EcoFasten has suffered monetary damages in an amount to be proven at trial.

11 **COUNT SEVEN: CONTRIBUTORY INFRINGEMENT OF THE '723 PATENT**

12 85. EcoFasten incorporates by reference the previous allegations in the complaint.

13 86. The '723 Patent is valid and enforceable.

14 87. Quick Mount has actual notice of the '723 Patent and actual notice that its products,
15 when installed, infringe that Patent.

16 88. Despite having notice of the Patent, Quick Mount continues to sell its infringing
17 products to others for installation, which in turn infringes the '723 Patent.

18 89. Quick Mount's conduct is therefore: willful, intentional, unlawful and, upon
19 information and belief, will continue unless enjoined by this Court.

20 90. There are no substantial non-infringing uses of the infringing products.

21 91. EcoFasten has no adequate remedy at law for the harm caused by Quick Mount's
22 acts.

23 92. EcoFasten has suffered monetary damages in an amount to be proven at trial.

24 **JURY DEMAND**

25 EcoFasten requests a trial by jury on all issues so triable.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, EcoFasten prays for relief and judgment against Quick Mount, as
28 follows:

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1 A. For a judicial determination and a declaration that the EcoFasten Patents are valid
2 and enforceable;

3 B. For a preliminary and then permanent injunction issued against Quick Mount, its
4 agents, officers, directors, employees, attorneys, successors and assigns, all parent and subsidiary
5 entities, and all those acting for or on the behalf of Quick Mount, or in active concert,
6 participation, or combination with them, including customers and distributors, prohibiting Quick
7 Mount from:

- 8 i. Continuing acts of infringement of the EcoFasten Patents;
- 9 ii. Making, using, selling, and/or importing infringing products, to include any
10 colorable imitation thereof;
- 11 iii. Inducing others to infringe the EcoFasten Patents;
- 12 iv. Contributing to infringement of the EcoFasten Patents;
- 13 v. Otherwise infringing up the EcoFasten Patents.

14 C. A judicial determination and a declaration that Quick Mount has infringed the
15 EcoFasten Patents under 35 U.S.C. § 271, and final judgment incorporating the same;

16 D. That an Order issue from this Court requiring Quick Mount, its officers, agents,
17 servants and employees, to deliver up to this Court for destruction all articles and materials
18 infringing upon the EcoFasten Patents and all materials for reproducing such infringing products;

19 E. That Quick Mount be required to file with the Court within thirty (30) days after
20 entry of an injunctive order or final judgment a written statement under oath setting forth the
21 manner in which Quick Mount has complied with the order or final judgment;

22 F. Directing Quick Mount to account for, and awarding to EcoFasten, all gains and
23 profits realized through, and damages caused by, Quick Mount's manufacture, production,
24 distribution, circulation, sale, offering for sale, advertising, promotion or display of its products
25 infringing upon the EcoFasten Patents, and Quick Mount's total profit realized thereby;

26 G. Awarding EcoFasten its damages sustained due to Quick Mount's infringement of
27 the EcoFasten Patents;

28

1 H. In the alternative, ordering Quick Mount to pay EcoFasten all profits, gains, and
2 advantages Quick Mount has received or obtained from their unlawful conduct, in an amount to
3 be determined at trial;

4 I. In the alternative, that a reasonable royalty for Quick Mount’s infringement be
5 awarded to EcoFasten pursuant to 35 U.S.C. § 284;

6 J. That, due to Quick Mount’s willful infringement, Quick Mount be ordered to pay
7 EcoFasten treble damages and EcoFasten’s reasonable attorneys’ fees and experts’ fees pursuant
8 to 35 U.S.C. § 285;

9 K. An award of the costs of this action, including pre- and post-judgment interest,
10 pursuant to 35 U.S.C. § 284; and

11 L. For such other and further relief as this Court deems necessary, just and proper
12 under the circumstances.

13
14 DATED this 21st day of November, 2016.

15
16 KERCSMAR & FELTUS PLLC

17 By: s/ Sean J. O’Hara

18 Gregory B. Collins

19 Sean J. O’Hara

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22 Attorneys for Plaintiff
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CERTIFICATE OF SERVICE

1 I certify that on November 21, 2016, I electronically transmitted the foregoing to the
2 Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic
3 Filing to the following:

4 Stephen L. Davis
5 DAVIS & LEONARD LLP
6 8880 Cal Center Drive, Suite 180
7 Sacramento, California 95826

8 Daniel Dowd
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11 2425 East Camelback Road, Suite 1100
12 Phoenix, Arizona 85016
13 *Attorneys for Defendant*

14 *s/ Kelli Dunlap* _____

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