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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DESCENT CONTROL SYSTEMS, INC.,
a Utah corporation,

Plaintiff,

vs.

STRATEGIX, LLC
a Florida limited liability company,

Stacey Biddix
managing member of Strategix, LLC,

Steven B. Ostrowski
an individual, and

Thomas E. Biddix
an individual,

Defendants.

Civil Action No. _____

Judge _____

**COMPLAINT
AND
JURY DEMAND**

Plaintiff, Paramed Systems International, Inc., by and through their attorneys,
complaining of the Defendants, seeks declaratory relief and other relief and alleges:

JURISDICTION, VENUE

This action arises under the patent and unfair competition laws of the United States. 35 U.S.C. § 1 *et seq.*, 15 U.S.C. § 1051 *et seq.* Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1337, 1338 and 2201. Pendent state law claims for breach of contract and for interference with contractual relations and economic potential arising from the same operative facts are included. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400.

PARTIES

1. Plaintiff, Descent Control Systems, Inc. (d/b/a Paramed Systems) (“Paramed Systems”), is a Utah corporation organized and operating under the laws of the State of Utah with a principal place of business at 8100 South 1300 West, Suite D, Utah, 84088. Paramed Systems designs, develops, produces, manufactures, markets, sells and distributes emergency evacuation, safety, and home healthcare devices, equipment, accessories and services. Paramed Systems’ business is worldwide, including the state of Utah and this judicial District.

2. Upon information and belief, Defendant, Strategix, LLC (“Strategix”), is a Florida limited liability company having an address at 688 Carriage Hill Road, Melbourne, Florida, 32940.

3. Upon information and belief, Defendant, Steven B. Ostrowski, is an individual residing in Toronto, Ontario, Canada, and is a citizen of Canada.

4. Upon information and belief, Defendant, Thomas E. Biddix, is an individual residing in Florida.

5. Upon information and believe, Defendant, Stacey Biddix, is an individual residing in Florida and is managing member of Defendant Strategix, LLC.

6. Strategix, Steven B. Ostrowski, Thomas E. Biddix, and Stacey Biddix shall be referred to collectively as “Defendants.”

GENERAL ALLEGATIONS

7. Nathan R. Walkingshaw originally founded Paramed Systems. Paramed Systems designs, develops, produces, manufactures, markets, sells and distributes emergency evacuation, safety, and home healthcare devices, equipment, accessories, and services. In approximately April 2006, Nathan Walkingshaw contacted Steven Ostrowski about developing a new product to service the emergency evacuation market, including hospital and nursing home evacuation, as well as for providing temporary surge capacity for such facilities upon evacuation or otherwise.

8. In the course of communications between Steven Ostrowski and Nathan Walkingshaw regarding this project, Steven Ostrowski represented that he was vice president of Strategix, LLC. During this period of time, Thomas Biddix was managing member of Strategix, and he was included in or copied on many of the communications between Steven Ostrowski and Nathan Walkingshaw. Steven Ostrowski in fact was an employee of Strategix.

9. Upon agreement between the parties to work together to create the new product, Nathan Walkingshaw communicated some initial concepts and design requirements for the evacuation sled and temporary surge capacity bed to Steven Ostrowski, and Steven Ostrowski began working within Nathan Walkingshaw’s design parameters to design the product. As the product was designed, Nathan Walkingshaw forwarded ongoing concepts, design requirements, and changes to Steven Ostrowski for incorporation into the final design. The parties planned on seeking patent protection for the product, and agreed at that time that Nathan Walkingshaw and Steven Ostrowski would be listed as co-inventors on any patent applications filed to protect the

product. The product would eventually become known as the Paraslyde® patient evacuation sled.

10. Preparation of a provisional patent application covering the Paraslyde evacuation sled was initiated toward the end of April 2006. The provisional application named Steven B. Ostrowski and Nathan R. Walkingshaw as co-inventors of the disclosed invention.

11. In May, 2006, the parties participated in negotiations to reach a memorandum of understanding (“MOU”) and an associated assignment of the patent rights to Paramed Systems. On approximately May 15, 2006, the MOU was signed between Paramed Systems and Strategix, along with assignments of the patent rights from Steven Ostrowski, Nathan Walkingshaw, and Strategix to Paramed Systems. The MOU was signed by Nathan Walkingshaw as President of Paramed Systems and by Steven Ostrowski as V.P. Principle of Strategix, while the assignments were signed by Nathan Walkingshaw and Steven Ostrowski as inventors and again by Steven Ostrowski as Vice President for Strategix.

12. The assignment on the part of Steven Ostrowski and Strategix (the Ostrowski/Strategix assignment”) recited as consideration exclusive manufacturing rights to the invention. The MOU, which was negotiated and signed together with the Ostrowski/Strategix assignment, recited, discussed, and elaborated upon the exclusive manufacturing rights that were conveyed as consideration for the assignment of intellectual property rights to the Paraslyde evacuation sled. The MOU and the Ostrowski/Strategix assignment were drafted together, the rights assigned and set forth in the written Ostrowski/Strategix assignment were specifically addressed in the MOU in connection with the conveyance of manufacturing rights, and the Ostrowski/Strategix assignment and MOU were signed together. In fact, Steven Ostrowski, in an e-mail dated May 12, 2006, specifically instructed that “the MOU should assign worldwide

exclusive manufacturing rights to Strategix LLC from . . . Paramed” and, immediately thereafter, that the Ostrowski/Strategix assignment “should identify the worldwide exclusive manufacturing rights as being the ‘good and valuable consideration’ for which the patent rights are being assigned.”

13. In the MOU, Paramed Systems agreed that Strategix would be the exclusive manufacturer of the Paraslyde patient evacuation sled during the term of the MOU. The MOU indicated that the term of the MOU would be for two years, beginning on the date of first delivery of the Paraslyde sled. According to paragraph 5 (Termination) of the MOU, the MOU could be terminated by either Paramed or Strategix by way of a 90-day written notice, after which Paramed Systems agreed to pay Strategix “a 5% royalty on the net sales of any Paramed Hospital Patient Evacuation Sled sold by Paramed [Systems] and not supplied by Strategix, LLC.” Neither the Ostrowski/Strategix assignment nor the MOU indicated that any rights in the intellectual property would be provided by Paramed Systems to any party upon termination of the MOU other than this royalty stream.

14. The provisional patent application was filed as U.S. Provisional Patent Application Serial No. 60/811,253 on June 6, 2006 in the names of Nathan R. Walkingshaw and Steven B. Ostrowski, as co-inventors.

15. The first delivery of the Paraslyde product was made to Paramed Systems in approximately July 2006, beginning the two-year term of the MOU.

16. The Paraslyde was a commercial success, and Paramed Systems decided to file a utility patent application in December, 2006. The utility patent application was filed on December 28, 2006 as U.S. Patent Application Serial No. 11/617,061, in the names of Nathan R. Walkingshaw and Steven B. Ostrowski, as co-inventors. As part of that filing, Steven Ostrowski

and Nathan Walkingshaw both signed a declaration dated December 27, 2006, stating under penalty of fine or imprisonment that each believed that both were the co-inventors of the subject matter claimed in the patent application.

17. As filed, the utility patent application included twenty claims directed to aspects of an evacuation sled, to accessories for use with the evacuation sled, and to manners of using the evacuation sled. The claims included features designed by Steven Ostrowski during the Paraslyde evacuation sled design process and also included features and concepts originally conceived by Nathan Walkingshaw.

18. The utility patent application issued on September 9, 2008 as U.S. Patent No. 7,422,220 (the “‘220 patent”). As issued, the ‘220 patent included twenty claims. The twenty issued claims were the twenty claims originally filed, without any amendments except an amendment filed on the date of filing of the application changing the word “polyethylene” to “polypropylene” in three dependent claims. Thus, the subject matter of the issued claims matched the subject matter addressed in the original declaration by the inventors that indicated their belief that both were the co-inventors of the claimed subject matter.

19. Prior to the ‘220 patent’s issuance, Paramed Systems began to have problems with Strategix as the sole manufacturer of the Paraslyde evacuation sled. As early as December 2006, Strategix had difficulty in manufacturing and delivering sufficient amounts of product to meet the demand that Paramed Systems was receiving for the Paraslyde evacuation sled. Additionally, the success of the Paraslyde evacuation sled in the market was harmed by unprofessional conduct caused by Defendants. For example, in at least one instance, product was directly shipped to Paramed Systems customers by Strategix that included invoices showing Strategix’s procurement cost, which was well below the cost charged and quoted to the

customers. Such conduct caused the loss of customers and business that would have benefitted both Paramed Systems and Strategix.

20. Due to supply problems and/or unprofessional conduct of Defendants, some customers or potential customers of Paramed Systems were lost and/or demanded significant price reductions of Paramed Systems. This significant downward pressure on prices required Paramed Systems to request price reductions from Defendants, and when Defendants refused to reduce prices, an opportunity for competitors to enter the marketplace was created. As competitors entered the market for evacuation sleds, Paramed Systems encountered increased pressure to meet its customers' demands. Paramed Systems believed that Strategix and Steven Ostrowski were unable to timely meet the full demand for the product, and repeatedly discussed its concerns with Strategix/Ostrowski.

21. In March 2008, Steven Ostrowski verified in an e-mail to Paramed Systems that Strategix was no longer in a position to accept and fulfill orders for the Paraslyde evacuation sled, and that he had arranged with Tom Biddix, then-managing member of Strategix, to have all orders fulfilled directly by Steven Ostrowski through Numatech Industries Inc. in Ontario, Canada. Thereafter, Paramed Systems' fulfilled orders were placed as directed by Mr. Ostrowski. However, supply and price competitiveness problems continued.

22. In the summer of 2008, Paramed Systems became aware that Tom Biddix had been indicted and that it appeared that creditors of Strategix had sued Strategix for unpaid debts. In light of the difficulties that Paramed Systems had encountered with having sufficient quantities and quality of the Paraslyde product delivered in a timely fashion, and in light of the apparent in-progress failure of Strategix, Paramed Systems determined that Strategix had an inability to provide product and that it would be in Paramed Systems' best interest not to renew

the MOU for any additional one-year terms, and that the MOU should be terminated according to the process outlined in the MOU.

23. Therefore, on July 16, 2008, Paramed Systems sent notice to Strategix, LLC at its registered address that Paramed Systems was terminating the MOU agreement effective 90 days thereafter. Paramed Systems' notice was refused and returned. After termination of the MOU, Paramed Systems began obtaining new Paraslyde evacuation sleds from a different source, and began accruing royalties on behalf of Strategix according to the terms of the MOU for post-termination of the MOU. As the MOU did not specify the date and manner of payment of the royalties to Strategix, Paramed Systems waited to make such payment until it could reasonably determine to whom such payment should be made, as it appeared to Paramed Systems that Strategix had ceased to be a going concern. As Steven Ostrowski had been merely an employee of Strategix, Paramed Systems determined that it would not be prudent to make payment of royalties due to Strategix to Steven Ostrowski individually. Therefore, Paramed Systems began accruing the royalties in escrow until it could be determined where such royalty should be paid.

24. Paramed Systems became aware that at least one default judgment had been rendered in Florida against Strategix by a creditor of Strategix (Axis Capital) in June 2008. It also appeared that several other suits had been filed against Strategix in Florida and that other default judgments were in progress. It now appears that one or more other judgments may have been entered against Strategix and/or the other Defendants in a state other than Florida.

25. Additionally, Paramed Systems learned that Thomas Biddix, previously managing member of Strategix, was being or had been investigated for fraud, and had apparently been arrested in August 2008 on charges apparently related to that investigation. Therefore, Paramed Systems was unsure to whom the royalty payments should be made, and continued to escrow the

royalty amounts until it could be determined whether such royalties should be paid to Strategix or one of Strategix's creditors.

26. Paramed Systems received a facsimile letter dated November 21, 2008 from John Lee of Heydary Hamilton in Ontario, Canada, claiming he represented Steven Ostrowski and Strategix, and demanding that Paramed Systems cease manufacturing or having the Paraslyde evacuation sled manufactured by any party other than Strategix. The letter also demanded an accounting and payment of any income related to sales of the Paraslyde evacuation sled.

27. Paramed Systems replied by return facsimile and letter that same day, indicating its position that the MOU clearly anticipated termination of the MOU and termination of the exclusive manufacturing rights granted to Strategix set forth therein. Paramed Systems also indicated its belief that it would be imprudent to provide any financial accounting or payment to any party absent proof that the payment was being made to the correct party.

28. On November 24, 2008, Paramed Systems received a facsimile letter from David G. Larkin of Fallace & Larkin in Florida, indicating that he represented Thomas Biddix and Strategix. Mr. Larkin's letter requested that Paramed Systems immediately pay any royalties under the agreement accrued after termination of the MOU. Paramed Systems responded that same day by mail and fax, indicating that it intended to comply with its obligations under the agreement, but that other parties had made demand upon Paramed Systems for such monies, and that Paramed Systems did not believe it prudent to make any accounting or royalty payment without first adjudging that the payment was made to the correct party.

29. No further communications were received by Paramed Systems from Mr. Larkin thereafter.

30. Mr. Lee of Heydary Hamilton responded in January 9, 2009, alleging that the prior assignment of rights signed by Steven Ostrowski were null and void. Mr. Lee demanded that Paramed Systems cease all manufacturing, distribution, or sales of the Paraslyde evacuation sled, discontinue any use of the subject matter of the '220 patent, cancel all patent applications thereto, and demanding documents and damages related to an alleged breach of the MOU by Paramed Systems.

31. Paramed Systems responded to Mr. Lee on January 14, 2009, reiterating Paramed Systems position that no breach of the MOU had occurred, as the MOU expressly contemplates payment of a 5% royalty to Strategix upon use of any other manufacturer of the Paraslyde evacuation sled, and therefore expressly anticipates termination of the exclusive manufacturing clause of the MOU.

32. No further communications were received by Paramed Systems from Mr. Lee thereafter.

33. In light of the default judgment granted to Axis Capital against Strategix's assets, and upon a request for payment from Axis Capital, Paramed Systems made payment of \$10,000 against its royalties then due to Strategix to Axis Capital in late 2008 or early 2009.

34. On March 25, 2009, Paramed Systems received a letter by e-mail from Jackson O. Brownlee. Mr. Brownlee indicated he represented Steven Ostrowski and Strategix, alleged that Nathan R. Walkinshaw was not an inventor of the subject matter of the '220 patent, and threatened to take one of several threatened actions depending on Paramed Systems' response. The first threatened action was suit for breach of contract, recession of the assignment of rights, an accounting, and fraud in the inducement. The second threatened action was to declare the MOU and associated assignment of rights void and to immediately start competing with Paramed

Systems. Mr. Brownlee threatened to take these actions if Paramed did not agree to pay lost profits to Strategix and Steven Ostrowski and to begin using Strategix and Steven Ostrowski as the sole manufacturer of the Paraslyde evacuation sled again.

35. In light of the difficulties previously encountered when attempting to work with Steven Ostrowski and/or Strategix in the past, including lost sales and increased competition due to poor quality product and/or untimely delivery of product, Paramed Systems decided it would not be prudent to re-enter a manufacturing relationship with Steven Ostrowski or Strategix. Therefore, Paramed Systems responded to Mr. Brownlee on March 25, 2009, indicating that Paramed Systems had begun payment of the royalty to the new owner of Strategix's assets.

36. Paramed Systems communicated with Mr. Brownlee by phone and e-mail several times between March 25, 2009 and April 27, 2009. In those communications, Mr. Brownlee alleged that Steven B. Ostrowski was the sole holder of the exclusive manufacturing rights to the invention, that the MOU had not been properly terminated, and that absent an agreement from Nathan R. Walkingshaw that he was not a co-inventor of the '220 patent, one of the counts of the complaint against Paramed Systems would be to ask the court to declare that Nathan R. Walkingshaw is not a co-inventor.

37. While Paramed Systems was communicating with the various different attorneys claiming to represent Steven Ostrowski, Thomas Biddix, and Strategix, it was learned that Thomas Biddix was representing within the marketplace for the Paraslyde that he owned the intellectual property rights to the Paraslyde evacuation sled and that litigation had been initiated to stop Paramed Systems from selling the Paraslyde evacuation sled.

38. In or after January 2009, Thomas Biddix and/or other Defendants have made or sent and continue to make or send statements to Paramed Systems's vendors, customers,

potential customers, distributors and/or to industry observers and about Paramed Systems's goods and services.

39. Some of the statements and press releases made by Thomas Biddix and/or other Defendants to Paramed Systems's vendors, customers, potential customers, distributors and/or to industry educators, observers and press about Paramed Systems's goods and services are false, and misleading.

40. The conduct of and statements by Thomas Biddix and/or other Defendants are knowing and willful and will continue to be knowing and willful unless enjoined by this Court. The conduct and statements of Thomas Biddix and/or other Defendants have caused and will continue to cause damage and irreparable harm to Paramed Systems.

41. On May 5, 2009, Strategix and Steven Ostrowski filed suit against Paramed Systems in state court in Brevard County, Florida. The suit alleges that Steven Ostrowski invented the product that became known as the Paraslyde. The suit further alleges that Ostrowski, not Strategix was granted the exclusive manufacturing rights. The suit implies that the MOU and assignment were separate agreements signed separately, when they were negotiated and signed together.

42. Paramed Systems does not dispute that upon termination of the MOU it owed a royalty to Strategix as set forth in the MOU. Paramed Systems simply wishes to confirm and ensure that the royalty owed is paid to the correct party.

43. Paramed Systems disputes any claim Steven Ostrowski may make to any further payment or damage under the MOU or Assignment. Steven Ostrowski was an employee of Strategix, and even if Strategix is no longer a going concern, an employee of the company would

not assume any rights under any of the company's agreements absent an assignment of such rights from the company, which has never been provided to Paramed Systems.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment of Inventorship of the '220 Patent)

44. Paramed Systems incorporates by reference paragraphs 1 through 39 of this Complaint as though set forth here in full.

45. Paramed Systems requests this Court to exercise its declaratory judgment powers and declare that Nathan R. Walkingshaw is a co-inventor of the '220 Patent.

46. The conduct of one or more of the Defendants in alleging sole inventorship on the part of Steven B. Ostrowski has been willful, in bad faith and/or in reckless disregard of the rights of Paramed Systems.

SECOND CLAIM FOR RELIEF
(Declaratory Judgment of Ownership of the '220 Patent)

47. Paramed Systems incorporates by reference paragraphs 1 through 39 of this Complaint as though set forth here in full.

48. Paramed Systems requests this Court to exercise its declaratory judgment powers and declare that the '220 patent is owned by Paramed Systems by way of the assignments of rights signed by the inventors and Steven Ostrowski on behalf of Strategix.

THIRD CLAIM FOR RELIEF
(Declaratory Judgment of Termination of the MOU)

49. Paramed Systems incorporates by reference paragraphs 1 through 39 of this Complaint as though set forth here in full.

50. Paramed Systems requests this Court to exercise its declaratory judgment powers and declare that the MOU was properly terminated in July 2008, and that pursuant to that

termination, Paramed Systems owes no legal obligation to Steven Ostrowski, Strategix, or any of the Defendants other than the 5% royalty set forth in the MOU.

FOURTH CLAIM FOR RELIEF
(Unfair Competition)

51. Paramed Systems incorporates by reference paragraphs 1 through 46 of this Complaint as though set forth here in full.

52. The conduct of one or more of the Defendants constitutes unfair competition in commerce regulated by Congress.

53. Paramed Systems has been damaged by the unfair competition of one or more Defendants.

54. Paramed Systems has been irreparably harmed by the unfair competition of one or more Defendants and will continue to be irreparably harmed by one or more Defendants unless enjoined by this Court.

55. Paramed Systems requests this Court to exercise its injunctive powers and order Defendants to refrain from making any false, deceptive, misleading and/or disparaging statements and misrepresentations to third parties or others about Paramed Systems and about the quality, character, origin, authorship and/or ownership of the '220 patent technology used by Paramed Systems.

56. The conduct of one or more of the Defendants in committing unfair competition has been willful, in bad faith and/or reckless disregard of the rights of Paramed Systems.

FIFTH CLAIM FOR RELIEF
(Interference with Contractual Relations)

57. Paramed Systems incorporates by reference paragraphs 1 through 53 of this Complaint as though set forth here in full.

58. One or more Defendants have known of the existing contractual relations of Paramed Systems with third party vendors, customers and distributors.

59. One or more Defendants have used improper means to interfere with the contractual relations between Paramed Systems and other parties.

60. Paramed Systems has been damaged by such interference with contractual relations.

61. Paramed Systems has been irreparably harmed by the unfair competition of one or more Defendants and will continue to be irreparably harmed by one or more Defendants unless enjoined by this Court.

SIXTH CLAIM FOR RELIEF
(Interference with Prospective Economic Relations)

62. Paramed Systems incorporates by reference paragraphs 1 through 58 of this Complaint as though set forth here in full.

63. One or more Defendants have known that one or more Defendants compete for prospective economic relations with third party vendor, customer and distributors.

64. One or more Defendants have used improper means to interfere with the prospective economic relations of Paramed Systems.

65. Paramed Systems has been damaged by such interference with prospective economic relations.

66. Paramed Systems has been irreparably harmed by the unfair competition of one or more Defendants and will continue to be irreparably harmed by one or more Defendants unless enjoined by this Court.

EIGHTH CLAIM FOR RELIEF
(State and Common Law Unfair Competition)

67. Paramed Systems incorporates by reference paragraphs 1 through 63 of this Complaint as though set forth here in full.

68. Defendants' aforesaid activities have caused, threatened and will continue to cause or threaten falsely-described goods and/or services of one or more Defendants to enter into commerce. Such activities constitute common law unfair competition and unfair competition under the laws of the State of Utah.

69. In addition, knowing that Paramed Systems had existing and/or potential business relations with third parties and/or others, one or more of the Defendants have used unfair or improper means to interfere with Paramed Systems' existing or potential business relations.

70. Paramed Systems has been irreparably harmed by the unfair competition of one or more Defendants and will continue to be irreparably harmed by one or more Defendants unless enjoined by this Court.

WHEREFORE, Plaintiff, Descent Control Systems, Inc., prays for judgment as follows:

1. Declaratory Judgment that Nathan R. Walkingshaw is a co-inventor of U.S. Patent No. 7,422,220 ("the '220 patent).
2. Declaratory Judgment that the '220 patent is owned by Descent Control Systems, Inc., and that none of the Defendants have any rights to the '220 patent or the subject matter thereof beyond the 5% royalty stream provided in the Memorandum of Understanding executed between Strategix LLC and Descent Control Systems, Inc. in May 2006 for net sales by Paramed of Paraslyde patient evacuation sled sold by Descent Control Systems, Inc. and not supplied by Strategix, LLC.
3. Declaratory Judgment that the MOU was properly terminated by Descent Control Systems, Inc. in July 2008.
4. Judgment in favor of Descent Control Systems, Inc. finding unfair competition regulated by Congress.
5. Judgment in favor of Descent Control Systems, Inc. finding interference with contractual relations.
6. Judgment in favor of Descent Control Systems, Inc. finding interference with prospective economic relations.
7. Judgment in favor of Descent Control Systems, Inc. finding state and common law unfair competition.
8. For temporary, preliminary, and permanent injunctive relief ordering one or more of the Defendants to refrain from alleging ownership of the '220 patent or rights thereto beyond those rights provided in the MOU post termination.

9. For temporary, preliminary and permanent injunctive relief ordering one or more of the Defendants, and any of their officers, agents, employees, or related entities to refrain from making, manufacturing, using, selling, offering to sell, or importing, technology protected by the '220 patent without permission from Descent Control Systems, Inc.

10. An accounting for and an award of any and all ascertainable damages, to be determined at trial, related to the unlawful acts of one or more Defendants.

11. For reasonable attorney's fees.

12. For costs of suit incurred in his action.

13. For such further relief as the Court may deem proper.

JURY DEMAND

A demand is hereby made for trial by jury.

DATED this 7th day of May, 2009.

KIRTON & McCONKIE

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DESCENT CONTROL SYSTEMS, INC.