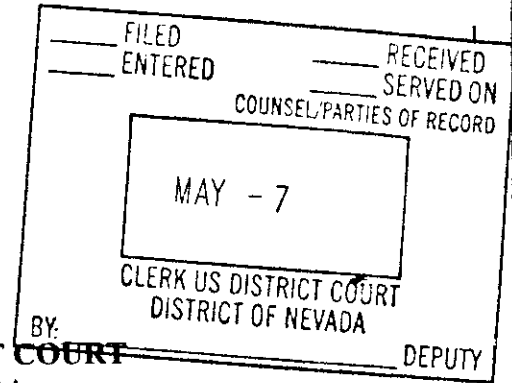


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5 **In Pro Per**

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 **DAVID A. W. CURTIS**
9 **MARSHALL W. CURTIS**

3:07-cv-00215

10 Plaintiff's

11 VS

12 **JOSEPH A. HARGIS and**
13 **HARGIS INDUSTRIES and**
14 **LARRY D. JOHNSON and**
15 **JOHNSON & STAINBROOK and**
16 **SEALTITE BUILDING FASTENER**
17 **CO. And**
18 **WALTER D. AMES and**
19 **BILL M. REED and**
20 **FASTENERS INTERNATIONAL**

) **COMPLAINT**
) **FOR DAMAGES FOR**
) **THEFT OF TRADE SECRET,**
) **CONSTRUCTIVE FRAUD,**
) **MISREPRESENTATION AND DECIET,**
) **FRAUDULENT CONCEALMENT OF**
) **MATERIAL FACTS, NEGLIGENCE,**
) **UNJUST ENRICHMENT,**
) **VIOLATION OF SHERMAN ACT,**
) **INEQUITABLE CONDUCT,**
) **VIOLATION OF DUTY OF DISCLOSURE,**
) **CONSPIRACY TO COMMIT FRAUD,**
) **DECLARATORY JUDGEMENT**
) **OF US PATENT 6,764,262 B1**

21 **AND DOES 1 Through 100**

22 Defendants

23 Plaintiff hereby alleges:

24 **(NEGLIGENCE)**

- 25 1. Plaintiff is informed and believes, and thereon alleges, that defendant Larry D. Johnson
- 26 2. resides in Celebration Florida.
- 27 3. Plaintiff is informed and believes, and thereon alleges, that defendant Craig M. Stainbrook
- 28 4. resides in Sonoma County, Santa Rosa California
- 1. Larry D. Johnson and Craig M. Stainbrook are, and at times herein mentioned were, part-
- ners engaged in the practice of law under the common name of Johnson & Stainbrook,
- LLP (herein after called Firm) having their principle place of business at 1214 College
- Avenue, Santa Rosa, Sonoma County, California, and are sued herein individually and by
- such common name. At all times herein mentioned defendant Larry D. Johnson was the
- agent and employee of defendant Firm and doing the things herein alleged was acting
- within the scope of such agency.

Paid Amt \$ 350.00 Date 5/11/07

Receipt # 19707 Initials JW

- 1 5. Plaintiff is informed and believes, and thereon alleges, that defendant Bill M. Reed resides
2 in Georgetown California, and is the owner of Fasteners International, having his principle
3 place of business at 6087 Front Street, Suite 2, P. O. Box 30, Georgetown California.
- 4 6. Plaintiff is informed and believes, and thereon alleges, that defendant Joseph A. Hargis
5 resides in Tyler Texas, and is the owner of Sealrite Building Fastener Co., and is the
6 owner of Hargis Industries, Inc., having his principle place of business at 6357 Reynolds
7 Road, Tyler Texas.
- 8 7. Plaintiff is informed and believes, and thereon alleges, that defendant Walter D. Ames re-
9 sides in Tyler Texas, and is the Patent and Trademark Attorney for Bill M. Reed and for
10 Joseph A. Hargis.
- 11 8. Plaintiff is informed and believes, and thereon alleges, that defendant Bill M. Reed and
12 Joseph A. Hargis have been, and continue to be at this present time, business partners en-
13 gaged in the practice of manufacturing and selling self sealing fasteners for metal roofing
14 and steel buildings.
- 15 9. Plaintiff is ignorant of the true names and capacities of defendants sued herein and does 1
16 through 10, inclusive, and therefore sues these defendants by these fictitious names. Plain-
17 tiff will amend the complaint to allege their true names and capacities when ascertained.
18 Plaintiff is informed and believes, and thereon alleges, that each of the fictitiously named
19 defendants is negligently responsible in some manner for the occurrences herein alleged
20 were proximately caused by the such negligence.
- 21 10. At times herein mentioned, defendants Larry D. Johnson and defendant Craig M. Stain-
22 brook were licenses to engage in the practice of law in the State of California.
- 23 11. At times herein mentioned, defendant Walter D. Ames, Patent and trademark Attorney,
24 was licensed to engage in the practice of law.
- 25 12. On or about September, 11 1998, at Santa Rosa, California, plaintiff retained and em-
26 ployed defendant Larry D. Johnson and defendant Firm to represent plaintiff as plaintiff's
27 attorneys at law to apply for and obtain certain patents for plaintiff. The two inventions
28 requiring patents were a Toy known as Controlled Demolition (herein after known as CD
Toy) and a Fastener known as Snow Tight (herein after known as ST Fastener) . After dis-
cussing the two inventions defendant Larry D. Johnson implied that the Snow Tight Fas-
tener would not be able to obtain a patent, but the Controlled Demolition Toy would most
likely be able to obtain a patent. Plaintiff then reluctantly accepted the advise of Larry D.
Johnson, who did file a provisional patent application in plaintiff's behalf.
13. On or around June, 1 1999 plaintiff met with defendant Bill M. Reed, owner of Fasteners
International to obtain manufacturing quotes. Defendant Bill M. Reed, and his brother
Steve Reed, met with Plaintiff and several of Plaintiffs toy investors, Brad Mills, Gerald
Meng, and Ted Check, at the home of Brad Mills in Truckee California. At this meeting
defendant Bill M. Reed made a threat in front of these witnesses, Brad Mills, Cathy Mills,
Gerald Mend, Ted Check, Steve Reed, and David Curtis, where Bill M. Reed threatened
"I could steal this fastener from you right now and there is not a F*****g thing you can
do about it!" But defendant Bill M. Reed then stated, "But I won't do that to you, I am go-
ing to take you under my wing and protect you!"
14. Upon receiving this threat of intellectual property theft from defendant Bill M. Reed,
plaintiff was induced to change his plans, drop the plans to complete a Utility Patent on
the CD Toy, and file an immediate Provisional Patent on the ST Fastener in order to pro-
tect if from defendant Bill M. Reed. Plaintiff duly notified defendant Larry D. Johnson of
the Bill M. Reed threat, and pleaded with defendant Johnson to file a Provisional Patent
on the ST Fastener immediately, which defendant Johnson did complete, but also con-
cealed the official filing receipt from plaintiff.
15. On or around September, 20 1999 plaintiff had not received his manufacturing contracts
promised from defendant Bill M. Reed plaintiff was forced to send his father Marshall

1 W. Curtis to defendant Bill M. Reed's Fasteners International business office in George
2 town California, in order to obtain the manufacturing contract promised by defendant
3 Reed nearly three months earlier. Defendant Reed agreed to write a preliminary contract,
4 and promised again to complete an official contract in another two weeks. But Defendant
5 Reed never did complete the contract.

- 6 16. On September, 24 plaintiff received this preliminary agreement and immediately for-
7 warded it by fax to defendant Larry D. Johnson, and requested that defendant Larry D.
8 Johnson file a Utility Patent using my original sketches and Defendant Bill Reeds engi-
9 neered Drawings as my artwork for filing the Utility Patent. Defendant Larry D. Johnson
10 agreed to complete the job of filing a Utility Patent and requested that I pay him in full for
11 the Provisional Patent he had filed, and to pay him a retainer of 1/3 the total cost for a
12 Utility Patent. Plaintiff explained to Defendant Larry D. Johnson that I would make every
13 effort to obtain the funds requested by Defendant, and would pay him as soon as I raised
14 the capital.
- 15 17. On or around September 30 1999, plaintiff received a Rural Builder Trade Magazine from
16 defendant Bill M. Reed in the mail. This magazine was opened to show a fastener adver-
17 tisement with a company named Sealtite Building Fasteners. Plaintiff then received a
18 phone call from defendant Bill M. Reed, who said "This is my fastener invention with my
19 partner who owns Sealtite Building Fastener Co., and we just landed a patent on this prod-
20 uct." Defendant Reed cut off all communications at this time with Plaintiff Curtis.
- 21 18. On January, 5 2000 plaintiff had raised the funds required by defendant Larry D. Johnson
22 to pay off the \$890 ST Fastener provisional Patent, and to pay an \$1110 retainer for the
23 ST Fastener Utility Patent.
- 24 19. Under the threat of intellectual property theft made by Bill Reed, and this threat being for-
25 warded to plaintiff's attorney Larry D. Johnson, Defendant Johnson failed to file a Utility
26 Patent for Five Years and Four Months, and only did file at the same time Bill Reed's
27 partner Joe Hargis received a patent on my product, and their examination was completed.
- 28 20. On or around July 2000 Plaintiff had employed a new fastener manufacturer KEEN Fas-
tening Systems to manufacture Plaintiff's final fastener design. This design had been
slightly changed from the original designs given to Defendant Bill Reed, in order to file a
wider range of designs and alleviate the threat of intellectual property theft. This new de-
sign had a frusto-hemispherical head (low profile rounded head), an Obtuse outer edge
(slightly rounded), and an Annular outer recess wall (angled at roughly 110 degrees), and
in fact, plaintiff's completed fastener which was manufactured and received on or around
9/14/2000, contained all nine claims in which defendant Joe A. Hargis eventually files a
patent on in April 2002.
- 21 21. On or around September 2000 Plaintiff scheduled an appointment with Defendant Larry
22 D. Johnson to retrieve our official USPTO filing receipts, and to meet with Defendant
23 Johnson for the first time. Plaintiff sat with his Father Marshall W. Curtis in Defendants
24 office in Santa Rosa California for nearly an hour, and Defendant Johnson would not
25 come out of his office to meet with Plaintiff and his father Marshall W. Curtis. Plaintiff
26 then decided to leave a bag of completed fasteners with Defendant Johnson's secretary
27 Brit, with orders for Brit to deliver the completed fasteners to Defendant Johnson.
- 28 22. On or around October 15 2000 plaintiff received a brochure from Defendant Bill M. Reed
for a trade show known as MetalCon 2000. Defendant Reed informed Plaintiff's toy inves-
tor Brad Mills, to give Plaintiff David Curtis the brochure and inform Curtis to attend, and
stating "He (defendant Reed) will also be at the show."
- 23 23. Had defendants exercised proper care and skill in the foregoing matter, plaintiff would
24 have been granted patents to his patent-able products

1 24. As a proximate result of such negligence, plaintiff was deprived of the granting of patents
2 to his patent-able products and lost the net income of sales of such products, license reve-
3 nue from said products, and marketability of said products. In addition, plaintiff has had to
4 incur additional costs in attempting to continue to obtain patents.

5 **SECOND CAUSE OF ACTION**
(Constructive Fraud, Johnson & Stainbrook)

6 25. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 22 of his
7 First cause of Action

8 26. By virtue of the Attorney-Client relationship that existed between plaintiff and defendants
9 Johnson & Stainbrook, defendants owed to plaintiff a fiduciary duty, and by virtue of
10 plaintiff's having placed confidence in the fidelity and integrity of defendants with prepar-
11 ing patent applications and obtaining patents for his patent-able products, a confidential
12 relationship existed at all times herein mentioned between plaintiff and defendants.

13 27. On or around September 11 1998, plaintiff asked Defendant Johnson "How long does it
14 take to obtain a patent?" Defendant Johnson replied "I have seen a patent take 5, 6, even 8
15 years sometimes!" Further, plaintiff explained to Defendant Johnson that he was some-
16 what nervous and shy by nature and did not wish to fight any court battles, did not have a
17 proper education and required defendant Johnson to teach plaintiff how the patent process
18 worked, as plaintiff learned how to sell stock in order to raise capital for product develop-
19 ment.

20 28. In a desire to attend the MetalCon 2000 show in order to stop defendants Bill Reed and
21 Sealtite Building Fastener Co. from infringing on plaintiff's intellectual property rights,
22 Defendant Curtis was induced to call Defendant Johnson and ask "What can we do? can
23 we go to the show? are we protected?" Defendant Johnson replied "Yes you are protected,
24 get out there and show the world, the US Patent Office will only take you serious if you
25 make a big sale!"

26 29. On October 30 2000 Plaintiff Curtis attended the MetalCon 2000 trade show, as Plaintiff
27 was at the show, Defendant Johnson filed two new Provisional Patent Applications with
28 the USPTO, fraudulently adding a client of defendant Johnson Ronald Perkes of Lu-
menatti Inc to both new Provisional Patent Applications as co-inventor, and gave a false
address for Ronald Perkes as having the same address as plaintiff Curtis. Further, defen-
dant Johnson had filed these new provisional patent applications and withheld them from
plaintiff Curtis, concealing the facts of these fraudulent applications having been filed
with the USPTO, and further, defendant Johnson concealed these provisional application
costs in plaintiff's billing statements, further defendants continued to ensure plaintiff that
his Utility Patent had been filed with the USPTO and we were just waiting for plaintiff's
Utility Patent examination to begin.

30. On November 29 2002 plaintiff found a large advertisement in a trade magazine named
MetalMag, and forwarded this advertisement to defendant Johnson, and called defendant
Johnson to protect the intellectual property rights of plaintiff from Sealtite Building Fas-
tener Co, which is Joe Hargis business and is also Bill Reeds business partner. Defendant
Johnson ensured plaintiff that he would go to the USPTO and check out their application.
Defendant Johnson returned from the USPTO and explained to plaintiff, "He checked
with everybody at the USPTO and even though the add stated "Patent Pending" and gave
the phone number to Sealtite Building Fastener Co., nobody at the USPTO could find any-
thing." Defendant Johnson then explained that sometimes companies lied in their adver-
tisements and falsely stated Patent Pending.

- 1 31. Despite having voluntarily accepted the trust and confidence of plaintiff with regard to
2 preparing patent applications and obtaining patents for his patent-able products, and in
3 violation of his trust and confidence, defendants abused the trust and confidence of plain-
4 tiff by filing three secret provisional applications, adding a friend and/or client of defen-
5 dants Ronald Perkes to two of these applications, and failing to disclose these patent ap-
6 plications to plaintiff. Further, defendants continued to assure plaintiff that his Utility Pat-
7 ent application for the fastener had been filed, when in fact it had not been filed and was
8 not filed until April 20, 2005, after Joe Hargis had received a completed patent on an iden-
9 tical fastener, and defendants failed to account to plaintiff for the funds received by them
10 from plaintiff and withheld plaintiff's files from him after plaintiff discovered misrepresen-
11 tation on 4/20/05 for 9 months after plaintiff requested them, for 7 months after plain-
12 tiff demanded them in writing.
- 13 32. Plaintiff in fact placed confidence and reliance in defendants until June 1, 2005, when,
14 with the assistance of Craig Fineberg, USPTO Chief Administrative Patent Judge, plain-
15 tiff discovered the true facts concerning the defendants' failure to obtain the patents re-
16 quested by plaintiff and promised by defendants. Further, plaintiff discovered that defen-
17 dants allowed defendant Joe Hargis to obtain a patent on plaintiff's invention before they
18 filed a Utility Patent application in plaintiff's behalf, while having full knowledge of the
19 threat of infringement from Bill M. Reed and Sealtite Building Fastener Co. (Joe Hargis'
20 Company) since June, 1999.
- 21 33. As a result of defendants afore mentioned breach of fiduciary duties to plaintiff, defen-
22 dants gained the following advantage: They added a partner and client Ronald Perkes to
23 two provisional applications and gave a false address for the client, they retained funds
24 without accounting to plaintiff, they lied about the status of the patents, and defendants
25 Joe Hargis and Bill Reed were allowed to file for and obtain Utility Patents on plaintiff's
26 exact invention before defendant Johnson filed in plaintiff's behalf.
- 27 34. As a proximate result of defendants' breach of fiduciary duties to plaintiff, failure to ob-
28 tain the necessary patents for plaintiff which they were hired to obtain, plaintiff was dam-
aged in a sum according to proof.
35. In doing the acts herein alleged, defendants acted with oppression, fraud, malice, and
plaintiff is entitled to exemplary damages in a sum to be ascertained.

THIRD CAUSE OF ACTION
(Fraudulent Concealment of Malpractice)

36. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 22 of his
First cause of Action
37. On July 9 2000 defendant Johnson was reprimanded by the USPTO and Suspended or Ex-
cluded from practice before the USPTO. Defendant Johnson concealed the reprimand
from plaintiff and continued to act as plaintiff's attorney in good standing before the
USPTO, although defendant Johnson was ordered by the USPTO to make public the facts
concerning his character and improper behavior before the USPTO. At or about the time
the time plaintiff retained defendants, defendant Johnson represented to plaintiff that he
was competent to obtain the necessary patents for plaintiff by preparing the proper appli-
cations, but at this time defendant Johnson was being sued for malpractice by Carolina
and Harry T. O'Hagin for malpractice. Defendant Johnson was not carrying insurance and
agreed to settle with the O'Hagin's, but forced the O'Hagin's to sign a contract agreeing
they would not make, or file a complaint with the USPTO revealing defendant Johnson's
behavior. Defendant Johnson had been hired by the O'Hagin's in 1992 to obtain patents

1 in their behalf, but in 1998 the O'Hagin's sued defendant Johnson as they discovered after
2 6 years, he had not completed the application as he was retained to complete. This act led
3 to the defendants July 9, 2001 Suspension from Practice before the USPTO. The suppression
4 of his suspension and behavior before the USPTO was likely to mislead plaintiff and
5 did in fact mislead plaintiff, in light of the other representations made by Larry D. Johnson
6 concerning his qualifications, competency and ability to represent plaintiff.

7 38. The representations and failure to disclose information and suppression of information
8 herein alleged to have been made by Larry D. Johnson were made with the intent to induce
9 plaintiff to act in a manner herein alleged in reliance thereon.

10 39. Plaintiff, at the time these failures to disclose and suppression of facts occurred, and at the
11 time plaintiff took the actions herein alleged, was ignorant of the existence of facts which
12 defendant Larry D. Johnson suppressed and failed to disclose. If plaintiff had been aware
13 of the existence of the facts not disclosed by said defendant, plaintiff would not have, as
14 he did, continue to retain defendants to represent him. Plaintiffs reliance was justified in
15 that defendant Larry D. Johnson held himself out as a reputable patent attorney in good
16 standing with the knowledge, skill and moral values to obtain the patents requested by
17 plaintiff, and plaintiff knew nothing about patent office rules, regulations, and procedures,
18 and nothing about obtaining a patent.

19 40. As a proximate result of the fraudulent concealment of material facts herein alleged, plaintiff
20 was induced to spend time and money in an attempt to obtain his fastener Utility patent,
21 but has received no satisfaction or compensation from his time and efforts, by reason
22 of which plaintiff has been damaged in a sum to be ascertained.

23 41. The afore mentioned conduct of defendants was an intentional misrepresentation, deceit,
24 or concealment of material facts known to the defendants with the intention on the part of
25 the defendants of thereby depriving plaintiff of legal rights or otherwise causing injury,
26 and was despicable conduct that subjected plaintiff to a cruel and unjust hardship in conscious
27 disregard of plaintiffs rights, so as to justify an award of exemplary and punitive
28 damages.

FOURTH CAUSE OF ACTION (Misrepresentation and Deceit)

42. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 22 of his
First cause of Action.

43. Beginning in the latter part of 1998 and throughout the years defendant Larry D. Johnson
was employed by plaintiff, said defendant made the following representations to plaintiff:

A) On or around September 11, 1998 and again on September 24, 1999 defendant Larry
D. Johnson said "I have seen a patent take 5 years, 6 years, I have even seen a patent
take 8 years before."

B) On or about January 7, 2000, plaintiff received a return phone call from defendant
Johnson and plaintiff asked him "Did you file our screw Utility Patent yet?" Defendant
said "Yes, I filed your screw Utility Patent as I said I would back in October, 1999."

C) From August 21, 2001, through November 28, 2002, defendant Johnson repeatedly
said on many occasions "Do not call the patent office, I will check on things for you.
You will not be able to check on your status because we chose not to publish it."

D) On November 29, 2002, after plaintiff discovered a magazine advertisement that
showed Hargis' company "Sealtite" had filed for a patent application, plaintiff called
defendant Johnson who said, "Do not call the patent office, you may loose your rights
if you do. If there is too much controversy the patent office will throw their hands in
the air and say forget it, nobody gets a patent."

- 1 E) On November 12, 2003, plaintiff was learning for himself about the Duty of Disclosure
2 laws, upon questioning defendant Johnson regarding us disclosing knowledge of Hargis'
3 application to the patent office, and Hargis disclosing knowledge of our application to
4 the patent office, defendant Johnson said "I do not have a duty to disclose them, and
5 Hargis does not have a duty to disclose you."
- 6 F) On September 30, 2003, plaintiff called defendant Johnson to check the status of his
7 Utility patent application. Shortly after that plaintiff received a call from Defendant
8 Johnson who said "Good News, your patent examination is coming up soon, I need to
9 know what makes your screw unique, and what distinguishes it from the fasteners we
10 found in our patent search we did back in 2000, plus I want all of your new drawings,
11 and a short story about that Bill Reed guy and Sealtite. Leave out all the little stuff and
12 just focus on them stealing your product, and send me that November 29 2002 magazine
13 article again. Plaintiff did as requested and faxed the information on December 3, 2003.
- 14 G) On or around two weeks prior to June 1, 2005, against defendant Johnson's threats of
15 plaintiff loosing his rights, plaintiff called the USPTO and left a message for Craig Fine-
16 berg at the USPTO. On June 1, 2005 Plaintiff was on the phone with defendant Craig
17 Stainbrook at the time Craig Fineberg from the patent office returned his call. Plaintiff
18 left defendant Stainbrook on hold and began questioning Mr. Fineberg about the status
19 of his Screw utility patent application. Mr. Fineberg explained "Your Utility Patent
20 application was filed 40 days ago." This was the day plaintiff Curtis made his first dis-
21 covery of defendant Johnson's malpractice. Plaintiff then received a call from defendant
22 Johnson who said "Do not call the patent office anymore or you will loose your rights,
23 not just to your original design, but also to any new claims and new designs that were
24 similar." defendant Johnson then said "I can navigate around Hargis, their patent is very
25 narrow in scope."
- 26 H) From January 5, 2000, until plaintiff's discovery on June 1, 2005, defendant Johnson
27 repeatedly said "I have filed your screw Utility patent application, and we are simply
28 waiting for the patent office to call when your examination begins.
- I) In October, 2000, before attending the MetalCon 2000 Trade Show, defendant told
plaintiff, "Get out there and show the world, the patent office will only take you
seriously if you make a big sale."
- J) In August of 2005, plaintiff demanded his files from defendant Johnson in writing, and
several times on the phone prior to that date. Finally, on March 3, 2006 approximately 9
months from the first time plaintiff asked for his files, and 7 months from the first time
plaintiff demanded his own files in writing, defendant Johnson said "My insurance
company told me that I cannot give you your own files, due to (plaintiffs) threats for
lawsuits." Days later, on March 6, 2006, defendant said, "My insurance company
advised me that I can give you your files." Defendant finally mailed them on March 7,
2006.
- K) On February 7, 2005, plaintiff discovered the defendant Joe Hargis had actually filed and
obtained a patent on plaintiff's exact designs. Plaintiff called defendant Johnson and
asked what we could do to fight Hargis, defendant Johnson informed plaintiff about their
File Wrapper, which is every form that was filed during the entire course of their
application from start to finish. This file wrapper would let us know if indeed defendant
Hargis had disclosed our prior filings to the patent office as is required by law. Plaintiff
then requested defendant Johnson to obtain the file wrapper for the plaintiff. After many
inquiries by plaintiff to defendant Johnson for the file wrapper, on March 3, 2005
defendant Johnson faxed 14 pages which was supposed to be the Hargis File Wrapper to
plaintiff.

1 L) On or around September, 2000, plaintiff delivered his completed fasteners to defendant
2 **Johnson's office in Santa Rosa California. Plaintiff was already meeting with Steve**
3 **Schneider of the Small Business Administration in Santa Rosa division known as, "Ideas**
4 **To Market."** Plaintiff scheduled a meeting with defendant Johnson for one hour prior to
5 his scheduled meeting Mr. Schneider. This was going to be the first occasion that plaintiff
6 had to meet defendant Johnson in person since first employing him in September 1998.
7 Plaintiff was also going to ask in person for his official filing receipt for his Utility
8 Patent. Defendant Johnson did not come out of his office as plaintiff and his father
9 **Marshall Curtis** waited for nearly one hour. Plaintiff was forced to leave for his meeting
10 with Mr. Schneider after one hour of waiting, . Plaintiff left a small bag of manufactured
11 fasteners with defendants secretary known to plaintiff only as Brit. Defendant Johnson
12 called plaintiff a few days later, and plaintiff asked, "Can these completed fasteners of
13 mine be used as artwork with the USPTO?" Defendant Johnson said, "Yes, these are even
14 better then artwork, but you will have to make formal drawings eventually, before your
15 examination comes up."

16 44. The representations made by defendant Johnson were in fact false, the true facts were:

- 17 A) A Utility patent took 1-1/2 years at that time and as a patent attorney the defendant
18 **knew it. A current Utility patent takes 1-3/4 years, and Hargis' utility patent took 1-**
19 **1/2 years.** Plaintiffs examination took less than one year to begin. One phone call to the
20 USPTO by anyone will get a rough time frame (give or take a few months for
21 complications which may arise). Plaintiff now knows, anybody can call the USPTO and
22 find out for themselves, roughly how long until their examination begins.
- 23 B) Defendant Johnson did not file any Utility patent application for plaintiff for another five
24 years and four months after he told plaintiff he filed it. And only did file after Hargis
25 obtained a patent.
- 26 C) An inventor can call the USPTO at any time and check on the filing status of their patent
27 application, whether or not they have chosen to publish it. They cannot view what was
28 filed inside the application as artwork or descriptions or claims because only the person
with a power of attorney can view it, but they can check on the time frame until the
examination happens. Keeping it from being published keeps outsiders from viewing
what's been filed, and not even the inventor can view it if a power of attorney has been
filed.
- D) The patent office must show prior artwork in order to deny you a patent. They cannot
say, "Forget it, there is too much controversy because Dave (plaintiff) is raising a fuss
about Hargis," throw their hands in the air, and say, "nobody gets a patent' This
statement was deceitful. The patent office must show evidence of prior artwork in order
to deny you a patent. Defendant Johnson had a fiduciary duty to file plaintiff's Utility
Patent application on plaintiffs first designs and completed fastener, under threat of
intellectual property theft made by defendant Bill Reed, and then plaintiff would have
had his own artwork on file, prior to Hargis.
- E) This is a half-truth. A person can loose his rights to the product that is filed, not to new
inventions filed separately. The fact was that plaintiff would not be loosing any rights had
defendant Johnson had completed his job properly.
- F) In actuality, it was Hargis' examination beginning, not plaintiffs. Defendant Johnson had
not even filed plaintiffs Utility patent, and did not for nearly two more years. Defendant
Johnson did not have any patents filed, provisional or utility. Plaintiff was helpless to
protect himself and his intellectual property with nothing filed in plaintiffs behalf, by
defendant Johnson, whatsoever.

1 G) Defendant Johnson could not navigate around defendant Hargis, and plaintiff would not
2 loose his right for attempting to prove the truth to the US Patent office. His statement was
3 deceitful and threatening. His intentions were to hold plaintiff back from pursuing the
4 truth. Back in June, 1999, when defendant Reed threatened plaintiff that he could steal
5 plaintiff's invention, plaintiff asked defendant Johnson, How can I stop them from
6 changing my idea a little bit and land a patent?" Defendant Johnson said, "Cover all your
7 bases by adding as many designs to your patent application that you can think of."
8 Plaintiff did exactly as told, and in July, 2000, plaintiff manufactured a new design
9 changing his original design given to defendant Reed, and incorporated the additional
10 design in order to protect his invention from defendant Reed. Throughout the years
11 plaintiff continued to add other designs to his patent application. Hargis filed 9 claims, of
12 which each and every claim was identical to plaintiff's manufactured fastener of July,
13 2000. Defendant Johnson eventually filed a Utility patent on a newer design from 2005
14 and not on the original designs as ordered in 1999 and 2000, and only filed after Hargis
15 received a patent on plaintiff's manufactured fastener. Plaintiff alleges that defendant
16 Johnson had plaintiff create additional designs and add them to the package in order to
17 confuse the issue and make plaintiff appear indecisive. Further, Joe Hargis designs filed 9
18 claims, of which 6 of the 9 claims matched plaintiff's original designs which he gave to
19 defendant Bill Reed. 9 of the 9 claims defendant Hargis filed matched plaintiff's
20 manufactured fastener exactly. Defendant Johnson and defendants Hargis and Ames had
21 a duty to disclose evidence of "one or more claims being copied by another under CFR
22 10.23 (7) and knowingly withheld this information from the USPTO." Both Defendants
23 Johnson and defendant Walter D. Ames violated CFR 10.23 (d) and "Acted with reckless
24 indifference to plaintiff's representation that the designs were similar, and concealed the
25 facts and representations from the USPTO." Defendant Johnson refused to confront
26 Hargis before the USPTO, and instead threatened plaintiff he would loose his rights if he
27 continued to pursue the issue with the USPTO.

16 H) Defendant Johnson filed no Utility patent until April 20, 2005. After filing two
17 provisional applications, the first in June, 1999, the second on October 30, 2000, adding
18 Ronald Perkes to the second and concealing these applications from plaintiff, once the
19 second application had run out after one year, defendant Johnson removed plaintiff from
20 having any application on file with the USPTO, then watched and waited for 2.5 years for
21 defendant Hargis to file and complete his application, obtain a patent, and then defendant
22 Johnson filed a third provisional in plaintiff's behalf only 2 weeks before defendant
23 Hargis' patent issued, concealed it from plaintiff, and eventually filed a Utility patent for
24 plaintiff on April 20 2005, and concealed it until plaintiff made discovery on June 1,
25 2005.

21 I) Defendant Johnson told plaintiff to show the world, and that he was protected, and that
22 the USPTO would only take him seriously if he made a big sale. At that time plaintiff
23 was ignorant to the fact that defendant Johnson had let his provisional patent application
24 expire in June, 2000. Plaintiff believed his screw Utility patent was filed with the USPTO
25 as he had paid an \$1110 retainer to defendant on January 5, 2000 to file. At the time of
26 defendant Johnson's comments there was no application on file whatsoever. Defendant
27 Johnson only filed a new provisional application on October 30, 2000, as plaintiff was at
28 the MetalCon 2000 trade show. Further, defendant Johnson added Ronald Perkes to the
newly filed provisional application and concealed the application from plaintiff. By
telling plaintiff to sell the fastener and expose it to the world, and that the USPTO would
only take plaintiff's application seriously if he made a big sale, defendant Johnson was
setting up plaintiff for failure. Because defendant Johnson did not file a Utility patent for
another 5 years, violating USPTO Law 37 USC 102, which states "A Utility Patent must

1 be filed within one year of exposing it to the public. Plaintiff alleges defendant Johnson
2 told plaintiff to show the world, and then failed to file the Utility patent until April 20,
3 2005, for the purpose of allowing Hargis to obtain a patent, and then for coercing
4 plaintiff's silence should he ever discover the truth and threaten lawsuit, and/or threaten to
5 approach the USPTO to confront Hargis' fraudulent patent.

6 J) Plaintiff had been demanding his files for 9 months from defendant Johnson, and it is
7 grounds for disbarment for an attorney to withhold a clients files. Plaintiff alleges that
8 defendant Johnson withheld plaintiffs files in order to delay plaintiff from making full
9 discovery of the true facts, and in order to delay the administration of justice past the
10 statute of limitations, thereby allowing defendant Johnson to walk free from any charges
11 or lawsuits that may be brought against him.

12 K) The entire Hargis File Wrapper was over 100 pages, not just 14. Plaintiff asked defendant
13 Johnson for the entire file wrapper to see for himself if Hargis had ever "Disclosed
14 plaintiff's prior applications with the USPTO, and if Hargis disclosed knowledge of
15 plaintiff's designs to the USPTO" Defendant Johnson sent plaintiff a 14 page amendment
16 "which would not disclose to plaintiff any knowledge of disclosure" all it stated was that
17 Hargis changed his design claims a little bit in this amendment. Defendant Johnson with
18 held the additional 90 pages because they disclosed many facts, including, Plaintiff paid
19 defendant Johnson \$3000 in March 2002 to complete his Utility patent, But Hargis filed
20 three weeks later. In October 2003 defendant Johnson told plaintiff that his examination
21 was about to begin, but it was Hargis' examination actually beginning on the day plaintiff
22 faxed defendant new drawings, story about defendant Reed, and what distinguished
23 plaintiffs invention from the patent search completed in June, 2000.

24 L) Although these completed fasteners were hand delivered to defendant Johnson, he failed
25 to file these designs or include pictures of this completed design in our application. Hargis
26 did file on this design, and even though plaintiff included drawings showing an "Annular
27 Wall" along with his \$3000 payment in March, 2002, defendant Johnson failed to file any
28 patent application until after defendant Hargis had obtained a patent 2.5 years later, and
then defendant Johnson finally filed based on the latest designs from 2004, not including
the Annular Wall on plaintiffs manufactured fastener from September, 2000. Further,
when plaintiff directed defendant to include the Annular Wall, and confront Hargis'
fraudulent application, defendant Johnson refused to confront Hargis, and coerced
plaintiff into silence by threatening plaintiff would loose his rights to all of plaintiffs
designs.

45. When defendant Johnson made these representations, he knew them to be false and made
the representations in order to deceive and defraud plaintiff and to induce plaintiff to act
in reliance on the representations in the manner herein alleged or with the expectation that
plaintiff would do so.

46. Plaintiff, at the times these representations were made by defendant Johnson and at the
time took the actions herein alleged, was ignorant of the falsity of defendant's
representations and believed them to be true. In reliance upon these representations and
because of defendant's failure to properly by law reveal his USPTO Reprimand and
suspension from practice, plaintiff was induced to continue to employ defendant Johnson
and did pay defendant additional funds during the time of his suspension to complete
plaintiff's Utility patent application for the fastener. Had plaintiff known the actual facts
and known of defendant Johnson's prior behavior before the USPTO and falsity in his
representations, plaintiff would not have trusted defendant and would not have taken such
action. Plaintiff's reliance on defendant's representations was justified because he knew
nothing about USPTO rules, regulations, laws, or procedures, and asked defendant

1 Johnson to properly teach him how things worked. Plaintiff told defendant Johnson that he
2 knew nothing about obtaining a patent and asked defendant to teach him the true
3 procedure.

4 47. As a proximate result of this fraudulent conduct on the part of defendant Johnson as
5 herein alleged, plaintiff was induced to hire and did hire defendant to properly, honestly,
6 and timely file plaintiff's patent applications, and plaintiff did pay defendant \$5000 to
7 secure the screw patents, Provisional and Utility, which defendant failed to file the Utility
8 patent for 5 years 4 months after being paid \$890 for the provisional and a \$1110 retainer
9 on Jan 5, 2000, and furthermore failed to file the screw Utility patent for an additional 3
10 years 2 months after being paid in full for the Utility Patent total cost, \$3000 balance due,
11 in March, 2002, by which plaintiff has been damaged in an incalculable amount to be
12 ascertained.

13 48. The afore mentioned conduct of defendant Johnson was international misrepresentation,
14 deceit, or concealment of material fact known to the defendant with the intention on the
15 part of the defendant of thereby depriving plaintiff of property or legal rights or otherwise
16 causing injury, and was despicable and evil conduct the subjects plaintiff to cruel and un-
17 just hardship in conscious disregard for plaintiff's rights, so as to justify an award of ex-
18 emplary and punitive damages.

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FIFTH CAUSE OF ACTION
(Theft Of Trade Secrets)

49. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 48 of his
Causes of Action.

50. On or around June, 1 1999 plaintiff met with defendant Bill M. Reed, owner of Fasteners
International to obtain manufacturing quotes. Defendant Bill M. Reed, and his brother
Steve Reed, met with Plaintiff and several of Plaintiff's toy investors, Brad Mills, Gerald
Meng, and Ted Check, at the home of Brad Mills in Truckee California. At this meeting
defendant Bill M. Reed made a threat in front of these witnesses, Brad Mills, Cathy Mills,
Gerald Mend, Ted Check, Steve Reed, and David Curtis, where Bill M. Reed threatened
"I could steal this fastener from you right now and there is not a F*****g thing you can
do about it!" But defendant Bill M. Reed then stated, "But I won't do that to you, I am go-
ing to take you under my wing and protect you!"

51. At the time plaintiff met with defendant Reed, defendant Reed was business partners with
defendant Joe A. Hargis, and had been business partners since 1995, and both defendants
employed patent and trademark attorney Walter D. Ames as their patent and trademark
attorney. Defendants Reed and Hargis received a patent overseas in Taiwan on June 1,
1999 for a roofing screw. The patent was for a special high speed drilling tip. The tip was
drawn on a self sealing Hexagon Head fastener which was the standard of the industry un-
til plaintiff invented his design, and was the best design Hargis and reed had invented to
this point in time.

52. Upon receiving the threat of intellectual property theft from defendant Bill M. Reed,
plaintiff was induced to change his plans, dropping the plans to complete a Utility Patent
on the CD Toy, and file an immediate Provisional Patent on the ST Fastener in order to
protect if from defendant Bill M. Reed. Plaintiff duly notified defendant Larry D. Johnson
of the Bill M. Reed threat, and pleaded with defendant Johnson to file a Provisional Patent
on the ST Fastener immediately, which defendant Johnson did complete, but also con-
cealed the official filing receipt from plaintiff.

53. On or around September, 20 1999 plaintiff had not received his manufacturing contracts
promised from defendant Bill M. Reed, plaintiff was forced to send his father Marshall

1 W. Curtis to defendant Bill M. Reed's Fasteners International business office in George
2 town California, in order to obtain the manufacturing contract promised by defendant
3 Reed nearly three months earlier. Defendant Reed agreed to write a preliminary contract,
4 and promised again to complete an official contract in another two weeks. But Defendant
5 Reed never did complete the contract. Defendant Reed included two engineered drawings
6 based on plaintiff's design which were given to defendant at the first meeting in June,
7 1999. These designs had 6 of the 9 claims that defendant Hargis files a patent on in April,
8 2002.

9 54. On or around September 30 1999, plaintiff received a Rural Builder Trade Magazine from
10 defendant Bill M. Reed in the mail. This magazine was opened to show a fastener
11 advertisement with a company named Sealrite Building Fasteners. Plaintiff then received a
12 phone call from defendant Bill M. Reed, who said "This is my fastener invention with my
13 partner who owns Sealrite Building Fastener Co., and we just landed a patent on this
14 product." Defendant Reed cut off all communications at this time with Plaintiff Curtis,
15 Stating to plaintiff's toy investor Brad Mills, "He will not speak with David or his father
16 Marshall ever again, he will only speak to Brad Mills (regarding our potential partnership)
17 from now on.

18 55. On or around April 14, 2000, defendant Reed sent a Purchase Confirmation Order to
19 plaintiff's partner Brad Mills, of which Brad Mills forwarded to Plaintiff. The order was
20 for fasteners based on plaintiff's first design, and were being shipped from Dragon Iron
21 Factory Co in Taiwan to defendant Joe Hargis via Dallas Texas. Hargis company Sealrite
22 Building Fasteners is located in Tyler Texas which is approximately 70 miles from Dallas.
23 Defendant Reed is located in Georgetown California. Defendant Reed's daughter Shelly
24 Reed signed the confirmation of order form. Shelly was also the one whom created our
25 contract promise form on September 24, 1999 that included Dragon Iron Factory Co as
26 our intended manufacturer, and partner, in the contract promised to come at a later date.

27 56. Plaintiff did not trust defendant Reed from the first date they met. Since Plaintiff had been
28 waiting for the forced contract since June, 1999 and had not received it, plaintiff decided
that he must find a new manufacturer. Plaintiff did not want to share the profits with Reed,
and felt was being forced to accept the terms defendant Reed thrust upon him. Plaintiff
only wanted a manufacturer when he met defendant Reed in June, 1999, but defendant
Reed stated that he would file all patents in plaintiff's behalf, and Reed would include
himself and Dragon Iron as co-inventors of the fastener, which was not true. Plaintiff
finally found a new manufacturer with the capabilities required to produce this new de-
sign, and hired KEEN Fastening Systems in July 2000 to manufacture the second better
design, and did place an order for new designed fasteners on July 12, 2000.

57. Defendant Reed then scheduled a meeting with Brad Mills and the owner of Butler Build-
ings to attend a University of Nevada College football game, plaintiff was not allowed to
attend. At the game defendant Reed changed his promise of 1/3 profits for plaintiff, 1/3
profits for Reed, and 1/3 profits for Dragon Iron, to 1/4 for all, but included his brother
Steve Reed for 1/4 of the profits. Plaintiff's partner Brad Mills disagreed and explained to
defendant Reed, "if you want to give your brother part of the profits then you give him
some of your profits, not ours, you promised us 1/3."

58. September 6, 2000 plaintiff's first manufactured fasteners have arrived from KEEN.
These manufactured fasteners are exactly the design defendant Reed's partner Joe Hargis
files a patent on nearly 2 years later in April, 2000.

59. "Oct 30 2000 - We are flying to Maryland to close the deal with CDI to endorse our toy.
We want to meet them and show them our prototype "Hand Made" toy set. Prior to leav-
ing my Director Brad Mills stops at my home and hands me an advertisement for the
MetalCon 2000 trade show in Atlanta Georgia. He says, "Bill Reed gave me this and he is
going to the event to sell his screws. he says you should go too." Defendant Reed also

1 gave Brad Mills some of the completed screws that he had made by Dragon Iron. So we
2 decide since we already are leaving to meet with CDI, we should also fly out to Atlanta
3 Georgia and stop off at MetalCon 2000 to catch Bill Reed at the show. I am concerned
4 defendant Reed is selling my screw to Sealtite and Sealtite's name is on the itinerary, but
5 defendant Reed's company Fasteners International is not. I want to talk to Sealtite's owner
6 and explain how Bill cut off communication with us and might be stealing my screw. At
7 this time plaintiff is ignorant to the fact that Bill Reed and Joe Hargis are actually business
8 partners on patents and trademarks together, and that they were before we even met Bill.
9 But I do know of their business connections due to the Sept 1999 Rural Builder magazine
10 that Bill gave me, and because of bills comments about Sealtite being one of his partners.
11 I am trying to stop Bill from causing harm to Sealtite, and myself by infringing on my
12 invention, not knowing they were currently working together on my product. As afore
13 mentioned, before we left for MetalCon 2000 we asked defendant Johnson "Are we
14 protected and what can we do?" Larry said, "You are filed, so get out there and sell them,
15 the USPTO will only take you serous if you make a big sale!" But we did not want to
16 show anyone new because of Bill Reed's threats, and because he had already cut off all
17 communications with us, and we were headed to MetalCon to try and stop a thief already.
18 We did not trust anybody. Plaintiff and his Father Marshall Curtis walked in the trade
19 show and went directly up to the Sealtite Building Fastener booth, introduced ourselves to
20 two individuals who said their names were Joe and John. Plaintiff gave one of the men a
21 bag of completed screws, and a business card, and said, "These are my screws, Bill Reed
22 is stealing my invention, I want you to give these to the owner and have him call me
23 immediately." We never heard from them.

- 24 60. On or around March 7, 2002 plaintiff pays defendant Johnson \$3000, this is the balance
25 due to complete his ST fastener Utility Patent. Defendant Johnson still does not file it for
26 another 3 years 1 month. At the time plaintiff believed his Utility Patent had been filed
27 years earlier in 1999, but defendant Hargis does file a provisional patent on April 1, 2002,
28 on the exact design plaintiff had given to Sealtite representatives at MetalCon 2000. Had
defendant Johnson filed plaintiffs Utility Patent at this time, plaintiff would have had his
examination beginning while defendant Hargis was just filing his Utility Patent. Instead of
filing, defendant Johnson continued to ensure plaintiff that his Utility Patent had already
been filed and we were waiting for our examination. Plaintiff was ignorant to the true
facts that defendant Johnson had nothing filed in plaintiffs behalf, and defendant Johnson
waited exactly 2.5 years until filing a new provisional application for plaintiff, and this
same 2.5 years is exactly how long it took for defendant Hargis to obtain a patent.
61. On November 29, 2002, plaintiff discovered an advertisement in a magazine named
MetalMag. The advertisement showed Sealtite Building Fastener Co. making and selling
plaintiffs design, which was given to Sealtite at MetalCon 2000. The advertisement stated
Patent Pending so plaintiff forwarded this advertisement to defendant Johnson and
ordered him to get take action at the USPTO in plaintiffs behalf. Plaintiff also began
making direct contact with Sealtite Co. by sending e-mails ordering them to cease and de-
sist the manufacturing, selling and intended Sealtite to stop all patent applications.
62. Plaintiff gave defendant Johnson's telephone number to Walter D. Ames, Sealtite's patent
and trademark attorney and forwarded the response from defendant Walter D. Ames to de-
fendant Johnson. Ensuring that defendant Johnson now knew how to stop defendants
Hargis and Ames from obtaining a fraudulent patent on plaintiff's invention.
63. All defendants now had a duty to disclose plaintiffs invention to the USPTO under CFR
10.23 (7) which states "Knowingly withholding from the office information identifying a
patent of patent application of another from which one or more claims have been copied."

- 1 64. Both defendants Walter D. Ames and Larry D. Johnson acted with reckless indifference to
2 plaintiff's representation that the fasteners in question were the same product, even though
3 defendant Johnson knew of the threats made by defendant Bill M. Reed, and knew of the
4 Sealrite connection to Bill Reed, and knew about the Sealrite advertisement, he failed to
5 file plaintiff's utility patent while watching plaintiff attempt to stop Ames and Hargis steal
6 his invention.
- 7 65. Plaintiff sent 7 additional e-mails and made two phone calls to Sealrite attempting to stop
8 them from fraudulently filing and continuing to complete their patent application with the
9 USPTO, they knowingly withheld information from the USPTO about plaintiff and plain-
10 tiff's applications filed prior to their application. These communications between plaintiff
11 and defendant Ames were all forwarded to defendant Johnson who sat and watched as
12 Hargis continued with his application, and defendant Johnson failed to file for plaintiff.
- 13 66. On September 30, 2003, plaintiff called defendant Johnson to check the status of his
14 Utility patent application. Shortly after that plaintiff received a call from Defendant
15 Johnson who said "Good News, your patent examination is coming up soon, I need to
16 know what makes your screw unique, and what distinguishes it from the fasteners we
17 found in our patent search we did back in 2000, plus I want all of your new drawings,
18 and a short story about that Bill Reed guy and Sealrite. Leave out all the little stuff and
19 just focus on them stealing your product, and send me that November 29 2002 magazine
20 add again. Plaintiff discovered in 2006 that it was Hargis' examination beginning, defen-
21 dant Johnson had not filed plaintiff's patent.
- 22 67. Plaintiff Johnson waited 2.5 years until Hargis had obtained a patent and then finally filed
23 a third provisional paten application for plaintiff, two weeks prior to the issuance of
24 Hargis' patent. Hargis had already received Notice of Allowance and Fees Due which
25 stated, "Your patent will issue on 7/14/04, and defendant Johnson filed a new provisional
26 application for plaintiff on 7/1/04 and concealed this fact and this application from
27 plaintiff. Plaintiff was told by defendant Johnson that he had filed plaintiff's Utility Patent
28 application and we were waiting for our examination..
68. Plaintiff is now being denied a patent on his designs that were finally filed by defendant
Johnson on 4/20/05. Plaintiff is being denies due to Hargis having anticipated plaintiff's
designs, and having a patent first.
69. At the time, plaintiff was ignorant of the true facts of what was happening at the USPTO,
and only discovered that Hargis obtained a patent on 2/15/05. At the time plaintiff
discovered the Hargis patent, defendant Johnson began to threaten plaintiff "if plaintiff
was to contact the USPTO then plaintiff would loose his rights to a patent," and defendant
Johnson also stated, "He can navigate around Hargis' patent which is narrow in scope."
70. Plaintiff and defendant Johnson discussed the Hargis File Wrapper and Hargis' Duty to
Disclose plaintiff's prior applications. Plaintiff ordered the Hargis file wrapper in order to
discover if Hargis and Ames had disclosed the truth to the USPTO. Defendant Johnson
sent plaintiff 14 pages of their wrapper which was over 100 pages. Defendant Johnson
faxed plaintiff a 14 amendment to the designs of the Hargis fastener. This amendment
would not disclose anything to plaintiff about disclosure and was intended to deceive
plaintiff and delay plaintiff from discovering the truth. All it showed was design changes.
71. September 9, 2004 plaintiff understands that Defendant Reed is working with defendant
Hargis and hires a full service collection agency "Newton & Associates" to pursue
defendant Reed for \$30,000,000, for selling plaintiff's fasteners with Sealrite. Defendant
Reed agreed to pay plaintiff \$85,000 to settle, but then Reed demanded a phone call with
Plaintiff. In a 3-way agreed conference call between defendant Reed, plaintiff Curtis and
collection agent James Walker, defendant Reed admitted "Yes, I stole plaintiff's screw,
and my company has never been so successful"

1 72. After plaintiff discovered on 6/1/05, that defendant Johnson had not filed his patent until
2 4/20/05. Defendant Johnson withheld plaintiff's fastener files for 9 months after plaintiff
3 asked for them, and for 7 months after plaintiff demanded them in writing, thereby
4 delaying plaintiff from making full discovery of the acts committed against him,
5 as plaintiff did his due diligence to discover the unjust acts committed against him.

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SIXTH CAUSE OF ACTION
(Violation Of The Sherman Act)

6 73. Defendant Hargis and his patent attorney defendant Walter D. Ames "Obtained and
7 enforced a patent monopoly by means of fraud against the USPTO." and gained an illegal
8 advantage over their competitors, including plaintiff Curtis. Defendants Hargis and Ames
9 having obtained plaintiff's trade secret through defendant Reed and directly from plaintiff
10 at MetalCon 2000, were duly notified by plaintiff to Cease and Desist when plaintiff
11 discovered Sealtite Building Fastener Co was selling plaintiff's fastener on November 29,
12 2002. This was 5 months into Hargis' provisional patent. At this time in the course of their
13 examination they had a Duty to Disclose to the USPTO, knowledge of plaintiff Curtis'
14 prior applications.

11 74. Defendant Hargis, defendant Ames and defendant Johnson all violated the Code of Fed-
12 eral Regulations 37 CFR 10.23 (7) "knowingly withholding from the PTO information
13 identifying a patent or patent application of another from which one or more claims had
14 been copied."

13 75. All defendants Hargis, Ames and Johnson, also violated 37 CFR 10.23 (d) A practitioner
14 who acts with reckless indifference to whether a representation is true or false is
15 chargeable with knowledge of it's falsity. Deceitful statements of half-truths or conceal-
16 ment of material facts shall be deemed actual fraud within the meaning of this part. Plain-
17 tiff Curtis wrote Sealtite and defendant Ames seven e-mail letters and spoke on the phone
18 twice during the course of their provisional and utility patent applications and defendants
19 concealed the knowledge of plaintiff Curtis' prior patents from the USPTO, thereby gain-
20 ing an advantage. Defendant Johnson was also notified of the potential theft of trade se-
21 crets, and defendant Johnson withheld plaintiff's application from the USPTO for 2 addi-
22 tional years, and finally filed a provisional patent for plaintiff within two weeks of Hargis'
23 patent issuance, and concealed this application from plaintiff.

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SEVENTH CAUSE OF ACTION
(Unjust Enrichment)

21 76. Defendant Hargis having defrauded the USPTO, and obtaining an illegal monopoly over
22 his competitors, has been unjustly enriched by the theft of plaintiff Curtis' trade secrets.
23 Defendant Hargis has been selling these fasteners to plaintiff's knowledge since Novem-
24 ber 29, 2002. Defendant Reed has admitted to plaintiff, and plaintiff's collection agent
25 "James Walker" from Newton and Associates "That he stole plaintiff's screw, and he has
26 never been so successful, and his success was attributed to the theft of plaintiff's screw."

25 77. The afore mentioned conduct of all defendants Johnson, Reed, Ames and Hargis, was
26 international misrepresentation, deceit, fraud, and concealment of material facts known to
27 all defendants with the intention on the part of defendants of thereby depriving plaintiff of
28 property or legal rights or otherwise causing injury, and was despicable and evil conduct
that subjects plaintiff to cruel and unjust hardship in conscious disregard for plaintiff's
rights, so as to justify an award of exemplary and punitive damages.

EIGHTH CAUSE OF ACTION
(Declaratory Relief)

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78. Plaintiff invented the fastener first, showed his fastener to Bill Reed on or around 6/99 seeking a manufacturer who threatened he could steal it.
79. Three months later in September Bill Reed mailed plaintiff a Sealtite Building Fasteners Magazine Advertisement and stated that Sealtite was his partner. Joe Hargis owns Sealtite and five other fastener companies.
80. Plaintiff manufactured his fastener and had completed fasteners by September of 2000.
81. Plaintiff then received an advertisement from Bill Reed showing a trade show named MetalCon 2000 and Reed stated he was going and plaintiff should too. Plaintiff attended MetalCon 2000 trade show in order to find Bill Reed, and to speak to the owner of Sealtite and stop Bill Reed from working with Sealtite illegally. Plaintiff approached the Sealtite Fastener booth and spoke with two individuals. Plaintiff said, "Where is Bill Reed?" One of the two men replied, "He is around here somewhere." Plaintiff said, "This is my completed fastener, Bill Reed is ripping us off and I do not want any problems with Sealtite, my fastener is better then his anyways. Have the owner contact me immediately." And plaintiff gave the two Sealtite representatives a bag of his completed fasteners and a business card.
82. Our own patent attorney Defendant Johnson knew of the threat since 6/99 and had explained to plaintiff prior to the MetalCon 2000 show that his Utility Patent had been filed, and he was protected by patent filings. After September 11 2001 had destroyed plaintiffs toy corporation, Joe Hargis filed an exact copy of plaintiffs fastener with the USPTO.
83. On November 29 2002, plaintiff found a large magazine article showing Sealtite selling plaintiffs fastener and stating Patent Pending. Plaintiff contacted defendant Johnson and demanded that Johnson do something to stop them, defendant Johnson explained he would go to the USPTO and get to the bottom of it. Plaintiff then emailed Sealtite and ordered them to Cease and Desist. Sealtite's patent attorney defendant Walter D. Ames replied via email. Defendant Ames stated, "plaintiff did not own any patent rights therefore, they did not owe plaintiff anything" and continued to proceed with the Hargis application without disclosing plaintiff to the USPTO, but concealed the knowledge of plaintiff, and the fact Sealtite received the fasteners from Plaintiff, from the USPTO.
84. Plaintiff then spoke with defendant Johnson who explained, "I searched the USPTO and nobody could find anything. But don't worry, you filed first and all these problems will be solved in your Utility Patent examination. Plaintiff then continued to believe this was a USPTO matter and was forced to wait for his examination. But plaintiff continued to contact defendant Walter Ames and forward all emails to defendant Johnson for the case against Sealtite at plaintiffs examination. The fact is defendant Johnson had not filed the Utility Patent.
85. Over the next three years plaintiff contacted Sealtite and Ames on 7 more occasions. Plaintiff also forwarded defendant Johnson all the information he gathered including evidence from Bill Reeds brother Steve Reed that Bill Reed and Sealtite were business partners and they were ripping us off." Defendant Johnson did not file plaintiffs patent until after Hargis obtained a completed patent. And then defendant Johnson did not confront the Hargis patent but suggested "he could navigate around Hargis. And instead of filing an affidavit 1.131 swearing prior to Hargis, in plaintiffs application defendant Johnson referred to Hargis as having the state of the art fastener that plaintiff had a duty to disclose! Plaintiff demands justice and seeks judgment to patent rights and ownership.

NINTH CAUSE OF ACTION
(Conspiracy To Commit Fraud)

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78. Plaintiff invented the fastener first, showed his fastener to Bill Reed on or around 6/99 seeking a manufacturer who threatened he could steal it.
 79. Three months later in September Bill Reed mailed plaintiff a Sealtite Building Fasteners Magazine Advertisement and stated that Sealtite was his partner. Joe Hargis owns Sealtite and five other fastener companies.
 80. Plaintiff manufactured his fastener and had completed fasteners by September of 2000.
 81. Plaintiff then received an advertisement from Bill Reed showing a trade show named MetalCon 2000 and Reed stated he was going and plaintiff should too. Plaintiff attended MetalCon 2000 trade show in order to find Bill Reed, and to speak to the owner of Sealtite and stop Bill Reed from working with Sealtite illegally. Plaintiff approached the Sealtite Fastener booth and spoke with two individuals. Plaintiff said, "Where is Bill Reed?" One of the two men replied, "He is around here somewhere." Plaintiff said, "This is my completed fastener, Bill Reed is ripping us off and I do not want any problems with Sealtite, my fastener is better then his anyways. Have the owner contact me immediately." And plaintiff gave the two Sealtite representatives a bag of his completed fasteners and a business card.
 82. Our own patent attorney Defendant Johnson knew of the threat since 6/99 and had explained to plaintiff prior to the MetalCon 2000 show that his Utility Patent had been filed, and he was protected by patent filings. After September 11 2001 had destroyed plaintiffs toy corporation, Joe Hargis filed an exact copy of plaintiffs fastener with the USPTO.
 83. On November 29 2002, plaintiff found a large magazine article showing Sealtite selling plaintiffs fastener and stating Patent Pending. Plaintiff contacted defendant Johnson and demanded that Johnson do something to stop them, defendant Johnson explained he would go to the USPTO and get to the bottom of it. Plaintiff then emailed Sealtite and ordered them to Cease and Desist. Sealtite's patent attorney defendant Walter D. Ames replied via email. Defendant Ames stated, "plaintiff did not own any patent rights therefore, they did not owe plaintiff anything" and continued to proceed with the Hargis application without disclosing plaintiff to the USPTO, but concealed the knowledge of plaintiff, and the fact Sealtite received the fasteners from Plaintiff, from the USPTO.
 84. Plaintiff then spoke with defendant Johnson who explained, "I searched the USPTO and nobody could find anything. But don't worry, you filed first and all these problems will be solved in your Utility Patent examination. Plaintiff then continued to believe this was a USPTO matter and was forced to wait for his examination. But plaintiff continued to contact defendant Walter Ames and forward all emails to defendant Johnson for the case against Sealtite at plaintiffs examination. The fact is defendant Johnson had not filed the Utility Patent.
 85. Over the next three years plaintiff contacted Sealtite and Ames on 7 more occasions. Plaintiff also forwarded defendant Johnson all the information he gathered including evidence from Bill Reeds brother Steve Reed that Bill Reed and Sealtite were business partners and they were ripping us off." Defendant Johnson did not file plaintiffs patent until after Hargis obtained a completed patent. And then defendant Johnson did not confront the Hargis patent but suggested "he could navigate around Hargis. And instead of filing an affidavit 1.131 swearing prior to Hargis, in plaintiffs application defendant Johnson referred to Hargis as having the state of the art fastener that plaintiff had a duty to disclose! Plaintiff has shown that Hargis, Ames, Reed and Johnson conspired against Plaintiff to obtain and enforce a fraudulent patent, depriving plaintiff of his invention

TENTH CAUSE OF ACTION
(Violation Of Duty Of Disclosure, Candor and Good Faith)

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86. Plaintiff invented the fastener first, showed his fastener to Bill Reed on or around 6/99 seeking a manufacturer who threatened he could steal it.
 87. Three months later in September Bill Reed mailed plaintiff a Sealrite Building Fasteners Magazine Advertisement and stated that Sealrite was his partner. Joe Hargis owns Sealrite and five other fastener companies.
 88. Plaintiff manufactured his fastener and had completed fasteners by September of 2000.
 89. Plaintiff then received an advertisement from Bill Reed showing a trade show named MetalCon 2000 and Reed stated he was going and plaintiff should too. Plaintiff attended MetalCon 2000 trade show in order to find Bill Reed, and to speak to the owner of Sealrite and stop Bill Reed from working with Sealrite illegally. Plaintiff approached the Sealrite Fastener booth and spoke with two individuals. Plaintiff said, "Where is Bill Reed?" One of the two men replied, "He is around here somewhere." Plaintiff said, "This is my completed fastener, Bill Reed is ripping us off and I do not want any problems with Sealrite, my fastener is better then his anyways. Have the owner contact me immediately." And plaintiff gave the two Sealrite representatives a bag of his completed fasteners and a business card.
 90. Our own patent attorney Defendant Johnson knew of the threat since 6/99 and had explained to plaintiff prior to the MetalCon 2000 show that his Utility Patent had been filed, and he was protected by patent filings. After September 11 2001 had destroyed plaintiffs toy corporation, Joe Hargis filed an exact copy of plaintiffs fastener with the USPTO.
 91. On November 29 2002, plaintiff found a large magazine article showing Sealrite selling plaintiffs fastener and stating Patent Pending. Plaintiff contacted defendant Johnson and demanded that Johnson do something to stop them, defendant Johnson explained he would go to the USPTO and get to the bottom of it. Plaintiff then emailed Sealrite and ordered them to Cease and Desist. Sealrite's patent attorney defendant Walter D. Ames replied via email. Defendant Ames stated, "plaintiff did not own any patent rights therefore, they did not owe plaintiff anything" and continued to proceed with the Hargis application without disclosing plaintiff to the USPTO, but concealed the knowledge of plaintiff, and the fact Sealrite received the fasteners from Plaintiff, from the USPTO.
 92. Plaintiff then spoke with defendant Johnson who explained, "I searched the USPTO and nobody could find anything. But don't worry, you filed first and all these problems will be solved in your Utility Patent examination. Plaintiff then continued to believe this was a USPTO matter and was forced to wait for his examination. But plaintiff continued to contact defendant Walter Ames and forward all emails to defendant Johnson for the case against Sealrite at plaintiffs examination. The fact is defendant Johnson had not filed the Utility Patent.
 93. Over the next three years plaintiff contacted Sealrite and Ames on 7 more occasions. Plaintiff also forwarded defendant Johnson all the information he gathered including evidence from Bill Reeds brother Steve Reed that Bill Reed and Sealrite were business partners and they were ripping us off." Defendant Johnson did not file plaintiffs patent until after Hargis obtained a completed patent. And then defendant Johnson did not confront the Hargis patent but suggested "he could navigate around Hargis. And instead of filing an affidavit I.131 swearing prior to Hargis, in plaintiffs application defendant Johnson referred to Hargis as having the state of the art fastener that plaintiff had a duty to disclose! Plaintiff has shown that Hargis, Ames, Reed and Johnson conspired against Plaintiff to obtain and enforce a fraudulent patent, depriving plaintiff of his invention

ELEVENTH CAUSE OF ACTION
(Violation Of Sherman Act)

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94. Plaintiff invented the fastener first, showed his fastener to Bill Reed on or around 6/99 seeking a manufacturer who threatened he could steal it.
95. Three months later in September Bill Reed mailed plaintiff a Sealrite Building Fasteners Magazine Advertisement and stated that Sealrite was his partner. Joe Hargis owns Sealrite and five other fastener companies.
96. Plaintiff manufactured his fastener and had completed fasteners by September of 2000.
97. Plaintiff then received an advertisement from Bill Reed showing a trade show named MetalCon 2000 and Reed stated he was going and plaintiff should too. Plaintiff attended MetalCon 2000 trade show in order to find Bill Reed, and to speak to the owner of Sealrite and stop Bill Reed from working with Sealrite illegally. Plaintiff approached the Sealrite Fastener booth and spoke with two individuals. Plaintiff said, "Where is Bill Reed?" One of the two men replied, "He is around here somewhere." Plaintiff said, "This is my completed fastener, Bill Reed is ripping us off and I do not want any problems with Sealrite, my fastener is better then his anyways. Have the owner contact me immediately." And plaintiff gave the two Sealrite representatives a bag of his completed fasteners and a business card.
98. Our own patent attorney Defendant Johnson knew of the threat since 6/99 and had explained to plaintiff prior to the MetalCon 2000 show that his Utility Patent had been filed, and he was protected by patent filings. After September 11 2001 had destroyed plaintiffs toy corporation, Joe Hargis filed an exact copy of plaintiffs fastener with the USPTO.
99. On November 29 2002, plaintiff found a large magazine article showing Sealrite selling plaintiffs fastener and stating Patent Pending. Plaintiff contacted defendant Johnson and demanded that Johnson do something to stop them, defendant Johnson explained he would go to the USPTO and get to the bottom of it. Plaintiff then emailed Sealrite and ordered them to Cease and Desist. Sealrite's patent attorney defendant Walter D. Ames replied via email. Defendant Ames stated, "plaintiff did not own any patent rights therefore, they did not owe plaintiff anything" and continued to proceed with the Hargis application without disclosing plaintiff to the USPTO, but concealed the knowledge of plaintiff, and the fact Sealrite received the fasteners from Plaintiff, from the USPTO.
100. Plaintiff then spoke with defendant Johnson who explained, "I searched the USPTO and nobody could find anything. But don't worry, you filed first and all these problems will be solved in your Utility Patent examination. Plaintiff then continued to believe this was a USPTO matter and was forced to wait for his examination. But plaintiff continued to contact defendant Walter Ames and forward all emails to defendant Johnson for the case against Sealrite at plaintiffs examination. The fact is defendant Johnson had not filed the Utility Patent.
101. Over the next three years plaintiff contacted Sealrite and Ames on 7 more occasions. Plaintiff also forwarded defendant Johnson all the information he gathered including evidence from Bill Reeds brother Steve Reed that Bill Reed and Sealrite were business partners and they were ripping us off." Defendant Johnson did not file plaintiffs patent until after Hargis obtained a completed patent. And then defendant Johnson did not confront the Hargis patent but suggested "he could navigate around Hargis. And instead of filing an affidavit 1.131 swearing prior to Hargis, in plaintiffs application defendant Johnson referred to Hargis as having the state of the art fastener that plaintiff had a duty to disclose!
102. Hargis has obtained and is enforcing a patent by means of fraud against the USPTO

1 WHEREFORE, Plaintiff prays judgment as follows:

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3 On The First Cause Of Action

- 4 1) For special damages according to proof;
5 2) For general damages according to proof;
6 3) For pre-judgment interest;
7 4) For post-judgment interest;
8 5) For costs of suit incurred herein; and
9 6) For such other and further relief as the court may deem proper.

10 On The Second Cause Of Action

- 11 1) For special damages according to proof;
12 2) For general damages according to proof;
13 3) For punitive damages in an amount appropriate to punish defendants and deter others
14 from engaging in similar misconduct;
15 4) For costs of suit incurred herein; and
16 5) For such other and further relief as the court may deem proper.

17 On The Third Cause Of Action

- 18 1) For general damages according to proof;
19 2) For punitive damages in an amount appropriate to punish defendants and deter others
20 from engaging in similar misconduct;
21 3) For costs of suit incurred herein; and
22 4) For such other and further relief as the court may deem proper.

23 On The Fourth Cause Of Action

- 24 1) For general damages according to proof;
25 2) For punitive damages in an amount appropriate to punish defendants and deter others
26 from engaging in similar misconduct;
27 3) For costs of suit incurred herein; and
28 4) For such other and further relief as the court may deem proper.

On The Fifth Cause Of Action

- 1) For general damages according to proof;
2) For punitive damages in an amount appropriate to punish defendants and deter others
from engaging in similar misconduct;
3) For costs of suit incurred herein; and
4) For such other and further relief as the court may deem proper.

1 On The Sixth Cause Of Action

- 2 1) For general damages according to proof;
3 2) For punitive damages in an amount appropriate to punish defendants and deter others
4 from engaging in similar misconduct;
5 3) For costs of suit incurred herein; and
6 4) For such other and further relief as the court may deem proper.

7 On the Seventh Cause Of Action

- 8 1) For general damages according to proof;
9 2) For punitive damages in an amount appropriate to punish defendants and deter others
10 from engaging in similar misconduct;
11 3) For costs of suit incurred herein; and
12 4) For such other and further relief as the court may deem proper.

13 On The Eighth Cause Of Action

- 14 1) Plaintiff seeks ownership rights of US Patent 6,764,262 B1

15 On the Ninth Cause Of Action

- 16 1) For general damages according to proof;
17 2) For punitive damages in an amount appropriate to punish defendants and deter others
18 from engaging in similar misconduct;
19 3) For costs of suit incurred herein; and
20 4) For such other and further relief as the court may deem proper.

21 On the Tenth Cause Of Action

- 22 1) For general damages according to proof;
23 2) For punitive damages in an amount appropriate to punish defendants and deter others
24 from engaging in similar misconduct;
25 3) For costs of suit incurred herein; and
26 4) For such other and further relief as the court may deem proper.

27 On the Eleventh Cause Of Action

- 28 1) For general damages according to proof;
29 2) For punitive damages in an amount appropriate to punish defendants and deter others
30 from engaging in similar misconduct;
31 3) For costs of suit incurred herein; and
32 4) For such other and further relief as the court may deem proper.

Date: May 7 2007


David A. W. Curtis, In Pro Per