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WESTERN DISTRICT OF WASHINGTON
DEPUTY



05-CV-01421-CMP

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CV05-1421 RSM

INJECTIDRY, INC.,

Plaintiff,

v.

CERTIFIED MOLD FREE, CORP.,

Defendant.

Civil Action No.

COMPLAINT FOR PATENT
INFRINGEMENT, COPYRIGHT
INFRINGEMENT, FALSE DESIGNATION
OF ORIGIN AND UNFAIR
COMPETITION, COMMON LAW
MISAPPROPRIATION, CONSUMER
PROTECTION ACT VIOLATION, and
INTERFERENCE WITH BUSINESS
RELATIONS

JURY TRIAL REQUESTED

Plaintiff Injectidry, Inc. ("Injectidry") hereby alleges the following causes of action against Defendant Certified Mold Free, Corp. ("Mold Free"):

I. PARTIES

1. Injectidry is a corporation organized and existing under the laws of the State of Washington, having its principal place of business at P.O. Box 9, Kirkland, Washington 98083.
2. Mold Free is a Nevada corporation having its principal place of business at 11565 Snowcreek Canyon, Las Vegas, Nevada 89135.

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II. JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, particularly including 35 U.S.C. § 271 and § 281. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a). Supplemental jurisdiction is conferred upon this Court over the remaining related state and common-law claims derived from a common nucleus of operative fact that form part of the same case or controversy. 28 U.S.C. § 1367(a).

4. Mold Free advertises and offers its services nationwide through its website, including in this District, specifically to "Seattle". On information and belief, Mold Free has provided services to customers in the Western District of Washington. Mold Free knew and intended that its infringing system would be provided to consumers in Western Washington. Accordingly, personal jurisdiction over Mold Free is proper in this Court.

5. For purposes of venue, Mold-Free resides in the Western District of Washington pursuant to 28 U.S.C. § 1391(c). Venue is therefore proper pursuant to 28 U.S.C. § 1400.

COUNT I. PATENT INFRINGEMENT

6. Injectidry is the assignee of U.S. Patent No. 5,893,216, issued April 13, 1999 to Terry C. Smith and Ernest J. Storrer; U.S. Patent No. 6,647,639, issued November 18, 2003, to Ernest J. Storrer; and U.S. Patent No. 6,886,271, issued May 3, 2005 to Ernest J. Storrer (collectively, the "Injectidry Patents"). Injectidry is the assignee of these patents; accordingly, Injectidry owns the full right, title, and interest to these patents, including the right to assert the claims and causes of action involved in this complaint.

7. Mold Free makes, uses, offers for sale, and induces others to make, use and/or offer for sale remediation systems and methods that infringe one or more claims of the Injectidry Patents.

1 8. Mold Free's use, offer for sale, and sale, inducement to do the same, or otherwise
2 infringing activity of the Injectidry Patents has not been under license or authority from
3 Injectidry.

4 9. Mold Free's activities constitute direct, indirect, contributory and inducement of
5 infringement pursuant to 35 U.S.C. § 271.

6 10. As a direct result of Mold Free's infringement of the Injectidry Patents, Injectidry
7 has suffered, and will continue to suffer, damages in an amount to be established at trial. In
8 addition, Injectidry has suffered, and continues to suffer, irreparable harm for which there is no
9 adequate remedy at law.

10 11. On information and belief, Mold Free had actual knowledge of the Injectidry
11 Patents prior to engaging in its infringing activity and prior to the filing of this Complaint.
12 Despite actual knowledge of the Injectidry Patents, Mold Free has continued to make, use, offer
13 for sale, or otherwise continued to infringe, and induce others to infringe, the Injectidry Patents.
14 The infringement is therefore deliberate and willful and will continue unless enjoined by this
15 Court.

16
17 **COUNT II. COPYRIGHT INFRINGEMENT**

18 12. Injectidry repeats and re-alleges the allegations of the above paragraphs as fully
19 set forth herein.

20 13. This count is brought under the federal Copyright Act of 1976, as amended, 17
21 U.S.C.S. §§ 101 et seq.

1 14. Prior to the date of filing, Injectidry created, and published at least 9 photographs
2 at <http://injectidry.com>, entitled:

- 3 1. "INJECTIDRY PRODUCT LINE";
- 4 2. "VAC-IT PANELS";
- 5 3. "INTERCEPTOR HEPA FILTER";
- 6 4. "DIRECT-IT IN";
- 7 5. "MAX FORCE W/ ADAPTOR";
- 8 6. "3 SPEED AIRMOVER";
- 9 7. "HIGH CFM GALE FORCE";
- 10 8. "ACTIVE HOSELINE UPGRADE KIT";
- 11 9. "ROLLING DUFFEL BAG".

12 15. Injectidry's above-referenced photographs contain a substantial amount of
13 material created by Injectidry's own skill, labor and judgment, and is copyrightable subject
14 matter under the laws of the United States.

15 16. Injectidry has complied in all respects with the United States Copyright Act of
16 1976 and all other laws governing copyright by applying for copyright registration and making
17 the required deposit.

18 17. Since prior to the date of Mold Free's infringing actions, the above mentioned
19 photographs were published by Injectidry, and only copies of it made by Injectidry or under its
20 strict authority or license have been published.

21 18. Since the date the first photographs were first taken, Injectidry has been and still
22 is the sole proprietor of all right, title and interest in and to the copyright in such photographs.
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1 19. After at least the date prior to the filing of this action, Mold Free infringed the
2 above mentioned copyright by publishing and placing on his internet web site at least 9
3 photographs bearing the following titles:

- 4 1. "INJECTIDRY PRODUCT LINE;"
- 5 2. "VAC-IT PANELS";
- 6 3. "INTERCEPTOR HEPA FILTER";
- 7 4. "DIRECT-IT IN";
- 8 5. "MAX FORCE W/ ADAPTOR";
- 9 6. "3 SPEED AIRMOVER";
- 10 7. "HIGH CFM GALE FORCE";
- 11 8. "ACTIVE HOSELINE UPGRADE KIT";
- 12 9. "ROLLING DUFFEL BAG".

13 20. A true and correct print-out of Injectidry's photographs are attached as Exhibit A;
14 a copy of Mold Free's infringing photographs are attached as Exhibit B.

15 21. Mold Free has been publishing such photographs on its website <http://www.mold-free.org>,
16 and otherwise marketing its own directly and indirectly competing goods and/or
17 services using Injectidry's photographs, and has thus been engaged in copyright infringement
18 pursuant to 17 U.S.C. § 106.

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22 **COUNT III. COMMON LAW MISAPPROPRIATION**

23 22. Injectidry repeats and re-alleges the allegations of the above paragraphs as fully
24 set forth herein.

25 23. Injectidry expended significant time, energy and money to develop the
26 photographs stated in the above COPYRIGHT INFRINGEMENT count, and such resources are a
valuable resource and property right of Injectidry.

 24. On information and belief, Mold Free has appropriated the photographs for their
own use at little or no cost and began directly and indirectly soliciting Injectidry's customers
using such photographs on its own competing internet web site, also at a relatively little cost.

1 25. As a result of these actions by Mold Free's, Injectidry has suffered considerable
2 damage and will have to the expend significant damage and will have to expend significant
3 resources attempting to remedy and explain the confusion created by the above-mentioned Mold
4 Free's' actions to Injectidry's clients, and upon information and belief, Injectidry has and will
5 continue to incur costs and lose customers and patronage as a result of Mold Free's improper and
6 illegal action.

7
8 **COUNT IV: FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION**

9 26. Injectidry repeats and re-alleges the allegations of the above paragraphs as fully
10 set forth herein.

11 27. Mold Free makes numerous misleading, false and commercially disparaging
12 statements in violation of 15 U.S.C. § 1125(a)(1) by, among other things, stating and implying
13 that the performance and consumer safety of Mold-Free's "Do-It-Yourself" solution is equally
14 effective in performance and safety as Injectidry's product line at "about 1/20th the price."

15 28. On information and belief, Mold Free's "Do-It-Yourself" solution offers neither
16 the performance nor the consumer safety of the Injectidry's product line.

17 29. Mold Free's wrongful actions constitute false advertising of Lanham Act
18 Section 43(a).

19
20 **COUNT V: CONSUMER PROTECTION ACT VIOLATION**

21 30. Injectidry repeats and re-alleges the allegations of the above paragraphs as fully
22 set forth herein.

23 31. Mold Free has intentionally confused and misled the public in Washington State
24 and throughout the country. Mold Free's actions constitute unfair methods of competition and
25 unfair deceptive acts and practices in the conduct of its trade or business. Mold Free's actions
26 have affected and continue to affect the public interest in Washington State as well as in different

1 parts of the country. As a direct and causal result of Mold Free's unfair business practices and
2 unfair and deceptive acts, Injectidry has been damaged in an amount to be proven at trial.

3 32. Mold Free's actions are in violation of the Washington State Consumer Protection
4 Act, R.C.W. 19.86.020.

5
6 **COUNT VI: INTERFERENCE WITH BUSINESS RELATIONS**

7 33. Injectidry repeats and re-alleges the allegations of the above paragraphs as fully
8 set forth herein.

9 34. Mold Free has been aware of Injectidry's business relationships, including
10 contractual relationships, with consumers, organizations and merchants. Nevertheless, Mold Free
11 has intentionally and using carefully considered stratagem in order to induce them to breach their
12 contracts with Injectidry, to subvert Injectidry's business relationships or to otherwise take
13 business from Injectidry.

14 35. Mold Free's actions constitute tortious interference with business relations
15 between Injectidry and its existing and potential customers.

16
17 **III. PRAYER FOR RELIEF**

18 Injectidry requests the following alternative and cumulative relief:

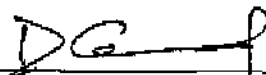
- 19 1. Preliminary and permanent injunctions against the direct or indirect use, offer for
20 sale and sale of any system or method that infringes Injectidry's Patents, or
21 inducing others to so infringe;
- 22 2. An award of damages adequate to compensate for patent infringement but in no
event less than a reasonable royalty for the use of the invention;
- 23 3. An award of treble damages pursuant to 35 U.S.C. § 284 due to Mold Free's
24 willful and deliberate infringement;
- 25 4. An award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- 26 5. An assessment of prejudgment interest and costs;

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- 6. Mold Free be enjoined during the pendency of this action and permanently from infringing the above mentioned copyright in any manner;
- 7. Mold-Free be required to pay Injectidry such damages as sustained in consequence of defendant's infringement of Injectidry's copyright and Mold-Free's unfair trade practices and unfair competition, and to account for gains, profits and advantages derived from Mold-Free through such trade practices and unfair competition; and
- 8. Such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this 16th day of August, 2005.

BLACK LOWE & GRAHAM^{PLLC}



Richard T. Black, WSBA No. 20,899
 Lawrence D. Graham, WSBA No. 25,402
 Douglas A. Grady, WSBA No. 36,100

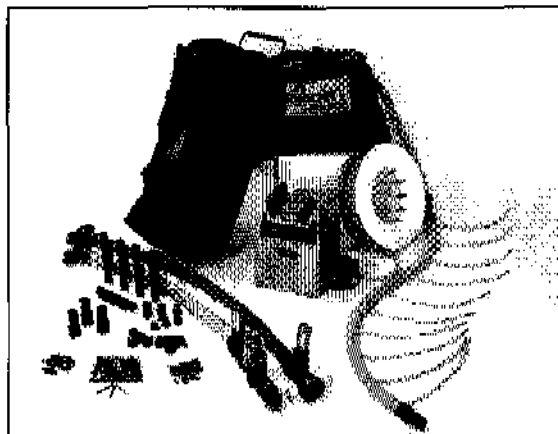
Attorneys for Injectidry, Inc.

Exhibit A



Call 800.257.0797
place your order today!
www.injectidry.com

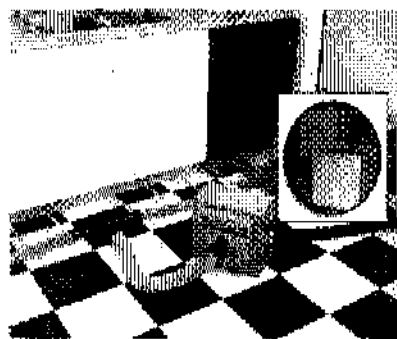
INJECTIDRY PRODUCT LINE



HP60i MOISTURE VENTILATING SYSTEM WITH ACTIVE HOSELINE

- Dries by moving dry air into walls or pulling moist air out
- Dries hardwoods fast when used with our **Vac-It Panels**
- Controls contamination when used with our **Interceptor HEPA**
- Up to 48% more drying power than our competitors
- A noticeably quieter system

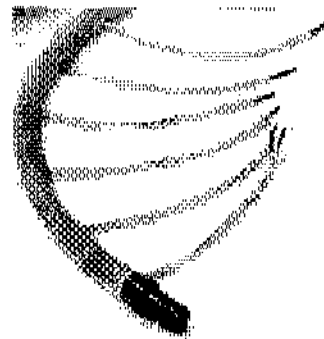
Part # INJO1-I



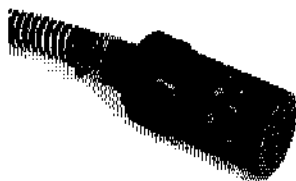
INTERCEPTOR HEPA FILTER
Part#IHFO1



VAC-IT PANELS
Part#VACITPA/8,5, Single Port, clear



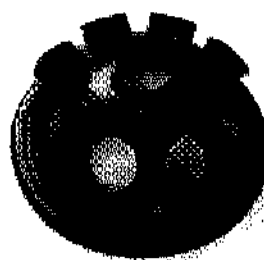
ACTIVE HOSE UPGRADE KIT
Part#AHP3



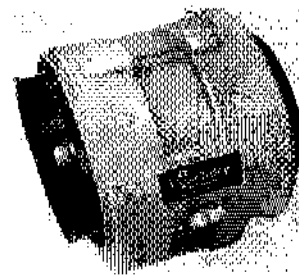
SILENCER
Part#Silencer



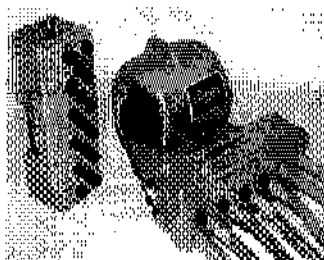
WATER SEPARATOR
Part#Waterseparator



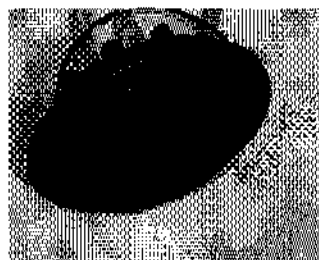
ADAPTIDRY (Use with MAX Force and Phoenix 18" duct rings Guardian Part#ADP9 & ADP5



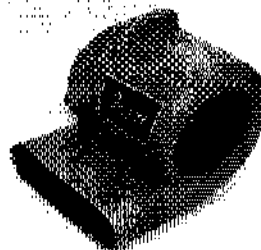
MAX Force
Part#MF



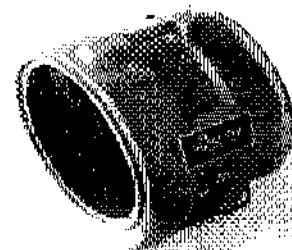
DIRECT-IT IN and Tempest(3 speed)Part#UAA1



DIRECT-IT Fits 12, 14, 16, 18 inch duct rings Part#UAA2

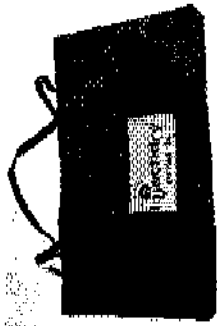


TEMPEST 3 SPEED
Part#T3



Gale Force (High CFM)
Part#GF

Patent #U55893216 #6647639, #6886271 and Patent Pending



Heavy duty nylon construction is shipped with the HP60 and also carries the Direct-It Systems

[PDF PRODUCT SHEET](#)

Order # CB1

HP SYSTEM CARRY BAG

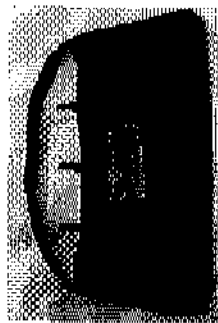


Rolling Duffel that makes storing the HP System a smooth operation

[PDF PRODUCT SHEET](#)

Order # CB2

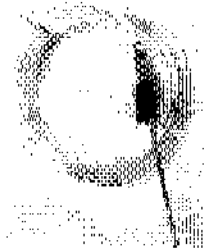
HP SYSTEM CARRY BAGS (51 in. x 32 in.)



With shoulder strap: holds both the Dome Adaptor and 10 Vac-It Panels <http://www.injectidry.com>

[PDF PRODUCT SHEET](#)

Order # CB3



INJECT-IT

Anti-microbial Applicator
Attaches to any sprayer. The Inject-It puts anti-microbials inside the wall cavity. It applies spray up to 24" inside the wall and uses only 3/16" holes.

Order # INJ03

[BACK TO THE TOP](#)

[PRODUCT LIST](#)

[\(Click for free Acrobat Reader Download\)](#)



The ADAPTIDRY For the MAX Force, Phoenix Guardian, Vane axial fan and other 12, 14, 16 & 18 INCH DUCT RINGS.

The ADAPTIDRY is specifically designed to work with several pieces of drying equipment. The MAX Force and Phoenix Guardian HEPA filter* make a perfect companion to the ADAPTIDRY. These ADAPTORS fit in well with today's trend toward less destructive and non-invasive drying. Increasingly, Certified Industrial Hygienist are asking for more control and faster drying.

***Not limited to this equipment Order # ADP9 & ADP5**

Patent Pending



PDF PRODUCT SHEET ADAPTIDRY MANUAL PDF DOWNLOAD

MAX FORCE (Shown on a stand with Injectidry's ADAPTIDRY)

Ideal for creating negative air pressure in crawlspaces, drying cathedral ceilings and ventilating HVAC systems. Can be used with both positive or negative pressure



PDF PRODUCT SHEET

Order # MF



TEMPEST 3 SPEED AIRMOVER

Protective granite housing, low profile switch, re-settable circuit breaker. UL approved

PDF PRODUCT SHEET

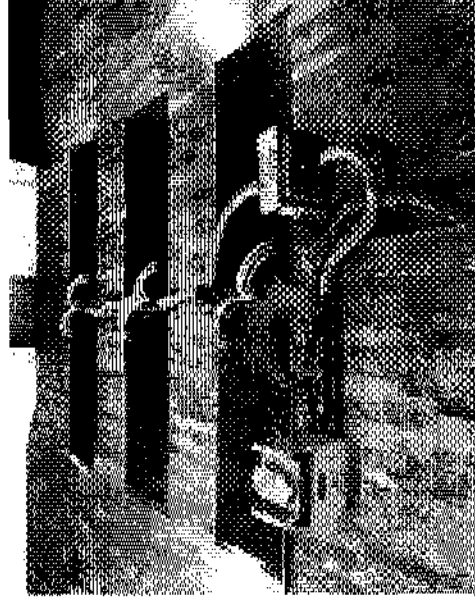
Order # TA3



*Click for free Acrobat Reader
Download*

VAC-IT PANEL MANUAL

[Click here for Vac-It Panel Job Photos](#)



Single Port Panels shown with the Interceptor, and Silencer

Eight Point Panels shown with the Interceptor

10 - 8 Point Panels: 46" by 30"	VACITPA/8
10 - 5 Point Panels: 46" by 30"	VACITPA/5
20 - 8 Point Panels: 46" by 30" (discount for double order)	VACITPA/8/20
20 - 5 Point Panels: 46" by 30" (discount for double order)	VACITPA/5/20
2 Clear Panels: 23" by 30"	VACITPA/C
6 Large Single Port Panels: 46" by 30" (6 - 1 1/2" hosecouffs and small T's	VACITPALS
6 Small Single Port Panels: 10" by 30" (6 - 1 1/2" hosecouffs and small T's	VACITPASS

Home Page | Company Info | Distributors | Contact Us | FAQs | Job Photos | Products | Manuals | Testimonials | Drying Tips

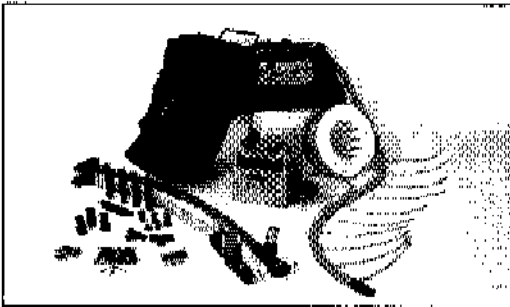
If you have any questions or would like more information, please send us an e-mail, or call **800.257.0797**, Toll Free within the USA, or **425.822.3851**, Fax **425.822.4103**.

Injectidry® is a registered trademark of Injectidry Systems. Patent # US5893216, 6647639, other patents pending.

Exhibit B

You can buy the equipment from Injectidry or make it for about 1/20th the price. If lost or stolen then no big deal!

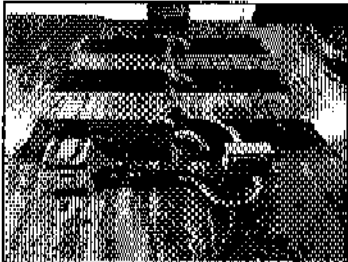
INJECTIDRY PRODUCT LINE



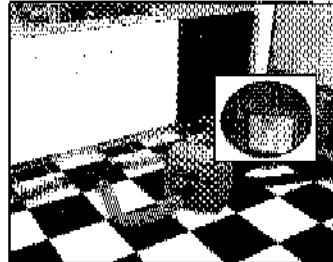
HP601 MOISTURE VENTILATING SYSTEM WITH ACTIVE HOSELINE

- Dries by moving dry air into walls or pulling moist air out
- Dries hardwoods fast when used with our **Vac-It Panels**
- Controls contamination when used with our **Interceptor HEPA**
- Up to 48% more drying power than our competitors
- A noticeably quieter system (1/3 less noise)

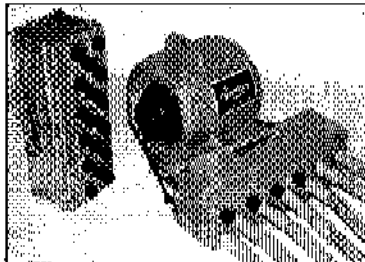
Part # INJ01-1



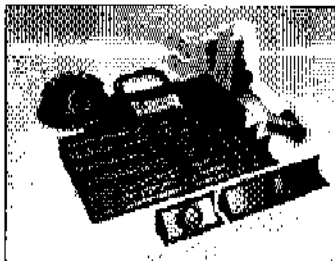
VAC-IT PANELS (8 POINT, 5 POINT, CLEAR)
Part #VACITPA/B, VACITPA/C, VACITPA/D



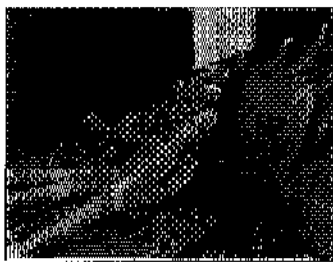
INTERCEPTOR HEPA FILTER
Part #IHFD1



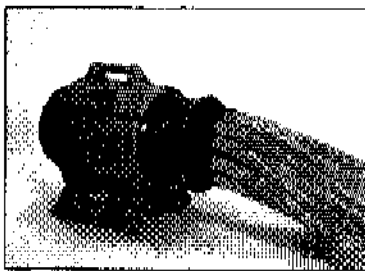
DIRECT-IT IN
Part #UAA1



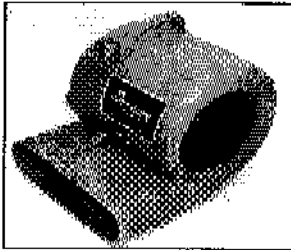
THE ADAPTOR (FOR USE WITH THE MAX FORCE & PHOENIX GUARDIAN)
Part #ADPB



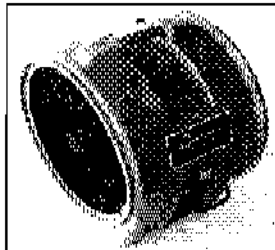
MAX FORCE W/ ADAPTOR
Part #MF



DIRECT-IT & VANE HIGH-PRESSURE 12" AXIAL FAN
Part #UAA2 & VAX12



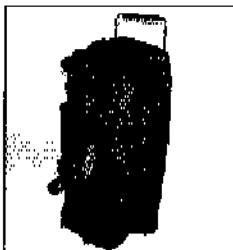
3 SPEED AIRMOVER
Part #TA3



HIGH CFM GALE FORCE
Part #GF



ACTIVE HOSELINE UPGRADE KIT
Part #AHP3



ROLLING DUFFEL BAG
Part #CB2

Patent #US5893215, #6647639 and Patent Pending
Specialized Restoration Equipment