

CIVIL COVER SHEET

(Rev. 07/89)

The JS-44 civil cover sheet and the information contained therein neither replace nor supplement the filing and service of pleadings or other papers as required by law except as provided by local rules of court. This form approved by the Judicial Conference of the United States in September 1974 is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

Harold Schoenhaus
Richard M. Jay

DEFENDANTS

Genesco, Inc.
Johnston & Murphy, Inc.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Grant S. Palmer
Blank Rome LLP
One Logan Square
Philadelphia, PA 19103 - (215) 569-5578

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only) (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE PLING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Case is brought under Patent Laws, 28 U.S.C. §1338.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Motor Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Edu. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 310 Assault <input type="checkbox"/> 315 Assault Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Assault Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Labor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 400 State Reorganization <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 420 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Railroad/Sec. <input type="checkbox"/> 460 Consumer <input type="checkbox"/> 470 Receiver Influence and Control Organizations <input type="checkbox"/> 510 Executive Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 675 Customer Challenge 12 USC 3410 <input type="checkbox"/> 681 Agriculture Acts <input type="checkbox"/> 692 Economic Stabilization Act <input type="checkbox"/> 693 Environmental Matters <input type="checkbox"/> 694 Energy Admission Act <input type="checkbox"/> 695 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Title to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 520 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Unions <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 NIA (1295R) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DMC/DWVW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 PSI (405(g))
				FEDERAL TAX SUITS
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7809

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ Check YES only if demanded in complaint: **JURY DEMAND:** YES NO

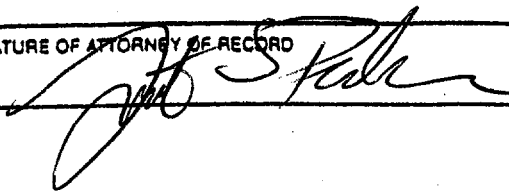
VIII. RELATED CASE(S) IF ANY

None

JUDGE _____ DOCKET NUMBER _____

DATE
January 27, 2003

SIGNATURE OF ATTORNEY OF RECORD



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Harold Schoenhaus
Richard M. Jay

CIVIL ACTION

v.

Genesco, Inc.
Johnston & Murphy, Inc.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

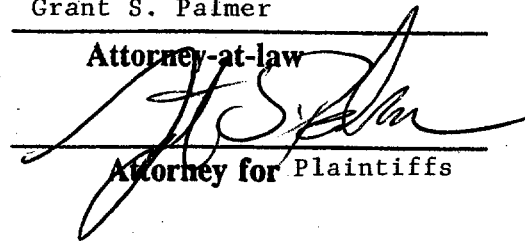
- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

1/27/03

Date

Grant S. Palmer

Attorney-at-law



Attorney for Plaintiffs

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1700 Walnut Street, Apt. 12A, Philadelphia, PA 19103

Address of Defendant: 1415 Murfreesboro Road, Nashville, TN 37217

Place of Accident, Incident or Transaction: patent case
(Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities? Yes No

RELATED CASE, IF ANY: None

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Patent
- 6. Labor-Management Relations
- 7. Civil Rights
- 8. Habeas Corpus
- 9. Securities Act(s) Cases
- 10. Social Security Review Cases
- 11. All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify)
- 7. Products Liability
- 8. Products Liability — Asbestos
- 9. All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, Grant S. Palmer, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
 Relief other than monetary damages is sought.

DATE: January 27, 2003



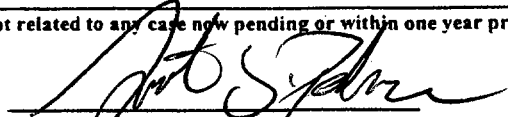
Attorney-at-Law

57686
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 1/27/03



Attorney-at-Law

57686
Attorney I.D.#

CW

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HAROLD SCHOENHAUS
1700 Walnut Street, Apt. 12A
Philadelphia, PA 19103
and
RICHARD M. JAY
601 Pine Street
Philadelphia, PA 19106

Plaintiffs,

v.

GENESCO, INC.
1415 Murfreesboro Road
Nashville, TN 37217
and
JOHNSTON & MURPHY, INC.
1415 Murfreesboro Road
Nashville, TN 37217

Defendants.

FILED JAN 27 2003

CIVIL ACTION

NO. 03-372

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Harold Schoenhaus and Richard Jay (hereinafter "Plaintiffs"), by and through their undersigned counsel, bring this complaint against Defendants Genesco, Inc. ("Genesco") and Johnston & Murphy, Inc. ("Johnston & Murphy") (hereinafter collectively "Defendants"), and in support thereof aver as follows:

PARTIES

1. Plaintiff Harold Schoenhaus is an individual with an address at 1700 Walnut Street, Apt. 12A, Philadelphia, PA 19103.

2. Plaintiff Richard Jay is an individual with an address at 601 Pine Street, Philadelphia, PA 19106.

3. Defendant Genesco is a corporation organized and existing under the laws of Tennessee with its principal place of business at 1415 Murfreesboro Road, Nashville, TN 37217.

4. Defendant Johnston & Murphy is a corporation organized and existing under the laws of Tennessee with its principal place of business at 1415 Murfreesboro Road, Nashville, TN 37217, and is an operating division of Genesco.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

6. Defendants have continuous and systematic contacts with Pennsylvania sufficient to establish personal jurisdiction over it in this Court.

7. Venue is proper under 28 U.S.C. §§1391(c) and 1400(b), as on information and belief, Defendants reside in and are subject to personal jurisdiction in this district. Further, Defendants have regular and established places of business in this district and on information and belief, have committed acts of infringement in this district.

BACKGROUND

8. Plaintiffs invented the Dynamic Stabilizing Inner Sole System ("DSIS"), described as an orthotic device for preventing hyperpronation of a human foot.

9. On January 3, 1991, Plaintiffs filed with the Patent & Trademark Office a patent application relating to their DSIS invention.

10. Thereafter in 1991, Plaintiffs contacted Defendants regarding Plaintiffs' then pending patent application.

11. On or about January 29, 1992, Plaintiffs entered into a Confidential Disclosure Agreement with Genesco whereby Plaintiffs agreed to disclose confidential and proprietary trade secret and non-trade secret information in order to allow Defendants to explore the possibility of a license or other business venture, which would enable Defendants to utilize Plaintiffs' technology in their footwear.

12. On or about February 12, 1992, Plaintiffs met with Defendants' representatives to discuss such a business venture regarding Plaintiffs' confidential and proprietary information.

13. During the February 12th meeting as well as the weeks following, Plaintiffs disclosed their patent application, correspondence and other confidential and proprietary information regarding DSIS.

14. In this timeframe while Plaintiffs' patent application was pending, Defendants created a prototype shoe containing DSIS as a built-in component, which the parties evaluated in connection with their prospective business venture.

15. On or about June 12, 1992, Plaintiffs again met with Defendants' representatives, including Johnston & Murphy's Chairman and CEO Fowler H. Low and its Director of Product Development Roy Helton, during which Plaintiffs shared additional confidential and proprietary information regarding DSIS.

16. On June 22, 1992, Mr. Helton wrote Plaintiff Dr. Schoenhaus that, despite considerable interest and investigation, Defendants had decided not to utilize DSIS in any of their shoe lines at that time.

17. Mr. Helton also stated that Defendants would continue studying the commercial feasibility of utilizing DSIS and would abide by the terms of the Confidential Disclosure Agreement.

18. Over the next several months, the parties continued to have discussions regarding Plaintiffs' innovative concept for foot control and comfort, but ultimately Defendants reiterated that they were not interested in utilizing DSIS in their footwear.

19. On December 29, 1992, United States Patent No. 5,174,052 (the "'052 Patent") (attached hereto as Exhibit "A") was duly and legally issued to Plaintiffs.

20. Following the issuance of the '052 Patent, Defendants resumed discussions with Plaintiffs through an individual named Jeff Silverman.

21. On or about October 5, 1993, Bruce McCarty from Genesco visited Plaintiffs' Gait Analysis Center in Philadelphia, during which he learned additional confidential and proprietary information regarding DSIS, including but not limited to Plaintiffs' analysis of the Johnston & Murphy prototype shoe.

22. Beginning in December 1993 and continuing through July 1994, Plaintiffs and Defendants exchanged draft License Agreements relating to the '052 Patent and proposed terms and conditions pursuant to which Genesco would make, source, use and sell Plaintiffs' DSIS technology.

23. As summarized above, Plaintiffs engaged in extensive discussions with Defendants' representatives with regard to Plaintiffs' knowledge and know how regarding the creation, development and use of Plaintiffs' confidential information and technology.

24. After obtaining the confidential and proprietary information which they needed from Plaintiffs and without obtaining a license, Defendants terminated any discussions with Plaintiffs and proceeded to illegally use the confidential and proprietary information which Defendants had gained from Plaintiffs to Plaintiffs' detriment.

25. Defendants thereafter introduced and continue to introduce into the marketplace numerous products containing the confidential and proprietary information which they had obtained from Plaintiffs.

26. Defendants deliberately and willfully violated the Confidential Disclosure Agreement between the parties to Plaintiffs' detriment and to Defendants' financial advantage.

27. Plaintiffs discovered Defendants' wrongdoing as set forth above and promptly contacted Defendants in the winter of 2002.

28. Mr. Helton responded that Defendants' legal department would investigate.

29. Several months later, Mr. Helton responded that Defendants would immediately omit any language taken from the parties' prior confidential discussions on information cards provided to customers purchasing their shoes.

30. Defendants have wrongfully continued to make and sell footwear containing DSIS.

COUNT I
INFRINGEMENT UNDER THE
PATENT LAWS OF THE UNITED STATES 35 U.S.C. §1 et seq.

31. Plaintiffs repeat and reallege each and every allegation of paragraphs 1-30 of their Complaint as if fully set forth herein.

32. The '052 Patent is valid and enforceable.

33. Plaintiffs, inventors of DSIS, possess certain rights in and interest to the '052 Patent, including the right to obtain an injunction and damages and other forms of relief for past and future infringement.

34. Defendants' have been, and presently are, infringing the '052 Patent by manufacturing and selling within the United States and selling within this judicial district footwear containing DSIS as a component.

35. Defendants' infringement of the '052 Patent is deliberate, willful and intentional, as Defendants have had actual notice of Plaintiffs' patent rights.

36. Defendants have caused Plaintiffs substantial damage and irreparable injury by virtue of infringement of the '052 Patent, and Plaintiffs will continue to suffer damage and irreparable injury unless and until Defendants are enjoined by this Court from such infringement.

37. On information and belief, the infringement by Defendants has and will deprive Plaintiffs of royalties and other related revenue which Plaintiffs would have made or would enjoy in the future, has injured Plaintiffs in other respects, and will cause Plaintiffs added injury and damage, including lost royalties and other related revenue in the future, unless Defendants are enjoined from infringing the '052 Patent.

38. Defendants have knowingly, willfully, and deliberately infringed the '052 Patent in conscious disregard of Plaintiffs' rights, making this case exceptional within the meaning of 35 U.S.C. §285 and justifying treble damages pursuant to 35 U.S.C. §284.

COUNT II
MISAPPROPRIATION OF TRADE SECRETS

39. Plaintiffs repeat and reallege each and every allegation of paragraphs 1-38 of their Complaint as if fully set forth herein.

40. Through extensive research and development and the expenditure of considerable amount of time, effort and money, Plaintiffs developed commercially valuable, confidential, scientific, technical and business information, hereinafter collectively referred to as "Trade Secrets."

41. Defendants knew that Plaintiffs had expended much time, effort and money in developing the information comprising its proprietary information as Trade Secrets.

42. Plaintiffs' Trade Secrets are not generally known and not readily ascertainable by proper means by others who could or would obtain economic value from their disclosure or use.

43. Plaintiffs have kept their Trade Secrets confidential and secret, with restrictions on the further use and disclosure by all others to whom the information has been properly disclosed by Plaintiffs.

44. Defendants employed Plaintiffs' Trade Secrets by improper means as described above and Defendants' conduct constitutes both actual and threatened misappropriation of Plaintiffs' Trade Secrets and confidential and proprietary information, and such misappropriation has been willful and malicious with full knowledge of the secret

and confidential nature of the information, and in disregard of the ownership rights of Plaintiffs, and Plaintiffs have been greatly damaged by Defendants' actions.

COUNT III
CONVERSION

45. Plaintiffs repeat and reallege each and every allegation of paragraphs 1-44 of their Complaint as if fully set forth herein.

46. Plaintiffs transmitted proprietary and confidential information and Trade Secrets to Defendants in the context of a confidential relationship.

47. Defendants converted Plaintiffs' confidential and proprietary information by using such information wrongfully for Defendants' own benefit, without express or implied permission from Plaintiffs.

48. By means and as a result of said conversion, Plaintiffs have suffered and continue to suffer serious and substantial injury and irreparable damage, for which Plaintiffs have no adequate remedy at law.

COUNT IV
UNJUST ENRICHMENT

49. Plaintiffs repeat and reallege each and every allegation of paragraphs 1-48 of their Complaint as if fully set forth herein.

50. By their improper actions in obtaining Plaintiffs' confidential and proprietary information, Defendants had benefits conferred upon them to which they are not entitled, and they have been unjustly enriched at the expense of Plaintiffs.

51. As a result of the acts and activities complained of herein, Defendants have been unjustly enriched.

JURY DEMAND

52. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand that the issues in this case be tried by a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request this Court to:

1. Enter judgment for Plaintiffs that U.S. Patent No. 5,174,052 is valid, enforceable, and has been infringed by Defendants;
2. Issue a preliminary and permanent injunction restraining Defendants, their directors, officers, agents, employees, successors, subsidiaries, assigns, and all persons acting in privity or in concert or participation with them, from the continued infringement of U.S. Patent No. 5,174,052;
3. Direct Defendants to file with this Court, and to serve on Plaintiffs, a written report under oath setting forth in detail the manner and form in which they have complied with the injunction;
4. Order an accounting;
5. Order a disgorgement of fees and profits;
6. Order Defendants to pay to Plaintiffs no less than a reasonable royalty by reason of their infringement of U.S. Patent No. 5,174,052;
7. Order Defendants to pay to Plaintiffs increased damages in an amount no less than three times the amount of damages found by the jury or assessed by this Court, for Defendants' willful infringement, pursuant to 35 U.S.C. §284;

8. Order Defendants to pay to Plaintiffs their costs, expenses, and fees, including reasonable attorneys' fees pursuant to 35 U.S.C. §285;
9. Order Defendants to pay to Plaintiffs pre-judgment and post-judgment interest at the maximum rate allowed by law, pursuant to 35 U.S.C. §284; and
10. Grant Plaintiffs such other and further relief as the Court may deem just and proper.

Respectfully submitted,

BLANK ROME LLP

By: 

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Attorneys for Plaintiffs

Dated: January 27, 2003