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11 Attorneys for Plaintiff JENS ERIK SORENSEN,
12 as Trustee of SORENSEN RESEARCH AND
13 DEVELOPMENT TRUST

14 UNITED STATES DISTRICT COURT
15 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

16 JENS ERIK SORENSEN, as Trustee of
17 SORENSEN RESEARCH AND
18 DEVELOPMENT TRUST,

19 Plaintiff

20 v.

21 EMERSON ELECTRIC CO., a Missouri
22 corporation; ONE WORLD
23 TECHNOLOGIES, INC., a Delaware
24 corporation; RIDGE TOOL COMPANY, an
25 Ohio corporation; RIDGID, INC., a
26 Delaware corporation; and
27 DOES 1 – 100

28 Defendants.

_____)
and related counterclaims.)
_____)

) Case No. 08cv00060 BTM CAB

))
) **FIRST AMENDED¹ COMPLAINT FOR**
) **PATENT INFRINGEMENT**

) REQUEST FOR JURY TRIAL
))

¹ Amended to add two new accused products in paragraph 24.

1 Plaintiff JENS E. SORENSEN, as TRUSTEE OF THE SORENSEN
2 RESEARCH AND DEVELOPMENT TRUST (“SRDT”), pursuant to leave granted
3 by the Court, files this AMENDED Complaint for Patent Infringement against
4 Defendants, alleges as follows:

5
6 **THE PARTIES**

7 1. SRDT is a California resident, and the trustee of a trust organized
8 according to California law, and owner of all rights to United States Patent No.
9 4,935,184 (hereinafter “’184 patent”). A true and correct copy of the ‘184 patent is
10 attached hereto as Exhibit A.

11 2. Defendant Emerson Electric Co. (“EMERSON”) is a publicly-traded
12 corporation (NYSE: EMR) organized under the laws of Missouri, having a principal
13 office located at 8000 West Florissant Avenue, St. Louis, Missouri 63136, and
14 conducts business under the trademarked name “Emerson Professional Tools.”

15 3. Defendant One World Technologies, Inc. (“OWT”) is a corporation
16 organized under the laws of Delaware, having a principal office located at 1428
17 Pearman Dairy Road, Anderson, South Carolina 29625.

18 5. Defendant Ridge Tool Company (“RIDGE”) is a corporation organized
19 under the laws of Ohio, having a principal office located at 400 Clark Street, Elyria,
20 Ohio 44035.

21 6. Defendant Ridgid, Inc. (“RIDGID”) is a corporation organized under
22 the laws of Delaware, having a principal office located at 850 Library Avenue, Suite
23 204, Newark, Delaware 19711.

24 7. Defendant DOE 1 is an entity, legal form unknown, that represents itself
25 as “Ridgid Power Tools, St. Louis, Missouri.”

26 8. Upon information and belief, DOES 2-100 are entities, legal form
27 unknown, that are involved in the actions giving rise to this Complaint.

28 9. Upon information and belief, one or more Defendants have acted as

1 agents of one or more of each other during some or all of the times relative to the
2 subject matter of this Complaint.

3 10. Upon information and belief, the Defendants have in the past and/or
4 presently design, control manufacture, import, sell, and/or offer for sale within the
5 United States, including this District, power tools with plastic housings, including
6 products identified herein as accused products.

7 8 **JURISDICTION and VENUE**

9 11. This action arises under the Patent Laws of the United States of
10 America, Title 35, United States Code. Jurisdiction is founded on Title 28, United
11 States Code §§ 1331, 1332(a), and 1338(a).

12 12. On information and belief, venue in this district is proper under 28
13 U.S.C. §§ 1391 and 1400(b) because Defendants have committed acts of
14 infringement here and have extensive networks of dealers and online retailers, which
15 sell its products in this District.

16 13. This Court has personal jurisdiction over Defendants under the long-
17 arm statute of California and U.S. constitutional law because upon information and
18 belief Defendants market and/or ships its products into this District, offer those
19 products for sale and sells those products in this District, provide advertising in this
20 District targeted to this district's residents, and maintain a network of authorized
21 distribution arrangements with retailers in this district for the purpose of selling their
22 products.

23 24 **GENERAL ALLEGATIONS**

25 14. The '184 patent entitled "Stabilized Injection Molding When Using a
26 Common Mold Part With Separate Complimentary Mold Parts," was issued on June
27 19, 1990.

28 15. Upon information and belief, Defendants jointly, and with other entities

1 not named as parties herein, engage in the design, manufacture, import, distribution,
2 marketing, selling, and/or offering for sale of power tools under the Ridgid®
3 trademark.

4 16. Upon information and belief, the Defendants have intentionally and
5 knowingly created a web of entities that all work together under common leadership
6 and control with respect to the manufacture and distribution of Ridgid® power tools.

7 17. Defendants have been on constructive notice of the '184 patent since its
8 issuance on June 19, 1990.

9 18. Defendants have been on actual notice of the '184 patented process at
10 least as early as September 2004.

11 19. Upon information and belief, the Defendants have engaged in design,
12 manufacture, import, sell, and/or offer for sale within the United States, including
13 this District, power tools that have dual-layer external plastic housings.

14 20. On information and belief, said products identified herein and as-yet-
15 unidentified products manufactured through the same or substantially similar process
16 are manufactured through processes which incorporated all elements of the '184
17 patented process.

18 21. None of the Defendants have obtained a license or any other
19 authorization from the Plaintiff for manufacture, import, sale, and/or offer for sale in
20 the United States of products manufactured through use of the '184 patented process.

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22 **CLAIM 1 - PATENT INFRINGEMENT**

23 22. SRDT realleges and incorporates herein by reference paragraphs 1
24 through 21, inclusive, as though fully set forth herein.

25 23. On information and belief, Defendants have, within the past six years,
26 designed, manufactured, imported into, sold and/or offered for sale within the United
27 States and this District, products having dual-layer external plastic shells ("Accused
28 Products").

1 24. On information and belief, the Accused Products include the following:
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3	Ridgid 18V Cordless Reciprocating Saw, Model No.
4	R844;
5	Ridgid HD 3/8" VSR Drill, Model No. R7000;
6	Ridgid HD Reciprocating Saw, Model No. F3000;
7	Ridgid 18V Cordless 1/2" Hammer Drill, Model No.
8	R8411503;
9	Ridgid 18V Cordless 1/2 " Drill, Model No. R84015;
10	Ridgid 18V Cordless Drill, Model No. R84001;
11	Ridgid 14.4V Cordless 1/2" Drill, Model No. R83015;
12	Ridgid 12V Right Angle Impact Driver, Model No.
13	R82233;
14	Ridgid 14.4V Impact Driver, Model No. R82320;
15	Ridgid 12V Cordless 3/8" Drill, Model No. R82001;
16	Ridgid Heavy Duty 3 Speed 1/2" Right Angle Drill, Model
17	No. R7130;
18	Ridgid Heavy Duty 2 Speed 1/2" VSR Drill, Model No.
19	R7100;
20	Ridgid Heavy Duty VSR Drywall Screwdriver, Model No.
21	R6000;
22	Ridgid Heavy Duty 1/2" VSR Hammer/Pulse Drill, Model
23	No. R5010;
24	Ridgid 7 1/4" Worm Drive Saw, Model No. R3210;
25	Ridgid Heavy Duty 7 1/4" Circular Saw, Model No. R3200;
26	Ridgid 18V Cordless Jig Saw, Model No. R843;
27	Ridgid Variable Speed Orbital Jig Saw, Model No. R3120;
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Ridgid Heavy Duty 11A Reciprocating Saw, Model No. R3001;
Ridgid 18V Cordless Hand Planer, Model No. R848;
Ridgid Heavy Duty Variable Speed Belt Sander, Model No. R2720;
Ridgid 9.6V Pivoting Screwdriver, Model No. R81030;
Ridgid Heavy Duty ½” Two Speed Hammer Drill, Part No. R5011
Ridgid Heavy Duty VSR Drywall Screwdriver, Part No. R6000
Ridgid Professional 3/8” VSR Drill, Part No. R70002
Ridgid Heavy Duty ½” VSR Hammer Drill, Part No. R5013
Ridgid Max Select Dual Voltage Jig Saw
Ridgid Heavy Duty ½” VSR Drill
Ridgid 12 Volt Cordless 3/8” Drill
Ridgid Max Select Dual Voltage Reciprocating Saw
Ridgid 18 Volt Compact Lithium – Ion Drill
Ridgid Max Select Dual Voltage Circular Saw
Ridgid 24 Volt Lithium-Ion Cordless Hammer Drill
Ridgid Worklight
Ridgid ¼ Sheet Sander
Ridgid 5” Random Orbit Sander
Ridgid Max Select Hand Planer
Ridgid 6 ½” Compact Framing Saw
Ridgid 12 Volt Right Angle Impact Driver
Ridgid 7” Circular Saw

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Ridgid 7 ¼” Worm Drive Circular Saw
Ridgid Variable Speed Orbital Jig Saw
Ridgid ½” Right Angle Drill
Ridgid Variable Speed Belt Sander
Ridgid Twist Handle Orbital Reciprocating Saw
Ridgid Heavy Duty 11Amp Reciprocating Saw
Ridgid 18 Volt Cordless Impact Driver
Ridgid 18 Volt Reciprocating Saw
Ridgid 18 Volt Circular Saw
Ridgid 18 Volt Cordless Hammer Drill
R6300 HD Impact Wrench
R3202 7-1/4” Circular Saw
Fuego ½” Framing Saw
V.S. Laminate Trimmer
6” Random Orbit Sander
HD 3” V.S. 3” x 18” Belt Sander
R1020 Twist Handle 7” Angle Grinder
R3121 VS Orbital Jig Saw
MS1065LZA 10” Compound Miter Saw
R4121 12” Dual Compound Miter Saw
MS1250LZA 12” Compound Miter Saw
MS1290LZA 12” Sliding Compound Miter Saw
R851150 Hammer Drill
R854 Reciprocating Saw
R830153 14.4V Cordless ½” Drill/Driver Kit
R82007 12V Lithium-Ion Drill/Driver
R86111 18V Lithium-Ion Hammer Drill

1	WTS2000L 10” Wet Tile/Stone Saw
2	100-B Compact Press Tool
3	Micro CG-100 Combustible Gas Sniffer
4	IR-100 Micro-Ray Infrared Thermometer
5	20218 25’ Tape Measure
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25. On information and belief, the Accused Products may include other Ridgid-brand products sold under any other names or model numbers names which are manufactured utilizing similar processes, including but not limited to, any other product manufactured using the same injection mold as any of the products identified above.

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26. On information and belief, the Accused Products are manufactured through processes which incorporate all elements of the ‘184 patented process.

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27. One or more of the Defendants received a notice of infringement from Plaintiff, detailing a substantial likelihood pursuant to 35 U.S.C. § 295 that certain Accused Products were manufactured through a process which incorporates all elements of the ‘184 patented process and were asked to verify the actual manufacturing process.

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28. To date, none of the Defendants have presented any admissible evidence of the actual manufacturing process for any Accused Products to Plaintiff.

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29. On information and belief, manufacturing of the Accused Products occurs in China.

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30. On information and belief, the Defendants act together as a single enterprise for purposes of designing, manufacturing, marketing, importing, offering for sale, and/or selling the Accused Products.

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31. On information and belief, Defendants continue to engage in infringement of the ‘184 patent, and in wanton and willful disregard of SRDT’s ‘184

1 patent rights.

2 32. On information and belief, Defendants continue to contribute to
3 infringement of the '184 patent and induce others to infringe the '184 patent.

4 33. On information and belief, the conduct of Defendants in willfully
5 continuing to infringe the '184 patent, and to contribute to infringement and induce
6 others to infringe the '184 patent, despite being on both constructive notice and
7 actual notice, is deliberate, thus making this an exceptional case within the meaning
8 of 35 U.S.C. § 285.

9 34. On information and belief, SRDT has suffered and is continuing to
10 suffer damages by reason of Defendants' infringing conduct.

11 35. A reasonable royalty for infringement of the '184 patent constitutes at
12 least eight percent (8%) of gross sales by each of the Defendants of the Accused
13 Products from six years prior to the filing of this Complaint and continuing until
14 expiration of the '184 patent, according to proof and allocation at trial.

15 36. On information and belief, the reasonable royalty owed to SRDT from
16 Defendants should be trebled on account of willful infringement by Defendants,
17 according to proof and allocation at trial.

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19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, SRDT prays that judgment be entered as follows:

21 a. For a determination that the Accused Processes are presumed to infringe
22 the '184 patent pursuant to 35 U.S.C. § 295;

23 b. For a determination that the Defendants act together as a single
24 enterprise for purposes of designing, manufacturing, marketing, importing, offering
25 for sale, and/or selling the Accused Products;

26 c. Defendants are adjudicated and decreed to have infringed the '184
27 patent;

28 d. Defendants are adjudicated and decreed to have contributed to the

1 infringement of the '184 patent and to have induced others to infringe the '184
2 patent;

3 e. Defendants are ordered to account for damages adequate to compensate
4 SRDT for the infringement of '184 patent, their contributory infringement of the
5 '184 patent, and their inducement of infringement of the '184 patent, according to
6 proof and allocation at trial, and such damages are awarded to SRDT;

7 f. Such damages as are awarded are trebled by the Court pursuant to 35
8 U.S.C. § 284 by reason of the willful, wanton, and deliberate nature of the
9 infringement;

10 g. That this case is decreed an "exceptional case" and SRDT is awarded
11 reasonable attorneys' fees by the Court pursuant to 35 U.S.C. § 285;

12 h. For interest thereon at the legal rate;

13 i. For costs of suit herein incurred;

14 j. For such other and further relief as the Court may deem just and proper.

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1 **DEMAND FOR JURY TRIAL**

2 SRDT respectfully requests that its claims be tried to a jury.

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4 DATED this Tuesday, September 02, 2008.

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6 JENS ERIK SORENSEN, as Trustee of
7 SORENSEN RESEARCH AND DEVELOPMENT
8 TRUST, Plaintiff

9 /s/ Melody A. Kramer

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Melody A. Kramer, Esq.

11 J. Michael Kaler, Esq.

12 Attorneys for Plaintiff

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1 PROOF OF SERVICE

2 I, Melody A. Kramer, declare: I am and was at the time of this service working within in
3 the County of San Diego, California. I am over the age of 18 year and not a party to the within
4 action. My business address is the Kramer Law Office, Inc., 9930 Mesa Rim Road, Suite 1600,
5 San Diego, California, 92121.

6 On Tuesday, September 02, 2008, I served the following documents:

7 FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT
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PERSON(S) SERVED	PARTY(IES) SERVED	METHOD OF SERVICE
Roger G. Perkins Angela Kim Kristina M. Pfeifer MORRIS POLICH & PURDY LLP 501 West Broadway, Suite 500 San Diego, California 92101 rperkins@mpllaw.com akim@mpllaw.com kpfeifer@mpllaw.com	Emerson Electric Co., Ridge Tool Co., and Ridgid, Inc., One World Technologies, Inc.	Email - Pleadings Filed with the Court via ECF
Orlando F. Cabanday HENNELLY & GROSSFELD LLP 4640 Admiralty Way, Suite 850 Marina del Rey, CA 90292 Telephone: (310) 305-2100 Facsimile: (310) 305-2116 ocabanday@hgla.com	Emerson Electric Co., Ridge Tool Co., and Ridgid, Inc.	Email - Pleadings Filed with the Court via ECF
Robert S. Mallin Brinks Hofer Gilson & Lione NBC Tower 455 N City Front Plaza Drive Suite 3600 Chicago, IL 60611 rmallin@brinkshofer.com	Emerson Electric Co., Ridge Tool Co., and Ridgid, Inc., One World Technologies, Inc.	Email - Pleadings Filed with the Court via ECF

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27 (Personal Service) I caused to be personally served in a sealed envelope hand-delivered
28 to the office of counsel during regular business hours.

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(Federal Express) I deposited or caused to be deposited today with Federal Express in a sealed envelope containing a true copy of the foregoing documents with fees fully prepaid addressed to the above noted addressee for overnight delivery.

(Facsimile) I caused a true copy of the foregoing documents to be transmitted by facsimile machine to the above noted addressees. The facsimile transmissions were reported as complete and without error.

(Email) I emailed a true copy of the foregoing documents to an email address represented to be the correct email address for the above noted addressee.

(Email--Pleadings Filed with the Court) Pursuant to Local Rules, I electronically filed this document via the CM/ECF system for the United States District Court for the Southern District of California.

(U.S. Mail) I mailed a true copy of the foregoing documents to a mail address represented to be the correct mail address for the above noted addressee.

I declare that the foregoing is true and correct, and that this declaration was executed on Tuesday, September 02, 2008, in San Diego, California.

/s/ Melody A. Kramer

Melody A. Kramer