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MAY - 4 2007
U. S. DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
ST. LOUIS

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES H. CLARK)	
)	
Plaintiff,)	Case No. 4:05-cv-1344
)	
vs.)	Judge Hamilton
)	
FLOYD CRUES et al.,)	
)	
Defendant(s).)	

NOTICE OF APPEAL

COMES NOW; James H. Clark, Plaintiff, pro se and in forma pauperis on Friday, this 4th day of May 2007, with his Notice of Appeal pertaining to the above captioned matter accordingly.

Plaintiff – Appellant filed his Original Complaint with the United States District Court, Eastern District of Missouri; Eastern Division, on August 25th 2005, citing the United States Civil Statute under Title 28 U.S.C.A, Section 1343 and Violations of Civil Rights pertaining to a brief description of cause. Although Plaintiff referenced he had a Patent Application Pending noting Application No. 11/153,118, Plaintiff never mentioned the word “infringement” and/or any causes of action pertaining to Patent or Copyright Infringements, the Honorable Judge Hamilton modified Plaintiff’s Original Complaint from a Title 28 U.S.C.A, Section 1343

“Violation of Civil Rights” Cause, into a Title 28 U.S.C.A, Section 1338
“Patent Infringement” Cause (courtesy copy; title page attached, **exhibit 1**).

Pursuant to Text Docket # 6 on 8/26/2005, the District Court investigated and filed a REPORT to the commissioner for a filing or determination of an action regarding Plaintiff’s Patent. Upon the District Courts finding pursuant to Text Docket # 6, the Plaintiff’s Original Complaint was interpreted as a Patent Infringement; therefore, modifying the Cause for this matter.

At no fault of his own, Plaintiff filed the Original Complaint as a “pro se” litigant, moving the District Court to Appoint Plaintiff Counsel (Text Doc No. 5). Although the Honorable Judge Hamilton initially denied Appointing Plaintiff Counsel (Text Doc No. 8) claiming the complexity surrounding this complaint didn’t warrant an Appointment of Counsel, the District Court changed its decision and Appointed Plaintiff Counsel(s) on **(1)** June 27th 2006 (Text Doc No. 122), on **(2)** 7/17/2006 (Text Doc No. 138), and lastly on **(3)** 8/21/2006 (Text Doc No. 153). The Defendants received notice of Plaintiff’s Court Appointed Counsels; however, he didn’t receive any notice of his Appointed Counsel(s). All three of the District Court Appointed Counsels moved the Court; by Motion, to be dismissed as

Plaintiff's Counsel alleging; "Conflicts of Interests." In addition, Plaintiff didn't receive any rulings, judgments, any Court orders or any other form of "communication" from the District Court after the Rule 16 Conference, which was held on March 29th 2006 (Text Doc. No. 89) through October 2006.

For approximately six (6) months, Plaintiff didn't acquire any District Court processes and/or communications; therefore, interfering with justice by drastically minimizing his knowledge pertaining to this matter, while supporting the Defendants with legal empowerment to carry out their defensive strategies.

After the third Court Appointed Counsel filed Motion withdrawing as Plaintiff's Counsel, the Honorable Judge Hamilton didn't grant Plaintiff with a 4th Court Appointed Counsel. As determined by the District Court, justice may have been served if Plaintiff had received all Court communications, especially since the District Court modified Plaintiff's Original complaint from a Civil Rights Violation Complaint, into a Patent Infringement.

During the above referenced Rule 16 Conference, the Honorable Judge Hamilton reviewed Plaintiff's Motion for a More Definitive Statement and/or Clarification pertaining to which attorney from the Law Firm Lashly

& Baer, P.C, was representing which Defendant. Attorney Kenneth Brostron from the Law Firm Lashly & Baer, P.C, was himself a Defendant. According to Ken Brostrons Entry of Appearances noted on pages 2-5 of the Text Docket, along with; Text Doc Nos. 12, 15, 40 and 104; **see exhibit 2**), along with **exhibit 3** (Brostrons 2nd set of interrogatories) Defendant Ken Brostron was representing most but, not all Defendants.

The Honorable Judge Hamilton specifically clarified with counsel James Hetlage, from the Law Firm Lashly & Baer, P.C, during the Rule 16 Conference, which was held and recorded in her Courtroom, that Kenneth Brostron; being a Defendant himself, would not be representing any of the other Defendants. Mr. Hetlage said he (referring to Ken Brostron) would not be representing any of the other Defendants. Ultimately, Kenneth Brostron actively represented all of the Defendants and even acknowledges his representations thereof; therefore, blatantly defying the District Courts specifications.

Plaintiff attempted to settle this matter by way of written communications approximately seven (7) times. Plaintiff offered to settle this matter by way of oral gestures and during the Alternative Dispute Resolution (ADR) and other verbal communications with Defendants

Counsel(s) approximately three or four times. Upon belief, information, and knowledge, Plaintiff's settlement offers were never submitted from the Defendants Counsel(s) to the proper clients accordingly. Mr. Kenneth Brostron, as a Defendant and Counsel, perverted the judicial processes surrounding this matter pertaining to "Ulterior Motives" for his own personal advantages and by way of the Law Firm Lashly & Baer, P.C; "Proffering" off their client SLPS and/or the Board of Education of the City of St. Louis.

Lastly, Plaintiff has been communicating with officials from the Patent and Trademark Office (PTO) in Virginia. A Petition to Expedite the PTO Determination of Patent Application No. 11/153,118 has been submitted accordingly. Since the District Court modified this complaint from a Violation of Civil Rights, into a Patent Infringement, the District Court should not have ruled; whereby, dismissing Plaintiff's Patent Infringement Counts "with prejudice," until the PTO makes a determination pertaining to the validity of Plaintiff's Patent and Patent Application

WHEREFORE, Plaintiff; now, Appellant Prays to the United States Court of Appeals for the 8th Circuit, to review, hears, and ensures justice is adequately obtained pertaining to the outcome of this matter.

Respectfully Submitted,

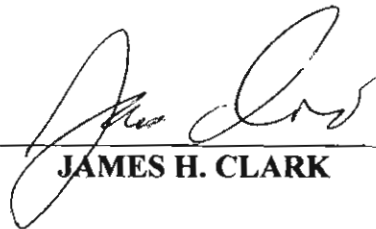


JAMES H. CLARK
8276 Albin Avenue
St. Louis MO, 63114
(314) 426 – 6587 (home phone)

CERTIFICATE OF SERVICE

I hereby certify; a true and accurate copy of the foregoing, was filed with the District Court, hand delivered, faxed and/or mailed postage prepaid on this 4th Day of May 2007 to:

Mr. James Hetlage and Mr. Kenneth Brostron
LASHLY & BAER, P.C.
714 Locust Street
St. Louis MO, 63101



JAMES H. CLARK

Exhibit 1

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

FILED

The JS 44 civil cover sheet and the information contained herein 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.)

AUG 25 2005

I. (a) PLAINTIFFS James H. Clark
Alternative Discipline Behavioral Concepts

(b) County of Residence of First Listed Plaintiff St. Louis
 (EXCEPT IN U.S. PLAINTIFF CASES)
8276 Albin Ave
St. Louis, MO 63114 314 426-6587

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS 1. Floyd Cross
See additional U.S. District Court
EASTERN DISTRICT OF MO

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of U.S. State Plaintiff Defendant

Citizen of Another State 2 Plaintiff 2 Defendant

Citizen or Subject of a Foreign Country 3 Plaintiff 3 Defendant

Incorporated or Principal Place of Business in U.S. State 4 Plaintiff 4 Defendant

Incorporated and Principal Place of Business in Another State 5 Plaintiff 5 Defendant

Foreign Nation 6 Plaintiff 6 Defendant

IV. 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 Miller 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 (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane 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	PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <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 Liquor 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 Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 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
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	PROPERTY RIGHTS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts 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"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<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 Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
				SOCIAL SECURITY
				<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

V. 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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1343

Brief description of cause: Violation of Civil Rights

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 (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 8/25/05

SIGNATURE OF ATTORNEY OF RECORD James H. Clark

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Exhibit 2

JAMES H. CLARK, Pro Se, and)
ALTERNATIVE DISCIPLINE AND)
BEHAVIORAL CONCEPTS, LLC.,)
)
Plaintiff,)
)
v.)
)
FLOYD CRUES, et al.,)
)
Defendants.)

Case No. 4:05CV1344 JCH

ENTRY OF APPEARANCE

COME NOW Kenneth C. Brostron, James C. Hetlage and Lashly & Baer, P.C., and enter their appearance on behalf of Floyd Crues.

/s/ James C. Hetlage
Kenneth C. Brostron #2715
James C. Hetlage #3391
LASHLY & BAER, P.C.
714 Locust Street
St. Louis, Missouri 63101
(314) 621-2939
(314) 621-6844/Fax

Attorneys for Floyd Crues

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 4th day of May, 2006, a true and correct copy of the foregoing was mailed first class, postage prepaid to: Mr. James H. Clark, Plaintiff, Pro Se, 8276 Albin Avenue, St. Louis, MO 63114.

/s/ James C. Hetlage

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Exhibit 3

JAMES H. CLARK,)	
)	
Plaintiff,)	Case No. 4:05-CV-1344-JCH
)	
v.)	
)	
FLOYD CRUES, et al.,)	
)	
Defendants.)	

**DEFENDANT KENNETH BROSTRON'S ANSWERS AND OBJECTIONS TO
PLAINTIFF'S SECOND SET OF INTERROGATORIES**

COMES NOW Defendant Kenneth Brostron and for his Answers and Objections to Plaintiff's Second Set of Interrogatories, states as follows:

RELEVANT TIME PERIODS

Unless otherwise noted, all relevant time periods shall be recognized after as accruing after October 1, 2006.

INTERROGATORIES

1. Identify the month you became aware of the Plaintiff's "Out of Area" program.

ANSWER: I have no knowledge of Plaintiff's "Out of Area" program except for what is referenced in Plaintiff's original Complaint and Amended Complaint. I first became aware that Plaintiff claimed to have created an "Out of Area" program in August 2005, when I first received a copy of Plaintiff's Complaint.

2. Identify whether or not you provided legal advice to any of the referenced Defendants to include Defendant Board of Education of the City of St. Louis regarding any potential unlawful infringement consequences surrounding Plaintiff's "Out of Area" program during the 2003-04 school year including the summer of 2004, and the 2004-05, school years.

ANSWER: No.

3. Identify which Defendants you represent in Case No. 4:05cv1344; as you referenced in your response to Plaintiff's 18th interrogatory, in this matter.

ANSWER: I, along with James C. Hetlage and Lashly & Baer, P.C., represent Defendants Board of Education of the City of St. Louis, Brostron, Warmack, Crues, Shead, Gunter and Hopper, which are all of the Defendants named in Plaintiff's Amended Complaint.

4. In your affidavit, Exhibit C, accompanied with Defendant's Responses to Plaintiff's Statement of Uncontroverted Facts, there is no signature identifying the notary public official to include the notaries expiration date of commission. Identify the proper acknowledgments required by a Notary Public for an affidavit to include the Notary Public's identity.

ANSWER: Objection. Defendant objects that this interrogatory is vague, ambiguous and not reasonably calculated to lead to the discovery of admissible evidence.

5. Identify all legal counsel(s)/entities, other than Mr. Hetlage, that you have corresponded with regarding issues surrounding the Plaintiff's Intellectual Property.

ANSWER: None to the best of my knowledge.

STATE OF MISSOURI)
)
CITY OF ST. LOUIS)

The undersigned, being first duly sworn, deposes and says:

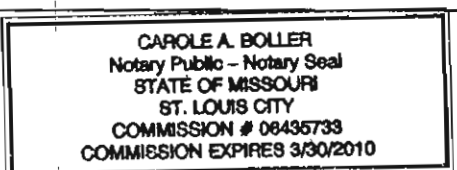
That the information set forth in the foregoing Answers and Objections to Plaintiff's Second Set of Interrogatories are true to the best of my knowledge, information and belief.



Kenneth C. Brostron

Subscribed and sworn to before me this 29th day of December, 2006.


Notary Public

My Commission Expires:




Kenneth C. Brostron #2715
James C. Hetlage #3391
LASHLY & BAER, P.C.
714 Locust Street
St. Louis, Missouri 63101
(314) 621-2939
(314) 621-6844/Fax

Attorneys for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served this 29th day of December, 2006 via certified mail and regular U.S. Mail to James Clark, Plaintiff, 8276 Albin, St. Louis, MO 63114.

