

1 AMERICAN INNOTEK, INC.
2 CLARENCE "CASS" CASSIDY, President
3 2320 Meyers Street
4 Escondido, CA 92029
5 Tel: (760) 741-6600
6 Fax: (760) 741-6622
7 Email: ccassidy@americaninnotek.com

FILED
2009 SEP 23 PM 1:46
CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY [Signature] DEPUTY

6 Plaintiff – In Pro Per
7 American Innotek, Inc.

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 AMERICAN INNOTEK, INC., a California
11 corporation,

12 Plaintiff,

13 vs.

14 AXIS INTERNATIONAL MARKETING
15 LTD., an Illinois domestic corporation,

16 Defendants.

'09 CV 2080 IEG BLM
Civil Action No.

COMPLAINT FOR
DECLARATORY RELIEF RE:

- (1) NON PATENT INFRINGEMENT;
- (2) INVALIDITY OF PATENT;
- (3) UNFAIR COMPETITION UNDER STATE LAW; AND
- (4) FINE FOR PATENT FALSE MARKING

[JURY TRIAL DEMANDED]

(35 U.S.C. §§ 1, 101, 102, 103, 112, 119, 229, 292; 28 U.S.C. §§ 1331, 1332, 1338, 1367, 2201, 2202; California Business and Professions Code § § 17200 et seq.)

17
18
19
20
21 Comes now the Plaintiff AMERICAN INNOTEK, INC. (hereinafter referred to as
22 "American Innotek") and for its Complaint alleges as follows:

23 1. Plaintiff AMERICAN INNOTEK, INC. is a corporation duly organized and
24 at all times relevant hereto in good standing under the laws of the State of California,
25 with its principal place of business at 2320 Meyers, Escondido, CA 92029 within the
26 Southern District of California.

27 2. Defendant AXIS INTERNATIONAL MARKETING LTD. (hereinafter
28 referred to as "Axis International or Axis") is, on information and belief, a domestic

ORIGINAL

1 corporation organized under the laws of the State of Illinois with its principal place of
2 business at 1800 South Wolfe Road, Des Plaines, IL 60018 and doing business in the
3 Southern District of California.

4 3. On information and belief, the Defendant has sufficient contacts with the
5 State of California to support the existence of personal jurisdiction in California over
6 them.

7 4. This Complaint arises under the patent laws of the United States of
8 America, 35 U.S.C. § 1 *et seq.*, and under the laws of the State of California.

9 5. This Court has jurisdiction pursuant to 35 U.S.C. § 1 *et seq.*, 35 U.S.C.
10 § 292, 28 U.S.C. §§ 1331, 1332, 1338(a), 1338(b), 2201 and 2202, and supplemental
11 jurisdiction pursuant to 28 U.S.C. § 1367. The Court has pendent jurisdiction of the
12 California state law claim under 28 U.S.C. § 1338(b).

13 6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

14 7. The Plaintiff, American Innotek, designs, manufactures and sells organizer
15 containers, under a variety of designs and trademarks including it's parent brand Neatnix.

16 8. Defendant Axis International is, on information and belief, the assignee and
17 owner of United States Design Patent No. 568,069 ("the '069 Design Patent), issued
18 May 2008 for the "ornamental design for a Jewelry Organizer " On information and
19 belief, a true copy of the '069 Design Patent is attached hereto as *Exhibit A*. The '069
20 Design Patent shows a stackable tray in the form a box with 4 sides and a bottom that
21 includes an indent or rail for cooperating in a stackable with other trays of the same
22 design.

23 9. On information and belief Defendant Axis International has 8 additional
24 patents as shown on *Exhibit B*.

25 10. On or about April 14, 2008, counsel for Axis International sent American
26 Innotek a letter alleging that American Innotek's "Jewelry Stax™" Organizer infringes
27 the claim protection of two patents that were soon to issue to Axis International. A true
28

1 copy of said letter is attached hereto as *Exhibit C*. The letter demanded that American
2 Innotek discontinue the manufacture and sale of its "Jewelry Stax™" Organizer

3 11. On August 10, 2009, Counsel for American Innotek responded requesting
4 further information, *inter alia*, pointing out that American Innotek was unable to make an
5 assessment of the charge of infringement because copies of the Axis patent applications
6 were not provided and requesting the needed information be provided. No such
7 information was ever provided and properly assumed that the charge was withdrawn and
8 proceeded to market all of its products and before. A true copy of this letter to Axis is
9 attached hereto as *Exhibit D*.

10 12. Asserting a patent and demanding that a American Innotek discontinue
11 selling a product is unfair competition because Axis knew or should have known the
12 patent to be invalid or not infringed is unfair competition because it discourages the
13 manufacture and sale of a competitive product including American Innotek's "Jewelry
14 Stax™" Organizer product. Axis International is also representing on its packaging that
15 its products are covered by "U.S. Patents" without identifying the specific patents that
16 allegedly cover the product, which is constitutes patent mismarking. The statements are
17 injurious to American Innotek's relationships with its customers and injurious to
18 American Innotek's commercial reputation and therefore constitutes Unfair Competition.

19 13. Based upon the threats and allegations by Axis, and upon the prior
20 exchange of correspondence, there is an actual controversy within the meaning of 28
21 U.S.C. § 2201 for purposes of this declaratory judgment action. American Innotek has an
22 objectively reasonable apprehension that it will face an infringement suit by American
23 Innotek regarding the '069 Design Patent if American Innotek continues to sell its accused
24 "Jewelry Stax™" products.

25 14. Due to the effect that Axis representations was having on American
26 Innotek's business, American Innotek had to commission a search and study of patents
27 that are owned by Axis or which may be owned by Axis. As a result of this study
28 American Innotek believes that American Innotek products do not infringe any of Axis'

1 patents and that at least the '069 patent is invalid for reasons that Axis knew or should
2 have known.

3 15. American Innotek has been harmed and will continue to be harmed if it is
4 forced to proceed with its business without a clear declaration of its non-infringement and
5 the invalidity of at least the '069 patent. Potential damages will continue to accrue, and
6 American Innotek will thereby be subjected to uncertainty and insecurity. As American
7 Innotek is anxious to resolve this dispute, it is filing this current action.

8 **FIRST CLAIM**

9 **(Declaratory Judgment re Non-Infringement of the '069 Design Patent)**

10 16. American Innotek hereby incorporates the allegations of Paragraphs 1
11 through 15 above as set forth and re-alleges them in full herein.

12 17. American Innotek's "Jewelry Stax™" Organizer does not infringe the '069
13 Design Patent as hereinabove alleged, under U.S.C. § 271 for reasons, including the
14 reason that the Axis design patent does not incorporate any protectable ornamental
15 features and that all of the principal features of the design are dictated by function and not
16 protectable in a design patent, and further because the "Jewelry Stax™" product has an
17 appearance which is distinct from that in the Axis patent.

18 18. American Innotek's sale and offer for sale of its "Jewelry Stax™"
19 Organizer does not constitute unfair competition under Federal, Illinois, or California
20 state law and does not constitute patent infringement under Federal Law.

21 19. American Innotek is entitled to a judgment declaring that its "Jewelry
22 Stax™" Organizer does not infringe the '069 Design Patent or otherwise infringe any of
23 the rights of any of the Defendants in the patents listed in Exhibit A.

24 **SECOND CLAIM**

25 **(Declaratory Judgment re Invalidity of the Claims of the '069 Design Patent)**

26 20. American Innotek hereby incorporates the allegations of Paragraphs 1
27 through 19 above as if set forth and re-alleged in full herein.

28

1 27. Many of the products marked "U.S. Patented" are not covered by any of
2 Axis' patents as set forth in Exhibit A.

3 28. The mismarking is intentional and discourages competition by legitimate
4 competitive products.

5 29. Mismarking is prohibited by 35 U.S.C 292(a).

6 30. Pursuant to 35 U.S.C. 292(b) any person may sue for the penalty of \$500
7 per mismarked package.

8 31. American Innotek is entitled to collect the fine of \$500 per mismarked
9 package and then pay over to the U.S. Government one-half of the fine so awarded.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff American Innotek prays that this Court enter judgment as
12 follows:

13 1. Declaring that American Innotek's products including the "Jewelry Stax™"
14 Organizer does not infringe the '069 Design Patent or any other patent owned by Axis
15 under 35 U.S.C. § 271.

16 2. Declaring that the '069 Design Patent is invalid.

17 3. Declaring that the sale and offer for sale of American Innotek's organizer
18 products does not constitute unfair competition under Federal, Illinois or California law.

19 4. Declaring that Axis International's conduct constitutes unfair competition
20 and unfair trade practices in violation of California Business and Professions Code
21 Section 17200 *et seq.*

22 5. Granting preliminary and permanent injunctions to stop Axis
23 International's threats and unfair competition and trade practices.

24 6. Awarding American Innotek its actual damages to be proven at trial.

25 7. Declaring this to be an exceptional case and awarding American Innotek its
26 reasonable attorney's fees under 35 U.S.C. § 285.

27 8. Awarding American Innotek \$500 per mismarked package as a fine one-
28 half of which is to be paid over to the U.S. Government.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

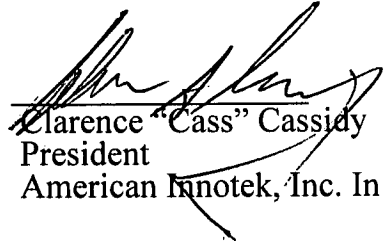
8. Awarding American Innotek its reasonable attorney's fees under California Business and Professions Code Section 17200 *et seq.*

9. Granting American Innotek such other further equitable and legal relief as the Court may deem proper.

Respectfully submitted,

Dated: September 23, 2009

AMERICAN INNOTEK, INC.

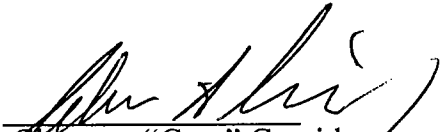
by 
Clarence "Cass" Cassidy
President
American Innotek, Inc. In Pro Per

REQUEST FOR JURY TRIAL

Pursuant to F.R.Civ.P. 38(b) and Southern District Civil Local Rule 38.1, Plaintiff American Innotek hereby demands its right to a jury trial on all issues triable to a jury.

Dated: September 23, 2009

AMERICAN INNOTEK, INC.

by 
Clarence "Cass" Cassidy
President
American Innotek, Inc. In Pro Per

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT "A"



US00D568069S

(12) **United States Design Patent**
Berger

(10) **Patent No.:** **US D568,069 S**
(45) **Date of Patent:** **** May 6, 2008**

(54) **JEWELRY ORGANIZER**
(76) **Inventor:** **Andrew Berger**, 2320 Birchwood Ct.
N., Buffalo Grove, IL (US) 60089

D477,479 S * 7/2003 Henderson et al. D6/510
D486,331 S * 2/2004 Boron D6/511
6,695,419 B2 * 2/2004 Searer et al. 312/348.3

* cited by examiner

(**) **Term:** **14 Years**

Primary Examiner—Elizabeth A. Albert
Assistant Examiner—Kelley A. Donnelly
(74) *Attorney, Agent, or Firm*—Law Office of Marc D. Machtinger, Ltd.

(21) **Appl. No.:** **29/284,172**

(22) **Filed:** **Aug. 31, 2007**

(51) **LOC (8) Cl.** **06-04**
(52) **U.S. Cl.** **D6/476**
(58) **Field of Classification Search** **D6/476**,
D6/439, 445, 432, 448, 509, 85, 188, 191,
D6/199, 511, 510; D7/38; 211/134, 135,
211/148, 153; D19/92, 22, 75, 78, 86
See application file for complete search history.

(57) **CLAIM**

The ornamental design for a “jewelry organizer,” as shown and described.

(56) **References Cited**

U.S. PATENT DOCUMENTS

D255,195 S * 6/1980 Smith D6/511
D260,102 S * 8/1981 Evans D19/92
D264,159 S * 5/1982 Bennett et al. D6/555
D274,205 S * 6/1984 Kates D6/509
4,619,365 A * 10/1986 Kelly et al. 206/503
D351,079 S * 10/1994 Brown D6/510
D477,166 S * 7/2003 Petri D6/510

DESCRIPTION

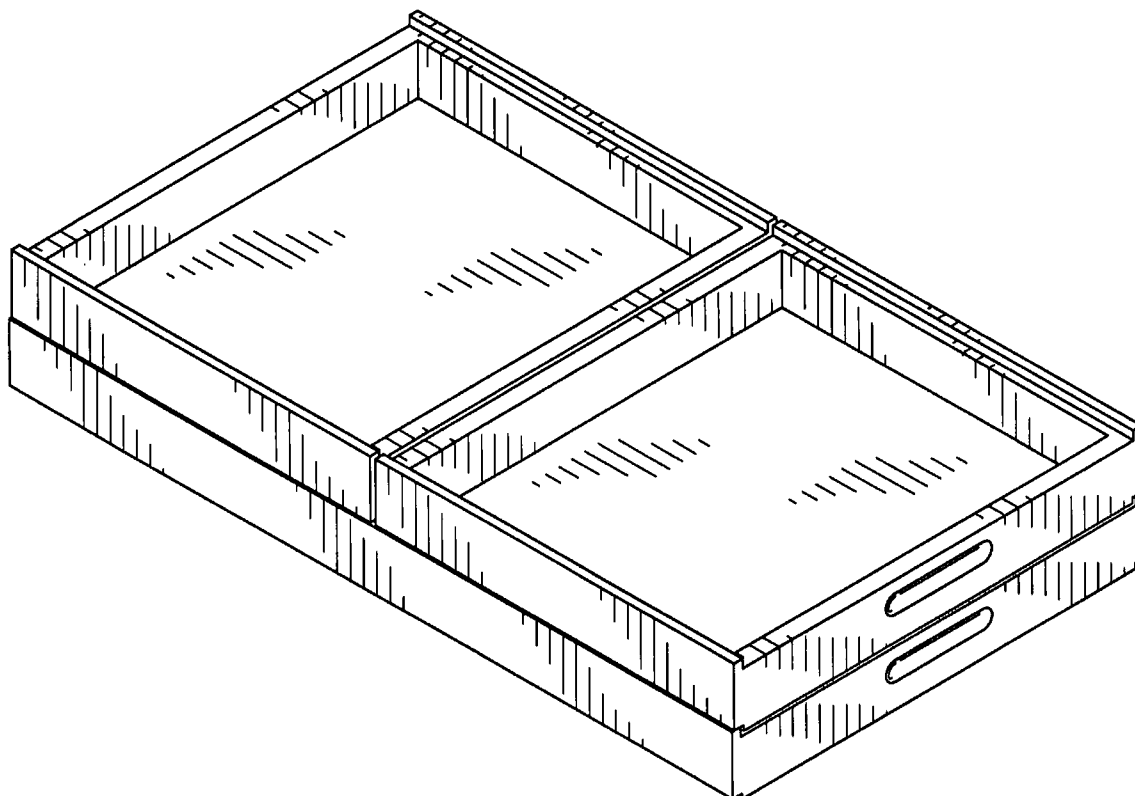
FIG. 1 is a left side view of a jewelry organizer showing the two bottom trays pulled out from the top tray, the right side view being identical hereto;

FIG. 2 is a front view thereof; and,

FIG. 3 is a perspective view thereof with the top two trays pushed together on top of the bottom tray.

Features shown in broken lines in the drawings are not part of the claim.

1 Claim, 3 Drawing Sheets



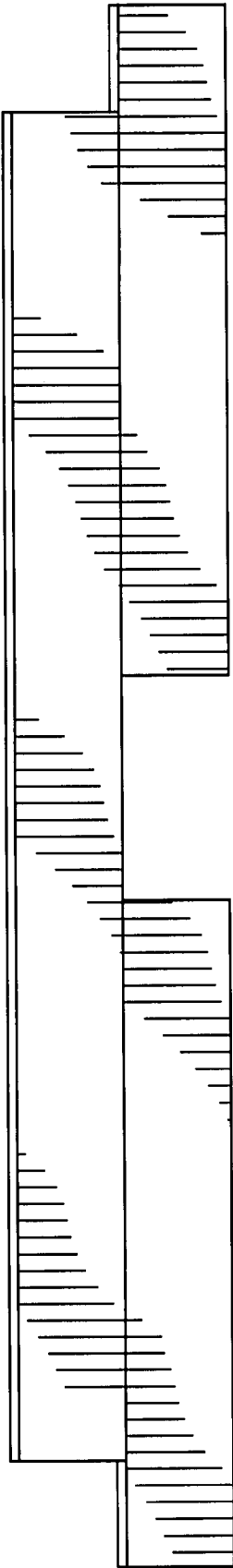


FIG. 1

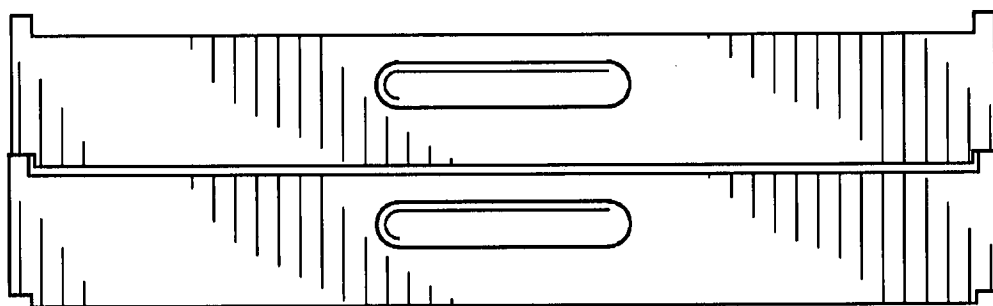


FIG. 2

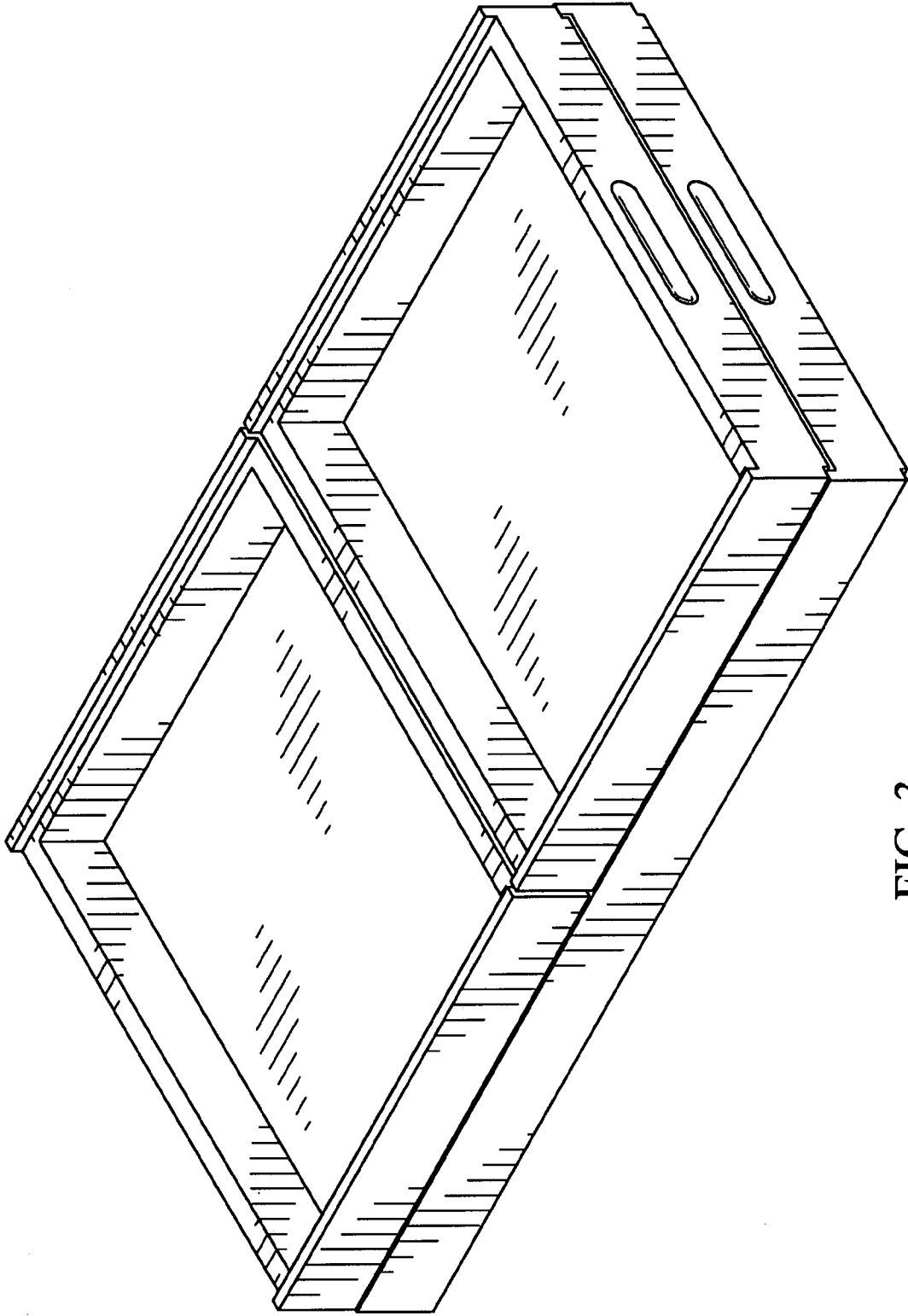


FIG. 3

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of California on the following Patents or Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
PLAINTIFF AMERICAN INNOTEK, INC., a California corporation		DEFENDANT AXIS INTERNATIONAL MARKETING LTD, an Illinois domestic corporation
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 D568,069	May 6, 2008	Axis International Marketing LTD
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	
	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
2		
3		
4		
5		

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
-------	-------------------	------

EXHIBIT "B"

EXHIBIT B

- 1) D497,776 - Expandable Tablewear Storage Rack
- 2) D515,881 - Expandable Napkin Holder
- 3) D 520,267 - Expandable Corner Shelf
- 4) D 536,224 - Expandable Bread Slicer/Server
- 5) D 568,069 - Jewelry Organizer
- 6) US 20080258593 - Expandable Drawer Organizer (publication)
- 7) 6,179,134 - Expandable Dish Rack (Utility Patent)
- 8) 7,066,563 - Expandable Drawer Organizer (Utility Patent)
- 9) 7,380,894 (Utility Patent) - Expandable Drawer Organizer

EXHIBIT "C"

**LAW OFFICE OF
MARC D. MACHTINGER, LTD.**

**750 WEST LAKE COOK RD. SUITE 350
BUFFALO GROVE, ILLINOIS 60089**

U.S. and International Patent, Trademark,
Copyright, Trade Secret, Domain Name,
Incorporation, and Related Matters

Phone: (847) 5374537
Facsimile: (847) 5370550
e-mail: marc@patentstation.com

April 14, 2008

Mr. Clarence Cassidy, President
Neatnix Organizing Systems
A Division of American Innotech, Inc
501 South Andreasen Drive
Escondido, CA 92029

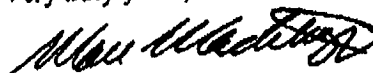
Dear Mr. Cassidy:

I represent Axis International ("Axis") in its intellectual property pursuits. Axis invests a great deal of time and effort into its innovative products. From time to time, Axis sees fit to protect its intellectual property interests with a patent.

It has been brought to my attention that Neatnix has recently introduced at the Chicago Houseware Show a new "wood-look" line of jewelry organizers. This new product line appears very similar to the "Stack-Em's" jewelry organizer system sold and manufactured by Axis, which is trademarked and patent pending. As you likely were aware, and now with this correspondence you are hereby on notice, Axis currently has a patent pending in connection with this product line and this application is due to issue as a patent shortly.

Please be on notice that Axis takes its intellectual property rights very seriously. Once the patent has issued, Axis intends to enforce its rights. Axis expects that you will cease any infringing activity upon this notice. We look forward to your reply.

Very truly yours,



Marc D. Machtinger

MDM:mas

EXHIBIT "D"

NEIL F. MARTIN
NMARTIN@GORDONREES.COM
DIRECT DIAL: (619) 230-7453

GORDON & REES LLP

ATTORNEYS AT LAW
101 W. BROADWAY, SUITE 2000
SAN DIEGO, CA 92101
PHONE: (619) 696-6700
FAX: (619) 696-7124
WWW.GORDONREES.COM

August 10, 2009

Marc D. Machtinger, Esq.
750 West Lake Cook Road. Suite 350
Buffalo Grove, Illinois 60089

Re: Demand of April 14, 2008 re Neatnix Jewelry Organizers
Our Ref. No.: BAMIN 1058923

Dear Mr. Machtinger.

I represent American Innotek including American Innotek's Neatnix division. Your letter of April 14, 2008, and your failure to respond to American Innotek's request for more information has come to my attention. I must first say that it is highly unusual to threaten action against a company unless the company ceases manufacturing a product, when no patent, or published application, presently exists. It is equally unprecedented that your letter refers to having a product trademarked without indentifying what the trademark is, or which Neatnix trademark allegedly conflicts with an Axis trademark.

What makes the letter even more damning is that no patent has since issued to Axis that Axis could use as an excuse for its irresponsible statements, either by way of your letter or by way of statements made to customers of American Innotek.

Your suggestion that Neatnix may be infringing Axis trademarks is also offensive, not only because the specific trademark is not identified by because so far as the record shows the only relevant Axis trademark to be "Stack'em" which is on the supplemental register for merely descriptive marks. Marks on that register are not enforceable without proof of secondary meaning. The Stack'em mark incorporates the generic term "stack" and couldn't be infringed by any stackable product which carries the term "stack" or phonetic equivalents unless the other element of the Axis mark "em" were incorporated. Neatnix has never used "stack them" or any contraction of those terms as a trademark for its products. Since Neatnix has been selling it's "Stax" line long prior to Axis first use of "Stack-em", if indeed there is an infringement, it would be by Axis not Neatnix.

Although your letter refers to patent applications owned by Axis International, there is no way to identify with certainty the pending applications to which your letter refers. A letter from ~~an attorney to a non-attorney that demands that a company withdraw a product without~~ substantial basis is unfair competition. You gave American Innotek no way to determine their

Marc D. Machtinger, Esq

August 10, 2009

Page 2

rights, and despite a letter from American Innotek's previous counsel requesting same, and the passage of more than one year, you have yet to provide American Innotek with any information that would allow them to make an assessment. For those reasons, American Innotek has asked me to attempt a determination on the little bit of information that you did provide.

We determined that there were seven patents shown to be assigned to Axis and two patents, while not assigned to Axis were invented by Andrew L. Berger, who is one of the inventors on several of the assigned patents. These patents are listed on the attachment to this letter. If there are any other patents in which Axis claims rights, please let me know immediately. Of these patents only two issued shortly after April 2008. They are D 568,069 (May 2008) and a Utility Patent 7,380,894 (June 2008).

The Utility patent is directed to a drawer organizer and has a very detailed claim that couldn't by any stretch be infringed by any current or past Neatnix product. The Design patent relates to a stackable jewelry organizer. Frankly, I cannot not see a single ornamental feature in that patent, or anything ornamental in all of the features combined. The product appears to be purely functional and merely combines prior art structural features in an obvious way. For example the feature that permits the stackable and sliding feature of the trays (See Fig. 2) slightly alters the appearance of a non-nesting tray but the reason is purely functional and therefore not protectable by a Design Patent. The jewelry organizer marketed by Neatnix looks no more like the Axis product than would any generally rectangular product, that was designed to stack and slide.

What is much more egregious than the allegation of infringement is that Axis knows that the Neatnix product, in it's present form, has been on the market for more than a year prior to this patents filing date, so that arguing that the Neatnix product is infringing is tantamount to an admission that the patent is invalid because it lacks "Novelty" (in the terms of the Patent Statute -meaning not new) and an admission that they patent was obtained by fraud.

I have gone into the detail presented here so there can be no mistake of American Innotek's intentions. My client must have a written retraction of the allegation made in your April 14, 2008 letter, and a specific acknowledgement that no Neatnix product, past or present, infringes any of Axis International's patents. We must also have a commitment that Axis will instruct all of it's personnel never to state or imply that Axis jewelry organizer products are covered by patents or that any Neatnix product is infringing any Axis patent or trademark. The reason for the demand that Axis stop claiming that it's products are patented is that Axis is now on actual notice that the only relevant patent is invalid. The compliance with this demand is especially urgent and non-negotiable because Axis personnel are still marketing their products, in part, on the basis that Neatnix products are infringing. You will appreciate that all sales lost by Neatnix or gained by Axis are tainted by this misrepresentation. As such American Innotek is entitled to treble damages and, depending on the facts as they develop, may be entitled to punitive damages as well. Since Axis has been represented in patent matters during the relevant times, they cannot argue a good faith mistake.

Marc D. Machtinger, Esq
August 10, 2009
Page 3

In addition to the actions demanded above, American Innotek demands that Axis stop marking any of its jewelry organizer products as "U.S. Patented" or listing the patent number D568,069. The courts have recognized that a private cause of action for patent mismarking exists and can be enforced by the miss-users competitors.

I must have a clear and unequivocal letter committing Axis to the actions listed above by August 20, 2009, or I am authorized to take all necessary legal action to secure your client's compliance with these demands and to obtain the maximum damage award provided under the law.

Very truly yours,

GORDON & REES LLP

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal stroke at the end, positioned over the printed name.

Neil F. Martin

NFM:bhs

- 1) D497,776 Expandable Tablewear Storage Rack
- 2) D515,881 Expandable Napkin Holder
- 3) D 520,267 Expandable Corner Shelf
- 4) D 536,224 Expandable Bread Slicer/Server
- 5) D 568,069 Jewelry Organizer
- 6) US 20080258593 Expandable Drawer Organizer (publication)
- 7) 6,179,134 Expandable Dish Rack (Utility Patent)
- 8) 7,066,563 Expandable Drawer Organizer (Utility Patent)
- 9) 7,380,894 (Utility Patent) Expandable Drawer Organizer

CIVIL COVER SHEET

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.)

I. (a) PLAINTIFFS
AMERICAN INNOTEK, INC., a California corporation

(b) County of Residence of First Listed Plaintiff SAN DIEGO
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 American Innotek, Inc. In Pro Per
 Clarence "Cass" Cassidy, President
 2320 Meyers Street
 Escondido, CA 92029
 (760) 741-6600

DEFENDANTS
AXIS INTERNATIONAL MARKETING LTD, an Illinois domestic corporation

County of Residence of First Listed Defendant ILLINOIS
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
 Attorneys (If Known)

FILED
 2009 SEP 23 PM 1:44
 '09 CV 2080 IEG BLM

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)

	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. 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	<table border="1"> <thead> <tr> <th>PERSONAL INJURY</th> <th>PERSONAL INJURY</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> 310 Airplane</td> <td><input type="checkbox"/> 362 Personal Injury—Med. Malpractice</td> </tr> <tr> <td><input type="checkbox"/> 315 Airplane Product Liability</td> <td><input type="checkbox"/> 365 Personal Injury—Product Liability</td> </tr> <tr> <td><input type="checkbox"/> 320 Assault, Libel & Slander</td> <td><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</td> </tr> <tr> <td><input type="checkbox"/> 330 Federal Employers' Liability</td> <td></td> </tr> <tr> <td><input type="checkbox"/> 340 Marine</td> <th>PERSONAL PROPERTY</th> </tr> <tr> <td><input type="checkbox"/> 345 Marine Product Liability</td> <td><input type="checkbox"/> 370 Other Fraud</td> </tr> <tr> <td><input type="checkbox"/> 350 Motor Vehicle</td> <td><input type="checkbox"/> 371 Truth in Lending</td> </tr> <tr> <td><input type="checkbox"/> 355 Motor Vehicle Product Liability</td> <td><input type="checkbox"/> 380 Other Personal Property Damage</td> </tr> <tr> <td><input type="checkbox"/> 360 Other Personal Injury</td> <td><input type="checkbox"/> 385 Property Damage Product Liability</td> </tr> </tbody> </table>	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 340 Marine	PERSONAL PROPERTY	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 360 Other Personal Injury	<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"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <th>PROPERTY RIGHTS</th> <td> <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark </td> <td> <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 </td>	PROPERTY RIGHTS	<input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<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
PERSONAL INJURY	PERSONAL INJURY																									
<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice																									
<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability																									
<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability																									
<input type="checkbox"/> 330 Federal Employers' Liability																										
<input type="checkbox"/> 340 Marine	PERSONAL PROPERTY																									
<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud																									
<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending																									
<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage																									
<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability																									
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 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 <th>Habeas Corpus:</th> <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	Habeas Corpus:	<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"/> 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))																					
			IMMIGRATION	FEDERAL TAX SUITS																						
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<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):
35 USC 1 et. seq. 229, 292; 28 U.S.C. 1331, 1332, 1338(a), 1338(b), 2201 and 2202

Brief description of cause:
Complaint for declaratory relief re non-patent infringement, invalidity of patent, unfair competition and fine for Patent False Marking

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 9/23/09 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY
 RECEIPT # 5522 AMOUNT 350 APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ORIGINAL
 eSignet, Inc.
 www.FormsWorkflow.com

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS005522
Cashier ID: sramirez
Transaction Date: 09/23/2009
Payer Name: AMERICAN INNOTEK

CIVIL FILING FEE

For: AMERICAN INNOTEK V. AXIS INTL
Case/Party: D-CAS-3-09-CV-002080-001
Amount: \$350.00

CHECK

Check/Money Order Num: 46165
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.