COMPLAINT FOR PATENT INFRINGEMENT

92880.

2. Upon information and belief, Defendant Southco, Inc. (hereinafter "Southco") is a corporation organized and existing under the laws of the state of Delaware, and having a principal place of business at 210 N. Brinton Lake Road, Concordville, Pennsylvania 19331.

3. The true names and capacities of the Defendants named herein as DOES 1 through 10, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff, who therefore sues said Defendants by said fictitious names. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants designated herein as DOE is legally responsible for the events and happenings hereinafter alleged and legally caused injury and damages proximately thereby to Plaintiff as herein alleged. Plaintiff will seek leave to amend the Complaint when the true names and capacities of said DOE Defendants have been ascertained. Southco and DOES 1 through 10 are hereinafter collectively referred to as "Defendants."

- 4. Plaintiff is informed and believes, and on that basis alleges, that each of the Defendants participated in and is in some manner responsible for the acts described in this Complaint and any damages resulting therefrom.
- 5. Plaintiff is informed and believes, and on that basis alleges, that each of the Defendants has acted in concert and participation with each other concerning each of the claims in this Complaint.
- 6. Plaintiff is informed and believes, and on that basis alleges, that each of the Defendants were empowered to act as the agent, servant and/or employees of each of the other Defendants, and that all the acts alleged to have been done by each of them were authorized, approved and/or ratified by each of the other Defendants.

## JURISDICTION AND VENUE

7. This action, as hereinafter more fully appears, arises under the patent laws of the United States of America (35 U.S.C. §§1, et seq.), and is for patent infringement. Jurisdiction for all counts is based upon 28 U.S.C. §§1331, 1338(a).

Case No

8. Venue is proper under 28 U.S.C. §§1391(b) and (c) as Defendants have committed acts of infringement in this judicial district.

# **BACKGROUND OF THE CONTROVERSY**

- 9. Plaintiff is the owner with the right to sue for infringement of United States Patent Nos. 7,152,892 and 7,367,597. Copies of such patents are attached hereto as Exhibits 1-2, respectively.
- 10. Upon information and belief, Defendants have been making, selling, using, importing and/or offering for sale the product identified as "E4 Catcher" quick release pin latch. A copy of Southco's product (hereinafter the "Accused Product") is attached hereto as Exhibit 3. The Accused Product infringes Plaintiff's Patent Nos. 7,152,892 and 7,367,597.

### FIRST CLAIM FOR RELIEF

## (Patent Infringement of U.S. Patent No. 7,152,892)

- 11. Plaintiff realleges and repeats the allegations of paragraphs 1-10 above.
- 12. Plaintiff is the owner of all right, title and interest in and to United States Patent No. 7,152,892 entitled "Push Latch" (hereinafter "the '892 Patent"). A true and correct copy of the '892 Patent is attached hereto as Exhibit 1. The '892 Patent was duly and lawfully issued on December 26, 2006 and is presently valid and in full effect.
- 13. Upon information and belief, Defendants have been and are infringing the '892 Patent within this district and elsewhere in the United States by making, using, selling, importing, distributing and/or offering for sale products that infringe one or more of the claims of the '892 Patent.
- 14. Upon information and belief, Defendants are contributorily infringing the '892 Patent within this district and elsewhere in the United States by making, using, selling, importing, distributing or offering for sale in the United States materials and/or apparatus for use in practicing the inventions set forth in the '892 Patent, that they know to be especially made or especially adapted for use in

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

infringement of the invention embodied in the '892 Patent. Upon information and belief, these materials and/or apparatus have no substantial non-infringement use in commerce.

- Upon information and belief, Defendants are inducing infringement of 15. the '892 Patent within this district and elsewhere in the United States by instructing in the use of materials and/or apparatus that infringe one or more of the claims of the '892 Patent.
- Upon information and belief, by the acts of patent infringement herein 16. complained of, the Defendants have made substantial profits to which they are not equitably entitled.
- By reason of the aforementioned acts of the Defendants, the Plaintiff has 17. suffered great detriment in a sum which exceeds this Court's jurisdictional amount, but which cannot be ascertained at this time.
- Upon information and belief, Defendants continue to infringe Plaintiff's '892 Patent, and will continue to infringe Plaintiff's '892 Patent, and will continue to infringe Plaintiff's '892 Patent to Plaintiff's irreparable harm, unless enjoined by this Court.
- Any continuing infringement of the '892 Patent by Defendants after 19. receiving notice of the '892 Patent will be willful, entitling Plaintiff to enhanced damages.

## SECOND CLAIM FOR RELIEF

# (Patent Infringement of U.S. Patent No. 7,367,597)

- Plaintiff realleges and repeats the allegations of paragraphs 1-19 herein. 20.
- Plaintiff is the owner of all right, title and interest in and to United States 21. Patent No. 7,367,597 entitled "Push Latch" (hereinafter "the '597 Patent"). A true and correct copy of the '597 Patent is attached hereto as Exhibit 2. The '597 Patent was duly and lawfully issued on May 6, 2008, and is presently valid and in full effect.
  - Upon information and belief, Defendants have been and are infringing 22.

COMPLAINT FOR PATENT INFRINGEMENT

the '597 Patent within this district and elsewhere in the United States by making, using, selling, importing, distributing and/or offering for sale products that infringe one or more of the claims of the '597 Patent.

- 23. Upon information and belief, Defendants are contributorily infringing the '597 Patent within this district and elsewhere in the United States by making, using, selling, importing, distributing or offering for sale in the United States materials and/or apparatus for use in practicing the inventions set forth in the '597 Patent, that they know to be especially made or especially adapted for use in infringement of the invention embodied in the '597 Patent. Upon information and belief, these materials and/or apparatus have no substantial non-infringing use in commerce.
- 24. Upon information and belief, Defendants are inducing infringement of the '597 Patent within this district and elsewhere in the United States by instructing in the use of materials and/or apparatus that infringe one or more of the claims of the '597 Patent.
- 25. Upon information and belief, by the acts of patent infringement herein complained of, the Defendants have made substantial profits to which they are not equitably entitled.
- 26. By reason of the aforementioned acts of the Defendants, the Plaintiff has suffered great detriment in a sum which exceeds this Court's jurisdictional amount, but which cannot be ascertained at this time.
- 27. Upon information and belief, Defendants continue to infringe Plaintiff's '597 Patent, and will continue to infringe Plaintiff's '597 Patent to Plaintiff's irreparable harm, unless enjoined by this Court.
- 28. Any continuing infringing of the '597 Patent by Defendants after receiving notice of the '597 Patent will be willful, entitling Plaintiff to enhanced damages.

### PRAYER FOR RELIEF

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

- A. A judgment that Defendants have infringed, contributorily infringed, and/or induced infringement of the patents-in-suit.
- B. A judgment that Defendants' infringement of the patents-in-suit has been willful.
- C. A preliminary and permanent injunction, pursuant to 35 U.S.C. §283, enjoining Defendants, and all persons in active concert or participation with them, from any further acts of infringement, contributory infringement or inducement of infringement of the patents-in-suit.
- D. An order, pursuant to 35 U.S.C. §284, awarding Plaintiff damages adequate to compensate Plaintiff for Defendants' infringement of the patents-in-suit, in an amount to be determined at trial, but in no event less than a reasonable royalty.
- E. An order, pursuant to 35 U.S.C. §284, trebling all damages awarded to Plaintiff based on Defendants' willful infringement of the patents-in-suit.
- F. An order, pursuant to 35 U.S.C. §285, finding that this is an exceptional case and awarding to Plaintiff its reasonable attorneys' fees incurred in this action.
- G. That Plaintiff have such other and further relief that the Court may deem just and proper.

Dated: August 28, 2012

STETINA BRUNDA GARRED & BRUCKER

By:

Kit M. Stetina

Attorneys for Plaintiff

ACTRON MANUFACTURING, INC.

O N

# **DEMAND FOR JURY TRIAL**

Plaintiff, Actron Manufacturing, Inc. hereby demands a jury trial in this action.

Dated: August 28, 2012

STETINA BRUNDA GARRED & BRUCKER

By:

Kit M. Stetina

Attorneys for Plaintiff

ACTRON MANUFACTURING, INC.

Case No.

COMPLAINT FOR PATENT INFRINGEMENT

# UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

#### NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Ju	dge George Ki	ing and the	assigned	discovery
Magistrate Judge is Frederick F. Mumm.				

The case number on all documents filed with the Court should read as follows:

EDCV12- 1465 GHK (FFMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

m	otions.				
A	ll discovery related motions s	shou	ld be noticed on the calendar o	of the	: Magistrate Judge
	<del></del>	· <del>· ·</del> -	NOTICE TO COUNSEL	=	======
	py of this notice must be served w a copy of this notice must be serv		e summons and complaint on all defo n all plaintiffs).	endan	ts (if a removal action is
Subs	sequent documents must be filed a	t the	following location:		
	Western Division 312 N. Spring St., Rm. G-8 Los Angeles, CA 90012		Southern Division 411 West Fourth St., Rm. 1-053 Santa Ana, CA 92701-4516	_	Eastern Division 3470 Twelfth St., Rm. 134 Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 06/12) Summons in a Civil Action

#### United States District Court

for the

Central District of California

) ) )			
	CV 10	_	O 1 / C ECHKERS
<b>E</b>	Sivil Action No		O T TO SQUIMEN
) )			er en
)			
)			
NS IN A C	IVIL ACTION		
	ED  NS IN A C	ED Civilaction	) ) ) ) ) ) ) ) )

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

MAUG 3 0 2010

Date:

Signature of Clerk or Deputy Clerk

# Case 5:12-cv-01465-ODW-FFM Docume over shirted 08/30/12 Page 10 of 11 Page ID #:11

I (a) PLAINTIFFS (Check box if you are representing yourself □) ACTRON MANUFACTURING, INC., a California corporation			DEFENDANTS SOUTHCO, INC., a D	elaware corp	oration; and DOES	1 through 10, ir	aclusive
yourself, provide same.)  Kit M. Stetina/Stephen Z. V  Stetina Brunda Garred & B	•	:	Attorneys (If Known)				
II. BASIS OF JURISDICTION	(Place an X in one box only.)		SHIP OF PRINCIPAL P X in one box for plaintiff a			Only	
☐ 1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)	Citizen of This		PTF DEF	Incorporated or Pr		PTF DEF □ 4 □ 4
□ 2 U.S. Government Defendant	☐ 4 Diversity (Indicate Citizensh of Parties in Item III)				Incorporated and I of Business in An	•	
IV. ORIGIN (Place an X in one	box only.)	Citizen or Subj	ect of a Foreign Country	□ 3 □ 3	Foreign Nation		□6 □6
Toriginal Proceeding State Court Appellate Court Reopened State Court Appellate Court Reopened State Court Appellate Court Reopened State Court Reopened Sta							
=	AINT: JURY DEMAND: WYes						
CLASS ACTION under F.R.C.			MONEY DEMANDED I				<del></del>
VI. CAUSE OF ACTION (Cite Patent Infringement 35 U.S	the U.S. Civil Statute under which y	you are filing and w	rite a brief statement of cau	ise. Do not ci	ite jurisdictional sta	tutes unless dive	ersity.)
VII. NATURE OF SUIT (Place							
□ 410 Antitrust □ 430 Banks and Banking □ 450 Commerce/ICC Rates/etc □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 810 Selective Service □ 850 Securities/Commodities/ Exchange □ 875 Customer Challenge 12 USC 3410	□ 120 Marine □ 130 Miller Act □ 140 Negotiable Instrument □ 150 Recovery of ○ Overpayment & □ Enforcement of □ Judgment □ 151 Medicare Act □ 152 Recovery of Defaulted Student Loan (Excl. Veterans) □ 153 Recovery of ○ Overpayment of ○ Veteran's Benefits □ 160 Stockholders' Suits □ 190 Other Contract □ 195 Contract Product □ Liability □ 196 Franchise □ REAL PROPERTY □ 210 Land Condemnation □ 220 Foreclosure □ 230 Rent Lease & Ejectment □ 240 Torts to Land □ 245 Tort Product Liability	PERSONAL INJUR 310 Airplane 315 Airplane Productiability 320 Assault, Libel Slander 330 Fed Employer Liability 340 Marine 345 Marine Productiability 350 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury 362 Personal Injury 464 Malpract 365 Personal Injury 466 Product Liability 368 Asbestos Pers 369 Injury Product Liability 360 Asbestos Pers 360 Injury Product Liability 361 Asbestos Pers 362 Personal Injury 363 Asbestos Pers 364 Injury Product Liability 366 Asbestos Pers 367 Injury Product 368 Asbestos Pers 368 Arbestos Pers 369 Injury Product 369 Arbestos Pers 360 Injury Product 361 Asbestos Pers 361 Injury Product 365 Personal Injury 366 Arbestos Pers 366 Injury Product 367 Injury Product 368 Asbestos Pers 368 Injury Product 369 Injury Product 369 Injury Product 369 Injury Product 360 Injury Product 360 Injury Product 360 Injury Product 361 Injury Product 361 Injury Product 362 Injury Product 363 Injury Product 364 Injury Product 365 Injury Product 366 Injury Product 366 Injury Product 367 Injury Product 368 Injury Product 368 Injury Product 369 Injury Product 369 Injury Product 360 Injury Product 360 Injury Product 360 Injury Product 361 Injury Product 362 Injury Product 363 Injury Product 364 Injury Product 365 Injury Product 366 Injury Product 367 Injury Product 368 Injury Product 368 Injury Product 369 Injury Product 369 Injury Product 360 Injury Product 361 Injury Product 362 Injury Product 363 Injury Product 364 Injury Product 365 Injury Product 366 Injury Product 367 Injury Product 368 Injury Product 368 Injury Product 369 Injury Product 360 Injur	PROPERTY  370 Other Fraud  371 Truth in Len  8		Habeas Corpus General Death Penalty Mandamus/ Other Civil Rights Prison Condition	☐ 820 Copyrig ▼ 830 Patent ☐ 840 Tradem SOCIAL SI	por Standards Agmt.  Is Agmt.  Is Agmt.  Is Act  y Labor Act  abor on  Ret. Inc.  y Act  r RIGHTS  ghts  lung (923)  DIWW  )  TAX SUITS  U.S. Plaintiff  endant)  hird Party 26

ED CV 12 - 01465 GHX (FIG.)

FOR OFFICE USE ONLY: Case Number:

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

# Case 5:12-cv-01465-ODW-FFM DOCUCIONES SHEET 08/30/12 Page 11 01 11 Page ID #:12

VIII(a). IDENTICAL CASES: If yes, list case number(s):	Has this action been p	previously filed in this cour	t and dismissed, remanded or closed? ▼ No □ Yes		
VIII(b). RELATED CASES: If yes, list case number(s):	Have any cases been pr	reviously filed in this court	that are related to the present case? You Yes		
(Check all boxes that apply)	vil cases are deemed related if a previously filed case and the present case:				
IX. VENUE: (When completing  (a) List the County in this Distriction of the County in the	ict; California County	outside of this District; Sta	ste if other than California; or Foreign Country, in which EACH named plaintiff resides		
Check here if the government County in this District:*	ni, its agencies or empi	oyees is a named plaintiff.	If this box is checked, go to item (b).  California County outside of this District; State, if other than California; or Foreign Country		
Riverside County			County County County County		
(b) List the County in this Distri Check here if the governmen	ict; California County nt, its agencies or empl	outside of this District; Sta	te if other than California; or Foreign Country, in which EACH named defendant resides.  It. If this box is checked, go to item (c).		
County in this District:*		·	California County outside of this District; State, if other than California; or Foreign Country		
-			Pennsylvania		
(c) List the County in this Distri	ct; California County ( п cases, use the locati	outside of this District; State	te if other than California; or Foreign Country, in which EACH claim arose.		
County in this District:*			California County outside of this District; State, if other than California; or Foreign Country		
Riverside County and throughout the United States					
* Los Angeles, Orange, San Ber Note: In land condemnation cases	nardino, Riverside, V , use the location of th	entura, Santa Barbara, o e tract of land involved	or San Luis Ohi po Counties		
X. SIGNATURE OF ATTORNEY (OR PRO PER):		119 111	Date 8/29/12		
or other papers as required by	law. This form, appro	ved by the Judicial Confere	formation contained herein neither replace nor supplement the filing and service of pleadings ence of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed tiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)		
Key to Statistical codes relating to	Social Security Cases	:			
Nature of Suit Cod	le Abbreviation	Substantive Statement	t of Cause of Action		
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))			
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)			
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))			
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))			
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.			
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))			