

Gary L. Eastman (CA BAR# 182518)
401 West "A" Street, Suite 1785
San Diego, CA 92101
Phone: 619.230.1144
Facsimile: 619.230.1194
Attorney for Plaintiff
Dr. Greens, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Dr. Greens, Inc. a California Corporation	) Case No.: '11CV0638 JAH CAB
)
Plaintiff,	) COMPLAINT FOR DECLARATORY
-v-	) JUDGMENT OF PATENT NON-
	) INFRINGEMENT, PATENT INVALIDITY,
	) MISUSE OF PATENT, FEDERAL
	) STATUTORY UNFAIR COMPETITION,
James Matthew Stephens, an individual, and Spectrum Laboratories, LLC, an Ohio Limited Liability Company,	) COMMON LAW UNFAIR COMPETITION,
	) INTERFERENCE WITH BUSINESS
	) RELATIONS, INTERFERENCE WITH
	) PROSPECTIVE ECONOMIC ADVANTAGE,
	) AND DEMAND FOR JURY TRIAL
)
Defendants.)
)
)
)
)

Plaintiff Alleges:

Jurisdiction

1. Plaintiff DR. GREENS, INC. (Hereinafter "DR. GREENS"), is and at all times herein mentioned was, is and at all times relevant hereto was, a corporation of the state of California and doing business in the County of San Diego, State of California.

COMPLAINT FOR DECLARATORY JUDGMENT OF PATENT NON-INFRINGEMENT, PATENT INVALIDITY, MISUSE OF PATENT, FEDERAL STATUTORY UNFAIR COMPETITION, COMMON LAW UNFAIR COMPETITION, INTERFERENCE WITH BUSINESS RELATIONS, INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE AND DEMAND FOR JURY TRIAL

2. Plaintiffs are informed and believe, and on the basis of such information and belief allege, Defendant JAMES MATTHEW STEPHENS (hereinafter referred to as "STEPHENS") is an individual residing in Cincinnati, Ohio, and doing business as Spectrum Laboratories.

3. Plaintiffs are informed and believe, and on the basis of such information and belief allege, Defendant SPECTRUM LABORATORIES, LLC (hereinafter referred to as "SPECTRUM LLC") is a limited liability company formed in accordance with the laws of the State of Ohio and having a principal place of business of 550 Reading Road, Cincinnati, Ohio 45202.

4. Plaintiffs are informed and believe, and on the basis of such information and belief allege, that Defendant STEPHENS is, and was at all times relevant hereto, an officer, director, and/or managing agent of SPECTRUM LLC.

5. Plaintiffs are informed and believe, and on the basis of such information and belief allege, that Defendant STEPHENS is, and was at all times relevant hereto, a resident of the State of Ohio.

6. Defendants STEPHENS, SPECTRUM and SPECTRUM LLC collectively referred to as "Defendants".

7. The court has jurisdiction of this action because this litigation arises under the Patent Laws of the United States of America, namely 35 U.S.C. § 1 et seq. The Court has jurisdiction over this action under 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1338(a) (patents).

8. The court has jurisdiction of this action for related state law claims arising out of this litigation. The court has jurisdiction over this action under 28 U.S.C. § 1367(a) (supplemental jurisdiction).

9. This Court has personal jurisdiction over the Defendants because, on information and belief, Defendants conduct business in the State of California and within this district, including contracts with California corporations and the advertising and sale of products within this State and through the Internet to California residents.

10. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1391(c).

General Allegations

11. At all relevant times, Plaintiff DR. GREEN marketed, and distributed a synthetic urine product known as "DR. GREEN'S AGENT X".

12. On or about January 8th, 2004, defendant STEPHENS applied for a United States Patent for a "Synthetic Urine and Method Of Manufacturing Same."

13. On or about March 20, 2007, patent number 7,192,776 for a "Synthetic Urine and Method Of Manufacturing Same." was issued to Defendant STEPHENS by the United States Patent and Trademark Office.

14. The registration of the patent number 7,192,776, "Synthetic Urine and Method Of Manufacturing Same" (herein after "7,192,776 Patent" or "'776 Patent"), is attached

hereto as exhibit "A" and is incorporated herein by reference the same as if set forth verbatim.

15. Plaintiff is informed and believes, and on the basis of such information and belief alleges, that on or about July 22, 2009 Defendants, through legal counsel Mr. Cupar, sent a cease and desist letter to Plaintiff DR. GREEN.

16. The cease and desist letter received by Plaintiff DR. GREEN from Defendant's Attorney is attached hereto as exhibit "B" and is incorporated herein by reference the same as if set forth verbatim.

17. In the letter attached hereto as Exhibit "B" Defendants allege that Plaintiff's product DR. GREEN'S AGENT X is within the scope of the 7,192,776 Patent.

18. Defendants further allege that the manufacture of DR. GREEN'S AGENT X infringes the 7,192,776 Patent.

19. On August 3, 2009, Plaintiff, through counsel, responded to Defendants' attorney Mr. Cupar denying any infringement, and also raised substantive issues surrounding the questionable validity of the '776 Patent. A copy of the denial letter to Mr. Cupar is attached as Exhibit "C".

20. On August 6, 2009, counsel for Defendant Mr. Cupar responded that he had been out of town, but that he "... will work with you regarding this mater over the next few weeks." A copy of the letter from Mr. Cupar, counsel for Defendant, is attached as Exhibit "D"

21. On or about August 2009, Plaintiff filed suit in this Court for Declaratory Judgment of Non Infringement and

1 other related causes of action against Spectrum Labs, Inc.,
2 Spectrum Labs, LLC, and James Stephens.

3 22. Plaintiff further alleges that Defendants have sent
4 written notices to Plaintiff's current and prospective
5 business customers claiming that the AGENT X infringes
6 Defendants' 7,192,776 patent.

7 23. Plaintiff also received a letter that its customer
8 received from Defendants alleging that Spectrum Labs has a
9 patent on the synthetic urine products, and all others are
10 infringing the '776 patent. A copy of this letter is
11 attached as Exhibit "E".

12 24. On September 19, 2009, counsel for Plaintiff sent Mr.
13 Cupar, attorney for Defendants, a follow up letter to
14 Plaintiff's August 3rd letter, again requesting specifics of
15 the allegations of infringement and further warning of
16 Defendants' patent misuse and unfair competition through
17 the mailing of false claims to Plaintiff's current and
18 potential customers. A copy of this letter is attached as
19 Exhibit "F".

20 25. On September 21, 2009, Mr. Cupar, counsel for Defendant,
21 responded, requesting information regarding the basis for
22 non-infringement, and specific proof of letters sent to
23 Plaintiff's customers regarding the threats of
24 infringement. A copy of this E-mail letter is attached as
25 Exhibit "G".

26 26. On September 23, 2009, counsel for Plaintiff responded to
27 Mr. Cupar with specifics regarding a 35 U.S.C. §102 basis
28 for the non-infringement, namely, that the patent is

1 invalid based on a prior sale of the product by Defendants
2 more than a year before the earliest filing date of the
3 application for patent. Also, Plaintiff provided Mr. Cupar
4 with a copy of the "Legal Action Notification" letter that
5 had been received by Plaintiff's customers. A copy of this
6 Response is attached as Exhibit "H".

7 27. Plaintiff served prior defendant Spectrum Labs, Inc. with
8 the prior Complaint; however, service was never made on
9 Defendants Stephens or Spectrum, LLC.

10 28. On October 23, 2009, counsel for Plaintiff sent a letter
11 to follow up on the September 23, 2009 letter that had
12 provided a complete response to Defendant's request, and
13 demanded that Defendants provide the identities of
14 companies that had received Defendants "Legal Action
15 Notification". A copy of Plaintiff's letter is attached as
16 Exhibit "I".

17 29. Plaintiff received no further correspondence from
18 Defendant or its Attorney, nor did Spectrum Labs, Inc. file
19 an Answer. Since the passage of nearly 17 months and no
20 further action by Defendants, Plaintiff believed the
21 misguided allegations of infringement had been abandoned by
22 Defendants. Based on this belief, Plaintiff dismissed the
23 prior action without prejudice on November 17, 2010.

24 30. On February 11, 2011, Counsel for Plaintiffs received a
25 renewed demand alleging patent infringement of the '776
26 patent. A copy of the February 11, 2011 letter is attached
27 as Exhibit "J".
28

Claim for Relief

COUNT I.a. PATENT NON-INFRINGEMENT.

31. Plaintiff re-alleges and incorporates herein by reference, the same as if set forth verbatim, the allegations contained in paragraphs 1 through 31.

32. Defendants have alleged that the 7,192,776 Patent is infringed by Plaintiff's DR. GREEN'S AGENT X product.

33. Plaintiff, however, asserts that Plaintiff's products do not infringe the claims of the 7,192,776 Patent.

34. Plaintiff asserts that the DR. GREEN'S AGENT X product manufactured by Plaintiff does not fall within any of the claims of the 7,192,776 Patent.

35. There is a continuing judicable controversy between Plaintiff and Defendants as to Defendants' right to threaten or maintain suit for infringement of the 7,192,776 Patent, and as to the scope and enforceability thereof, and as to whether any of Plaintiffs' products infringes any valid claim thereof.

36. Plaintiffs have not infringed, willfully infringed, contributorily infringed, or induced others to infringe, any claim of the 7,192,776 Patent.

37. Plaintiffs desire a judicial determination of their rights and duties, and declarations by this Court of non-infringement of the 7,192,776 Patent.

COUNT I.b. PATENT INVALIDITY

38. Plaintiff re-alleges and incorporates herein by reference, the same as if set forth verbatim, the allegations contained in paragraphs 1 through 37.

39. Defendants have asserted that the 7,192,776 Patent is valid and infringed by one or more of Plaintiff's products.

40. On information and belief, Plaintiffs assert that Defendants manufactured and sold product covered by one or more claims of the 7,192,776 patent long before the filing date of the 7,192,776 patent, and hence in violation of 35 U.S.C. §102, resulting in any issued patent being invalid on its face.

41. Plaintiff further asserts that the solutions described in the 7,192,776 patent are well known in the industry, and thus, would be obvious in light of the prior art which results in the claims for the 7,192,776 Patent being anticipated and thus not patentable under 35 U.S.C §103.

42. Plaintiff is informed and believes, and on the basis of such information and belief alleges, that the claims of the 7,192,776 Patent are invalid and therefore cannot be infringed by any of Plaintiff's products.

43. There is a continuing judicable controversy between Plaintiffs and Defendants as to Defendants' right to threaten or maintain suit for infringement of the 7,192,776 Patent, and as to the validity and enforceability thereof.

44. Plaintiff asserts that the 7,192,776 Patent is invalid for failing to comply with the patent laws of the United States, including but not limited to 35 U.S.C. §§ 102, 103, 112, and/or 132.

45. Plaintiffs desire a judicial determination of their rights and duties, and declarations by this Court of invalidity of the 7,192,776 Patent.

1 46. Plaintiff is informed and believes, and on the basis of
2 such information and belief alleges, that Defendants knew,
3 or should have known, that the '776 patent is invalid and
4 unenforceable, and as a result, such actions were willful
5 and without a reasonable basis, and therefore entitles
6 Plaintiff to an award of Punitive Damages.

7
8 **COUNT II. MISUSE OF PATENT**

9 47. Plaintiff re-alleges and incorporates herein by
10 reference, the same as if set forth verbatim, the
11 allegations contained in paragraphs 1 through 46.

12 48. Plaintiff is informed and believes, and on the basis of
13 such information and belief alleges, that Defendants
14 threatened legal action against Plaintiff DR. GREEN in
15 order to remove Plaintiff's DR. GREEN'S AGENT X product
16 from the marketplace.

17 49. Plaintiff asserts that Defendants letters attached hereto
18 as Exhibits "B" and "D" are attempting to prevent Plaintiff
19 from all advertising, distribution and sale of the non-
20 infringing DR. GREEN'S AGENT X product demonstrates an
21 attempt by Defendants to remove competition from the
22 marketplace through the unlawful use of the 7,192,776
23 Patent.

24 50. Plaintiff asserts that the "Legal Action Notification"
25 attached as Exhibit "E" sent by Defendants to Plaintiff's
26 customers constitutes patent misuse because Defendants
27 knew, or should have known, that the '776 patent is invalid
28 and unenforceable under at least 35 U.S.C. §102.

1 51. Plaintiffs desire a judicial determination of their
2 rights and duties, and declarations by this Court of
3 unenforceability of the 7,192,776 Patent under the doctrine
4 of patent misuse.

5 52. Plaintiff is informed and believes, and on the basis of
6 such information and belief alleges, that Defendants knew,
7 or should have known, that the '776 patent is invalid and
8 unenforceable, and as a result, such actions were willful
9 and without a reasonable basis, and therefore entitles
10 Plaintiff to an award of Punitive Damages.

11
12 **COUNT III. FEDERAL STATUTORY UNFAIR COMPETITION**

13 53. Plaintiff re-alleges and incorporates herein by
14 reference, the same as if set forth verbatim, the
15 allegations contained in paragraphs 1 through 52.

16 54. Plaintiff is informed and believes, and on the basis of
17 such information and belief alleges, that Defendants have
18 mischaracterized Plaintiff's products as an infringement of
19 the 7,192,776 Patent.

20 55. Plaintiff is informed and believes, and on the basis of
21 such information and belief alleges, that Defendants'
22 mischaracterization of Plaintiff's products has and will
23 continue to lead to the loss of reputation and goodwill
24 associated with Plaintiff's products.

25 56. Plaintiff is informed and believes, and on the basis of
26 such information and belief alleges, Defendants'
27 mischaracterization of Plaintiff's DR. GREEN'S AGENT X
28 product constitutes Federal Unfair Competition under 15

1 *U.S.C. §1125(a)*, commonly known as *§42(a) of the Lanham*
2 *Act*.

3 57. Plaintiff is informed and believes, and on the basis of
4 such information and belief alleges, Defendants' creation
5 and transmission of the "Legal Action Notification"
6 attached as Exhibit "E" constitutes Federal Unfair
7 Competition under *15 U.S.C. §1125(a)*, commonly known as
8 *§42(a) of the Lanham Act*.

9 58. Plaintiff is informed and believes, and on the basis of
10 such information and belief alleges, that Defendants knew,
11 or should have known, that the '776 patent is invalid and
12 unenforceable, and as a result, such actions were willful
13 and without a reasonable basis, and therefore entitles
14 Plaintiff to an award of Punitive Damages.

15
16 **COUNT IV. COMMON LAW UNFAIR COMPETITION**

17 59. Plaintiff re-alleges and incorporates herein by
18 reference, the same as if set forth verbatim, the
19 allegations contained in paragraphs 1 through 58.

20 60. Plaintiff is informed and believes, and on the basis of
21 such information and belief alleges, that Defendants have
22 mischaracterized Plaintiff's products as an infringement of
23 the 7,192,776 Patent.

24 61. Plaintiff is informed and believes, and on the basis of
25 such information and belief alleges, that Defendants'
26 mischaracterization of Plaintiff's products has and will
27 continue to lead to the loss of reputation and goodwill
28 associated with Plaintiff's products.

62. Plaintiff is informed and believes, and on the basis of such information and belief alleges, Defendants' creation and transmission of the "Legal Action Notification" attached as Exhibit "E" constitutes Common Law Unfair Competition.

63. Plaintiff is informed and believes, and on the basis of such information and belief alleges, Defendants' mischaracterization of Plaintiff's DR. GREEN'S AGENT X product constitutes Common Law Unfair Competition.

64. Plaintiff is informed and believes, and on the basis of such information and belief alleges, that Defendants knew, or should have known, that the '776 patent is invalid and unenforceable, and as a result, such actions were willful and without a reasonable basis, and therefore entitles Plaintiff to an award of Punitive Damages.

COUNT V. INTERFERENCE WITH BUSINESS RELATIONS

65. Plaintiff re-alleges and incorporates herein by reference, the same as if set forth verbatim, the allegations contained in paragraphs 1 through 64.

66. Plaintiff is informed and believes, and on the basis of such information and belief alleges, that Defendants have mischaracterized Plaintiff's products as an infringement of the 7,192,776 Patent.

67. Plaintiff is informed and believes, and on the basis of such information and belief alleges, that some number of Plaintiff's current and prospective customers were among

1 those to whom Defendants mischaracterized Plaintiff's
2 products and services.

3 68. Plaintiff is informed and believes, and on the basis of
4 such information and belief alleges, that Defendants were
5 aware the mischaracterizations of Plaintiff's products and
6 services were reaching current and prospective customers of
7 Plaintiff.

8 69. Plaintiff is informed and believes, and on the basis of
9 such information and belief alleges, Defendants' creation
10 and transmission of the "Legal Action Notification"
11 attached as Exhibit "E" was for the sole purpose of
12 damaging Plaintiff's business by discouraging Plaintiff's
13 customers from doing business with Plaintiff under the
14 false fear of patent infringement litigation by Defendants.

15 70. Plaintiff is informed and believes, and on the basis of
16 such information and belief alleges, that Defendants
17 intended the mischaracterizations of Plaintiff's products
18 to discourage current customers from using Plaintiff's
19 products.

20 71. Plaintiff is informed and believes, and on the basis of
21 such information and belief alleges, that some of
22 Plaintiff's current customers were discouraged from using
23 Plaintiff's products by Defendants' mischaracterization of
24 Plaintiff's products and services.

25 72. Plaintiff is informed and believes, and on the basis of
26 such information and belief alleges, that
27 mischaracterizations by Defendants of Plaintiff's products
28

1 by the defendants were the cause of some number of lost
2 sales by Plaintiff.

3 73. Plaintiff is informed and believes, and on the basis of
4 such information and belief alleges, that Defendants knew,
5 or should have known, that the '776 patent is invalid and
6 unenforceable, and as a result, such actions were willful
7 and without a reasonable basis, and therefore entitles
8 Plaintiff to an award of Punitive Damages.
9

10 **COUNT VI. INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

11 74. Plaintiff re-alleges and incorporates herein by
12 reference, the same as if set forth verbatim, the
13 allegations contained in paragraphs 1 through 73.

14 75. Plaintiff is informed and believes, and on the basis of
15 such information and belief alleges, that Defendants have
16 mischaracterized Plaintiff's products as an infringement of
17 the 7,192,776 Patent.

18 76. Plaintiff is informed and believes, and on the basis of
19 such information and belief alleges, that some number of
20 Plaintiff's potential future customers were among those to
21 whom Defendants mischaracterized Plaintiff's products.

22 77. Plaintiff is informed and believes, and on the basis of
23 such information and belief alleges, that Defendants were
24 aware the mischaracterizations of Plaintiff's products were
25 reaching potential future customers of Plaintiff.

26 78. Plaintiff is informed and believes, and on the basis of
27 such information and belief alleges, that Defendants
28 intended the mischaracterizations of Plaintiff's products

1 to discourage potential future customers from using
2 Plaintiff's products.

3 79. Plaintiff is informed and believes, and on the basis of
4 such information and belief alleges, that some of
5 Plaintiff's potential future customers were discouraged
6 from using Plaintiff's products by Defendants'
7 mischaracterization of Plaintiff's products.

8 80. Plaintiff is informed and believes, and on the basis of
9 such information and belief alleges, that
10 mischaracterizations by Defendants of Plaintiff's products
11 by the defendants were the cause of some number of lost
12 sales by Plaintiff.

13 81. Plaintiff is informed and believes, and on the basis of
14 such information and belief alleges, that Defendants knew,
15 or should have known, that the '776 patent is invalid and
16 unenforceable, and as a result, such actions were willful
17 and without a reasonable basis, and therefore entitles
18 Plaintiff to an award of Punitive Damages.

19
20 **WHEREFORE, plaintiff prays for relief as follows:**

21 a. The Court declare that United States Patent number
22 7,192,776, and each claim thereof, is invalid;

23 b. The Court declare that United States Patent number
24 7,192,776, and each claim thereof, is not infringed by
25 Plaintiff;

26 c. The Court declare that United States Patent number
27 7,192,776 is unenforceable;

- d. A preliminary and permanent injunction issue against Defendants' further assertion of allegations of patent infringement against Plaintiff;
- e. Plaintiff be awarded damages in an amount to be determined by the Court;
- f. Plaintiff be awarded its attorneys' fees.
- g. Plaintiff be awarded its costs of suit herein;
- h. That a determination be made that Defendants have acted intentionally, knowingly, and willfully to mislead the public and customers of Plaintiff, entitling Plaintiff to an award of punitive damages to discourage future like conduct;
- i. That a determination be made that this is an exceptional case and that Plaintiff be awarded its reasonable attorneys' fees and costs; and
- j. Plaintiff be awarded such other and further relief as the Court deems just and proper.

Dated: March 29, 2011

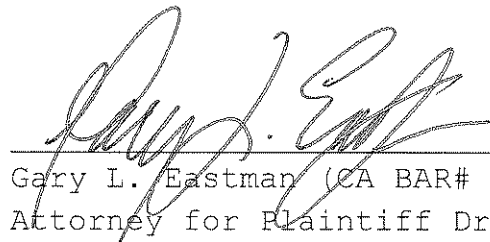


Gary L. Eastman (CA BAR# 182518)
Attorney for Plaintiff Dr. Greens, Inc.

JURY TRIAL DEMANDED

Plaintiff hereby requests trial by jury on all counts of this complaint.

Dated: March 29, 2011

A handwritten signature in dark ink, appearing to read "Gary L. Eastman", is written over a horizontal line.

Gary L. Eastman (CA BAR# 182518)
Attorney for Plaintiff Dr. Greens, Inc.

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

Dr. Greens, Inc.

(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)

Gary L. Eastman, Esq. 619-230-1144
401 W. A Street, Suite 1785, San Diego CA 92191

DEFENDANTS

James Matthew Stephens, an individual, and Spectrum Laboratories, LLC, an Ohio Limited Liability Company

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)

'11CV0638 JAH CAB**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	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 <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 LABOR <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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" 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	<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

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):

Title 35 USC 3101 et seq.

Brief description of cause:
Non-Infringement of Patent**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

03/28/2011

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

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