

**IN THE UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SIMON NICHOLAS RICHMOND,)

Plaintiff,)

v.)

SW CLOSEOUTS, INC.,)
STEALTH WHOLESALE, INC.,)
QUANG HO NHAT NGUYEN, and)
JOHN BREWSTER,)

Defendants.)

Civil Action No.

COMPLAINT AND JURY DEMAND

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COMPLAINT AND JURY DEMAND

Plaintiff Simon Nicholas Richmond (“Richmond” or “Plaintiff”), for his claims against SW Closeouts, Inc. (“SWCI”), Stealth Wholesale, Inc. (“Stealth Inc.”), Quang Ho Nhat Nguyen (“Nguyen”) (collectively “SW Closeouts”) and John Brewster (“Brewster”) (collectively “Defendants”) makes and files this Complaint and alleges as follows:

1. THE PARTIES

1. Plaintiff Richmond is an individual and resident of New Jersey.
2. Defendant SW Closeouts, Inc. is a corporation organized and existing under the laws of the State of California, having a principal place of business at 11362 Westminster Ave, Ste E, Garden Grove, CA 92843 and may be served through its agent for service of process, Wendy Kim Huynh, also at 11362 Westminster Ave, Ste E, Garden Grove, CA 92843.
3. Defendant Stealth, Inc. was a corporation organized and existed under the laws of the State of California, having a principal place of business at 7682 Garden Grove Blvd, Garden Grove, CA 92843 and may be served through its agent for service of process, Son Nguyen, also at 7682 Garden Grove Blvd, Garden Grove, CA 92843.
4. Upon information and belief, SWCI and Stealth Inc. are alter egos of each other and/or are so closely related to one another that they are jointly and

severally liable and may be considered the same company for purposes of this lawsuit.

3. Defendant Quang Nguyen d/b/a swcloseouts.com, is an individual having an address c/o SW Closeouts, 11362 Westminster Ave, Ste E, Garden Grove, CA 92843.

3. Upon information and belief, Nguyen is the alter ego of, and the active, conscious and moving force behind, SWCI and Stealth Inc.

4. For purposes of this Complaint, unless the context states otherwise, all references to SWCI and Stealth Inc. shall be deemed to encompass Nguyen.

4. Defendant John Brewster d/b/a Seasons Gardens and Gifts, is an individual having an address of 2018 Lake Trail Dr., Heartland, TX 75126.

2. SUBJECT MATTER JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. PERSONAL JURISDICTION AND VENUE

A. General.

4. Upon information and belief, Defendant SWCI regularly transacts business in Texas and this district, has continuous and systematic contacts with

Texas and this district, has regularly and purposefully conducted business in Texas and this district and has committed and/or induced acts of patent infringement within the State of Texas and within the Northern District of Texas. Defendant SWCI is, therefore, subject to the personal jurisdiction of this Court.

5. Upon information and belief, Defendant SWCI, has conducted commercial activities, and continues to conduct business, within the State of Texas and within this district.

6. Upon information and belief, Defendant Stealth Inc. has regularly transacts business in Texas and this district, has continuous and systematic contacts with Texas and this district, has regularly and purposefully conducted business in Texas and this district. Defendant Stealth, Inc. is, therefore, subject to the personal jurisdiction of this Court.

7. Upon information and belief, Defendant Stealth, Inc., has conducted commercial activities, and has conducted business, within the State of Texas and within this district.

8. Upon information and belief, Defendants SWCI , Stealth Inc., and Nguyen, directly or through intermediaries, have purposefully and voluntarily placed one or more of their products (including, but not limited to, the products that are accused of infringement in this complaint) into the stream of commerce in the Northern District of Texas and elsewhere, including from and through SW

Closeouts' reseller sales network, which includes resellers based in the Northern District of Texas, including via Defendant Brewster's business "Seasons Gardens and Gifts" through Seasons Gardens and Gifts' retail website www.seasonsgardensandgifts.com and via the internet marketplace of eBay.com, which target customers in Texas and this district.

9. Upon information and belief, the registered business "Seasons Gardens and Gifts" owned by Defendant Brewster is located in Kaufman County in this judicial district.

10. Upon information and belief, Defendants SW Closeouts offered for sale and/or sold products specifically identified in this complaint to Defendant Brewster d/b/a "Seasons Gardens and Gifts". Since the website eBay.com's products are well known to be offered to consumers and sold on a nationwide basis, particularly targeting Texas, as the second largest state, and since the website www.seasonsgardensandgifts.com offers and ships products on a nationwide basis, as the second largest state, SWCI's sale of accused infringing products to the business of "Seasons Gardens and Gifts" constitutes use of an intentionally established distribution channel that Defendants SW Closeouts knew, or reasonably could have foreseen would cause its goods that are accused of infringement in this lawsuit to be sold in Texas, this district and elsewhere in the United States.

11. Defendants Nguyen and his alter ego Defendant SW Closeouts have sufficient minimum contacts with Texas and this district and the maintenance of this suit does not offend traditional notions of fair play and substantial justice.

12. Upon information and belief, Defendant Brewster resides, has conducted extensive commercial activities, and continues to conduct business, within the State of Texas and within this district.

B. Specific Jurisdiction.

13. Personal jurisdiction over Defendant SWCI is proper under principles of specific jurisdiction.

14. Upon information and belief, Defendant SWCI has transacted and solicited business in Texas and in this district related to the subject matter of the claims alleged herein. Upon information and belief, SWCI has committed infringement in Texas and in this district by offering to sell and/or selling goods infringing the '094 Patent, to one or more customers in this state and district, and by exposing for sale, offering for sale and/or selling such infringing goods to Texas residents and others at least via its Texan customer's retail internet stores.

15. Personal jurisdiction over Defendant Nguyen is proper under principles of specific jurisdiction.

16. Upon information and belief, Nguyen and his alter ego entities including SWCI and Stealth Inc. have transacted and solicited business in Texas

related to the subject matter of the claims alleged herein and, upon information and belief, have knowingly acted with an intent to induce infringement by others in the United States, as detailed below.

17. Upon information and belief, Nguyen has knowingly induced infringement in the United States of SWCI and Stealth Inc. as identified in the Counts below, by causing them to offer to sell, and sell goods in Texas, this district and elsewhere in the United States that infringe the Patent-in-Suit (as detailed below), with Nguyen's specific knowledge of Plaintiff's patent, and with a specific intent and/or willful blindness to the fact that his companies' infringing products will be offered for sale and/or sold in Texas and elsewhere in the United States by SWCI and Stealth Inc.

C. Venue.

18. Venue also properly lies in this district pursuant to 28 U.S.C. § 1400(b) because Defendants have committed acts of infringement in this district and/or reside in this district.

19. Venue properly lies in this district under 28 U.S.C. § 1391(b) (2) because a substantial part of the events giving rise to the claims recited below or a substantial part of the property that is the subject of this action is in this district.

4. JOINDER PURSUANT TO 35 U.S.C. § 299

20. Joinder is proper under 35 U.S.C. § 299.

21. Joinder is proper and in accordance with 35 U.S.C. § 299 (a) because (1) Plaintiff is asserting his right to relief from the Defendants' unlawful patent infringement against the Defendants jointly, severally, or in the alternative with respect to or arising out of the same series of transactions or occurrences relating to the offering for sale, or selling the same solar-powered garden light that infringes the patent-in-suit and (2) questions of fact related to Defendants' unlawful patent infringement and common to all Defendants will arise in this action.

22. Upon information and belief, the aforementioned same solar-powered garden lights are also the same between and among the Defendants because, regardless of brand name or model numbers, the solar-powered garden lights of each Defendant are the same in all respects pertinent to the patent in suit and the facts underlying the claim of infringement asserted against each Defendant share an aggregate of operative facts that give rise to each cause of action, such that the same proof of infringement as to any one Defendant's solar-powered garden light will also prove infringement by the other Defendants' solar-powered garden lights. In particular, upon information and belief, the Defendants are related as at least supplier-customer, and the Defendants use identically sourced components and that this case involves a claim for lost profits.

5. FACTUAL BACKGROUND – PATENT IN SUIT

23. For many years, Richmond has engaged in the development,

manufacture, and sale of solar-powered garden lighting. Richmond has taken steps to protect his innovative inventions and designs. In particular, Richmond owns United States utility and design patents relating to his solar garden lights.

24. Richmond is the inventor and owner of all right, title, and interest to the United States patent number 8,514,094 B2, entitled “Solar Gazing Globe,” (“the ‘094 Patent”), which duly and legally issued to Richmond on August 20, 2013.

25. Richmond is the sole owner of the ‘094 Patent and has the exclusive right to sue for infringement and recover damages for all past, present, and future infringement. The ‘094 patent has never been assigned or sold.

26. Richmond’s own commercial products covered by the ‘094 Patent were offered for sale and sold after filing, prior to and also post, the issuance of the ‘094 Patent, and Richmond is currently involved in developing, marketing and offering for sale, new commercial embodiments of the ‘094 Patent.

27. Plaintiff’s ‘094 Patent is valid and enforceable.

28. At all times relevant to this action, Richmond has complied with any notice provisions of 35 U.S.C. § 287 as they may relate to the ‘094 Patent.

5A. FACTUAL BACKGROUND – DEFENDANTS’ ACTIVITIES

29. Upon information and belief, Stealth Inc. was registered on or about April 9, 2007 and is now dissolved.

30. Upon information and belief, Stealth Inc. was owned by Defendant Nguyen.

31. Upon information and belief, Mr. Quang Nguyen registered himself and Son Nguyen as the business owners of the name “Stealth Wholesale” in Orange County, CA on or about April 4, 2007, under registration number 20076108589.

32. Upon information and belief, Stealth Inc. was registered on or about April 9, 2007.

33. Upon information and belief, the business name “Stealth Wholesale” has been used in the offering for sale and the sale of solar lights imported by SW Closeouts.

34. Upon information and belief, Stealth Inc. operated the business name “Stealth Wholesale” in the offering for sale and the sale of solar lights in the United States including via the website www.stealthwholesale.com and also via the eBay internet marketplace store “stealthwholesale”.

35. Upon information and belief, Stealth Inc. was owned by Nguyen.

36. Upon information and belief, Stealth Inc. was operated by Nguyen.

37. Upon information and belief, Nguyen registered the fictitious business name “SW Closeouts” in Orange County, CA on or about May 29, 2008, under registration number 20086157335.

38. Upon information and belief, Nguyen registered the domain name “swcloseouts.com” on August 19, 2009.
39. Upon information and belief, Nguyen allowed the registration of the fictitious business name “SW Closeouts” to expire on May 29, 2013.
40. Upon information and belief, SWCI was registered on or about January 15, 2014.
41. Upon information and belief, SWCI is owned by Quang Nguyen.
42. Upon information and belief, SWCI is operated by Quang Nguyen.
43. Upon information and belief, Quang Nguyen is a director and officer of SWCI.
44. Upon information and belief, Quang Nguyen is the President of SWCI.
45. Upon information and belief, the business named SW Closeouts imports into and sells solar garden lights in the United States.
46. Upon information and belief, the business named SW Closeouts sells these solar garden lights in the United States primarily via a network of resellers and also directly via ecommerce internet websites.
47. Upon information and belief, Defendant SWCI owns the business named SW Closeouts.
48. Upon information and belief, Defendant SWCI operates the business

named SW Closeouts.

49. Upon information and belief, prior to the registration of SWCI in 2014, the business of SW Closeouts was operated by Quang Nguyen under the business name SW Closeouts from the principal address of SWCI and was involved in the importation and sale of solar garden lights.

50. Upon information and belief, Defendant Brewster d/b/a Seasons Gardens and Gifts owns and operates the reseller business named Seasons Gardens and Gifts.

51. Upon information and belief, Defendant Brewster d/b/a Seasons Gardens and Gifts owns and operates the domain name and the associated retail ecommerce website seasonsgardensandgifts.com.

52. Upon Information and belief, the business name “Seasons Gardens and Gifts” has been issued an active sales tax resale permit in Texas on behalf of Texas taxpayer, Defendant John Brewster.

53. Upon information and belief, the business named Seasons Gardens and Gifts has purchased from the business named SW Closeouts and offered for sale and/or resold, solar garden lights accused of infringement in this complaint, in the United States via ecommerce internet websites including eBay.com and seasonsgardensandgifts.com.

5B. Defendants SW Closeouts’ knowledge as to the Patent-in-Suit.

54. Defendants SW Closeouts had actual notice of infringement of the '094 Patent including its specification and claims on June 24, 2014 via email from Plaintiff to sales@swcloseouts.com, stealthimport@yahoo.com, and quangminh04@msn.com that included an allegation of infringement of the '094 Patent of a specific solar light offered for sale and sold by SW Closeouts, model number "SWBALL".

55. Upon information and belief, at a point no later than June 24, 2014, via the email of June 24th, 2014, Nguyen knew that model number "SWBALL" offered for sale and sold by SW Closeouts, infringed Plaintiff's '094 patent. Upon information and belief, Nguyen, as alter ego of SWCI, has continued sales of these products, since receiving such notice.

56. Upon information and belief, subsequent to receiving actual notice of infringement, SW Closeouts continued to offer for sale and sell the model number "SWBALL".

57. Upon information and belief, Nguyen encouraged SWCI to import, offer to sell, and/or sell in the United States and in this District color changing solar lights that Nguyen knew infringed Plaintiff's '094 patent, including the SWCI model "SWBALL".

58. Upon information and belief, Nguyen encouraged Brewster to offer to sell, and/or sell in the United States and in this District solar lights that Nguyen

knew infringed Plaintiff's patents, including the SWCI model "SWBALL" accused of infringement in this Complaint.

5C. Nguyen's Alter Ego Relationship With Other Related Defendants.

59. Upon information and belief, Nguyen registration of the fictitious business name "SW Closeouts" in Orange County, CA on May 29, 2008, was as an individual.

60. Upon information and belief, Nguyen's registration of the domain name "swcloseouts.com" was as an individual.

61. Upon information and belief Nguyen has offered for sale and sold via the eBay internet website under the seller name "ewholesalebuy" having eBay item number 271455524434 and a description of "6 Bronze Outdoor Garden Solar Glass Crackle Ball Light Color Changing LED". The invoice/packing list document accompanying a shipment of this item shows the item was sold by "Quang Nguyen" of 11362 Westminster Ave, Ste E, Garden Grove, CA, 92843. The invoice/packing list document also states the website www.swcloseouts.com, a domain name which upon information and belief is owned by Nguyen. The Paypal receipt shows the payment through ebay.com was received by quangminh04@msn.com, which is known from the domain name registration records of swcloseouts.com to be an email address of Nguyen.

62. As a result of the foregoing facts, and reasonable inferences

therefrom, upon information and belief, SWCI, Stealth Inc. and the business called SW Closeouts are each the alter egos of Nguyen. As such, Nguyen is jointly and severally liable for the infringing activities of each of these entities. The allegations and factual contentions set forth in this paragraph are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. See Fed. R. Civ. P. 11(b)(3).

63. In the alternative, Nguyen is jointly and severally liable for the infringing activities of each of SWCI and Stealth Inc. as the active, conscious moving force behind their infringing acts and by knowingly and intentionally inducing their infringing acts. The allegations and factual contentions set forth in this paragraph are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. See Fed. R. Civ. P. 11(b)(3).

6. COUNT NO. 1 – INFRINGEMENT OF PLAINTIFF’S PATENT

64. Upon information and belief, Defendants SW Closeouts imported into the United States its 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWBALL (available in Antique Bronze and Stainless Steel).

65. Upon information and belief, Defendants SW Closeouts’ importation into the United States of their 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWBALL available in Antique Bronze and Stainless Steel was an infringement of one or more claims of Plaintiff’s ‘094 Patent.

66. Upon information and belief, Defendants SW Closeouts have offered for sale and/or sold their 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWBALL (available in Antique Bronze and Stainless Steel).

67. Upon information and belief, Defendants SW Closeouts' offers for sale and/or sale of their 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWBALL (available in Antique Bronze and Stainless Steel) were an infringement of one or more claims of Plaintiff's '094 Patent.

68. Upon information and belief, Defendant SWCI has offered for sale and/or sold its 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWBALL available in Antique Bronze and Stainless Steel.

69. Upon information and belief, Defendant SWCI's offers for sale and/or sale of its 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWBALL available in Antique Bronze and Stainless Steel were an infringement of one or more claims of Plaintiff's '094 Patent.

70. Upon information and belief, Defendant Nguyen has offered for sale and/or sold his 6 Bronze Outdoor Garden Solar Glass Crackle Ball Light Color Changing LED as eBay item number 271455524434 .

71. Upon information and belief, Defendant Nguyen's offers for sale and sale of his 6 Bronze Outdoor Garden Solar Glass Crackle Ball Light Color Changing LED (eBay item number 271455524434) was an infringement of one or

more claims of Plaintiff's '094 Patent.

72. Upon information and belief, Defendant Brewster d/b/a Seasons Gardens and Gifts has offered for sale and/or sold its 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWSS available in Antique Bronze and Stainless Steel.

73. Upon information and belief, the Defendant Brewster d/b/a Seasons Gardens and Gifts' offers for sale and/or sale of its 2-Pack Solar Glass Crackle Ball Color Changing LED Lights model number SWSS available in Antique Bronze and Stainless Steel were an infringement of one or more claims of Plaintiff's '094 Patent.

74. Plaintiff Richmond has been damaged as a result of Defendants' infringing activities and will continue to be damaged unless such activities are enjoined by this Court. Pursuant to 35 U.S.C. § 284, Plaintiff Richmond is entitled to damages adequate to compensate for the infringement of Plaintiff Richmond's '094 Patent, including, inter alia, lost profits and/or a reasonable royalty.

75. Plaintiff Richmond will be irreparably harmed if Defendants' patent infringement activities continue. Plaintiff relies upon his patents for protection of his business's intellectual property and the rampant infringement of his patent by Defendants deprives Plaintiff's business of its intellectual assets and denies Plaintiff the exclusivity in the marketplace for offering and selling his products to

which he is entitled under the Patent Laws. This seriously damages Plaintiff in a manner that cannot be adequately compensated by money alone. Plaintiff is entitled to a permanent injunction prohibiting Defendants, its directors, officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert or participation with it, from taking any other actions that would infringe Plaintiff's '094 Patent.

7. DEFENDANTS INFRINGEMENT BY INDUCEMENT

7A. Count No. 2 - Nguyen's Inducement of SWCI's Infringement

76. The allegations of Paragraphs 1-75 are incorporated by reference as if fully set forth again herein.

77. Upon information and belief, Nguyen, directly or through his alter egos has long had actual knowledge of Plaintiff's '094 Patent, and knowledge that his SWBALL (eBay Item No. 271455524434) solar-powered garden lights as accused of infringement herein ("Accused Infringing Products") would infringe Plaintiff's '094 Patent if imported into, offered for sale or sold in the United States, since at least the date Ngyuen acquired such knowledge, as alleged in this Complaint by Richmond's activities and prior communications to Nguyen, all of which occurred before the filing of this Complaint.

78. Nguyen has an ongoing and intimate relationship with SWCI, a relationship that Nguyen has exploited for his clear aim of inducing its importation,

offer of sale, and/or sale of known infringing solar powered garden lights in the United States. Upon information and belief, Nguyen knowingly and with deliberate indifference directed the infringing activity of his alter ego entity SWCI to cause sale of infringing goods and importation of such infringing goods into the United States.

79. Based upon the foregoing facts, and reasonable inferences therefrom, upon information and belief, Nguyen has, with knowledge of Plaintiff's '094 Patent and specific intent to infringe, and/or willful blindness to the infringement, actively induced and is inducing direct infringement of Plaintiff's '094 Patent by the entities that are controlled and directed by him, including but not limited to, SWCI and will continue to do so unless restrained by this Court.

7B. Count No. 3 - SWCI's Inducement of Brewster's Infringement

80. The allegations of Paragraphs 1-79 are incorporated by reference as if fully set forth again herein.

81. Upon information and belief, SWCI has long had actual knowledge of Plaintiff's '094 Patent, and knowledge that its SWBALL solar-powered garden lights as accused of infringement herein ("Accused Infringing Products") would infringe Plaintiff's '094 Patent if imported into, offered for sale or sold in the United States, since at least the date SWCI acquired such knowledge, as alleged in this Complaint by Richmond's prior communications to SWCI, all of which

occurred before the filing of this Complaint.

82. Upon information and belief, SWCI has an ongoing, intentional relationship with its resellers, including at least Defendant Brewster, with the clear aim of inducing his nationwide sales in the United States via Brewster's activities in Texas. Upon information and belief, SWCI participated with its reseller customers including Defendant Brewster in providing website copy/language and marketing images for use by SWCI's reseller customers. As an example of this, the online marketing by Defendant Brewster of the SWBALL solar-powered garden lights accused of infringement includes product photography and website copy/language which would have been provided by SWCI to Texan Defendant Brewster for use on Brewster's seasonsgardensandgifts.com website and for use on Brewster's eBay listings. Upon information and belief, SWCI follows a similar practice with its other customers reselling online in the United States. As such, SWCI knew and intended, or was willfully blind to the fact that its Accused Infringing Products would be sold and offered for sale by its customers in the United States, including in Texas.

83. Based upon the foregoing facts, and reasonable inferences therefrom, upon information and belief, SWCI has, with knowledge of Plaintiff's '094 Patent and with specific intent to infringe, and/or willful blindness to the infringement, actively induced and is inducing direct infringement of Plaintiff's '094 Patent by

its resellers in the United States, including but not limited its resellers in Texas and this district that include Defendant Brewster d/b/a seasonsgardensandgifts, and will continue to do so unless restrained by this Court.

7C. Count No. 4 - Nguyen's Inducement of Brewster's Infringement.

84. The allegations of Paragraphs 1-83 are incorporated by reference as if fully set forth again herein.

85. Upon information and belief, Nguyen, directly or through his alter egos has long had actual knowledge of Plaintiff's '094 Patent, and knowledge that his SWBALL solar-powered garden lights as accused of infringement herein ("Accused Infringing Products") would infringe Plaintiff's '094 Patent if imported into, offered for sale or sold in the United States, since at least the date Ngyuen acquired such knowledge, as alleged in this Complaint by Richmond's prior communications to Nguyen no later than June 24, 2014, which occurred before the filing of this Complaint.

86. Upon information and belief, Nguyen has an ongoing, intentional relationship with his resellers, including at least Defendant Brewster, with the clear aim of inducing Brewster's nationwide sales in the United States via Brewster's activities in Texas. Upon information and belief, Nguyen participated with its reseller customers including Defendant Brewster in providing website copy/language and marketing images for use by Nguyen's reseller customers. As

an example of this, the online marketing by Defendant Brewster of the SWBALL solar-powered garden lights accused of infringement includes product photography and website copy/language which would have been provided by Nguyen to Texan Defendant Brewster for use on Brewster's seasonsgardensandgifts.com website and for use on Brewster's eBay listings. Upon information and belief, Nguyen follows a similar practice with its other customers reselling online in the United States. As such, Nguyen knew and intended, or was willfully blind to the fact that its Accused Infringing Products would be sold and offered for sale by its customers in the United States, including in Texas and this district.

87. Based upon the foregoing facts, and reasonable inferences therefrom, upon information and belief, Nguyen has, with knowledge of Plaintiff's '094 patent, and specific intent to infringe, and/or willful blindness to the infringement, actively induced and is inducing direct infringement of Plaintiff's '094 Patent by his resellers in the United States, including but not limited his resellers in Texas that include Defendant Brewster d/b/a seasonsgardensandgifts, and will continue to do so unless restrained by this Court.

8. COUNT NO. 5 - WILLFULNESS OF THE INFRINGEMENT

88. The allegations of Paragraphs 1-87 are incorporated by reference as if fully set forth again herein.

89. Upon information and belief, Defendant SWCI has had actual

knowledge of Plaintiff Richmond's '094 Patent and that one or more of its products infringe one or more claims of that patent.

90. Upon information and belief, Defendant Nguyen has had actual knowledge of Plaintiff Richmond's '094 Patent and that one or more of SW Closeouts' products infringe one or more claims of that patent.

90. Upon information and belief, SWCI had actual notice of infringement of the '094 Patent including its specification and claims on June 24, 2014 via email from Plaintiff.

91. Upon information and belief, Nguyen had actual notice of infringement of the '094 Patent including its specification and claims on June 24, 2014 via email from Plaintiff.

92. Upon information and belief, not only have Defendants Nguyen and SWCI had notice of Plaintiff Richmond's '094 Patent, Defendants Nguyen and SWCI, without justification, continue to flagrantly infringe the '094 Patent.

93. There was an objectively high likelihood of infringement and Defendant SWCI knew this, or the infringement was so obvious that Defendant SWCI should have known it. As such, SWCI's infringement of Plaintiff's '094 Patent is deliberate and willful.

94. There was an objectively high likelihood of infringement and Defendant Nyugen knew this, or the infringement was so obvious that Defendant

Nguyen should have known it. As such, Nguyen's infringement of Plaintiff's '094 Patent is deliberate and willful.

95. The allegations and factual contentions set forth in this section 8 are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. See Fed. R. Civ. P. 11(b)(3).

9. JURY DEMAND

Plaintiff hereby demands a trial by jury, pursuant to Fed. R. Civ. Proc. 38(b), for all issues so triable.

10. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the court enter judgment granting Plaintiff the following relief:

- a. Awarding Plaintiff his damages adequate to compensate for Defendants' infringement of Plaintiff's '094 Patent, including, inter alia, lost profits and/or a reasonable royalty;
- b. Awarding Plaintiff treble of the damages and/or reasonable royalty, and that those damages and/or reasonable royalty be trebled on account of the willful nature of the infringement, pursuant to 35 U.S.C. § 284, against Defendants Nguyen and SWCI;
- c. Declaring this case to be exceptional under 35 U.S.C. §285 and awarding Plaintiff his attorneys' fees, costs and expenses related to bringing this

action;

d. Enjoining Defendants SWCI and Stealth Inc., their directors, officers, employees, agents, parents, subsidiaries, affiliates and anyone else in active concert or participation with them, from infringing Plaintiff's Patent;

e. Enjoining Defendant Nguyen from infringing Plaintiff's Patent;

f. Enjoining Defendant Brewster from infringing Plaintiff's Patent; and

g. Awarding Plaintiff such further and other relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Theodore F. Shiells
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