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Superior Court of California,
County of Orange

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Clerk of the Superior Court
By Georgina Ramirez, Deputy Clerk

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9 DR. RICHARD SOWINSKI

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF ORANGE

12 DR. RICHARD SOWINSKI,

13 Plaintiff,

14 vs.

15 CALIFORNIA AIR RESOURCES BOARD;
16 MARY NICHOLS; DANIEL STERLING;
17 PHIL SERNA; JOHN EISENHUT; MRS.
18 BARBARA RIORDAN; JOHN R. BALMES;
19 HECTOR DE LA TORRE; SANDRA BERG;
20 RON ROBERTS; ALEXANDER
21 SHERRIFFS; JOHN GIOIA; JUDY
22 MITCHELL; SRA INTERNATIONAL, INC.;
23 MARKUT NORTH AMERICA, INC.;
24 MONITORING ANALYTICS, LLC AND
25 DOES 1-100,

26 Defendants.

CASE NO. 30-2015-00822179-CU-BT-CXC

CX-105

Judge Thierry Patrick Colaw

COMPLAINT FOR:

- 1. PATENT INFRINGEMENT;
- 2. ELDER ABUSE; and,
- 3. VIOLATIONS OF BUSINESS & PROFESSIONS Code § 17200 *et seq.*

27 Plaintiff Dr. Richard Sowinski ("SOWINSKI") files this Complaint against defendants
28 CALIFORNIA AIR RESOURCES BOARD; MARY NICHOLS; DANIEL STERLING; PHIL
SERNA; JOHN EISENHUT; MRS. BARBARA RIORDAN; JOHN R. BALMES; HECTOR DE
LA TORRE; SANDRA BERG; RON ROBERTS; ALEXANDER SHERRIFFS; JOHN GIOIA;
JUDY MITCHELL; SRA INTERNATIONAL, INC.; MARKUT NORTH AMERICA, INC.;
MONITORING ANALYTICS, LLC AND DOES 1-10 (collectively, "CARB Defendants"),

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1 based upon actual knowledge as to himself and his own actions, and upon information and belief
2 as to all other persons and events, as follows:

3
4 **PARTIES**

5 1. Dr. Richard Sowinski is a resident of this State and the owner of US Patent
6 6,601,033 ("The Patent"). Plaintiff was born on November 8, 1935 and was older than 70 years
7 old at all relevant times as to the event alleged in this complaint. The Patent, entitled "Pollution
8 Credit Method Using Electronic Networks" (hereinafter referred to as the "SOWINSKI
9 PATENT" or "Patent"), seeks to protect a pollution credit exchange. Attached hereto as Exhibit
10 A is a true and correct copy of the SOWINSKI PATENT. The SOWINSKI PATENT describes
11 an electronic method and apparatus for validating individuals' applications for pollution
12 reduction credits, assigning a value to the activity associated with each application, and
13 facilitating trading between individuals. Plaintiff Sowinski owns all right, title, and interest to
14 U.S. Patent Number 6,601,03. The SOWINSKI PATENT describes a method and provides the
15 apparatus for individuals, corporation, government agencies and utilities to: buy, sell, sequester,
16 gift, keep, bank, trade and claim tax credits. Since 2013 CARB has conducted "Cap-and-Trade
17 Auction" (hereinafter referred to as the "AUCTION") to sell carbon credits using a method
18 directly and specifically modeled on the SOWINSKI PATENT and which thereby directly
19 infringes upon the SOWINSKI PATENT.
20
21

22 2. California Air Resources Board (hereinafter "CARB"), also known
23 as CARB or ARB, is the "clean air agency" in the State government of California. Established in
24 1967 when then-governor Ronald Reagan signed the Mulford-Carrell Act, combining the Bureau
25 of Air Sanitation and the Motor Vehicle Pollution Control Board, CARB is a department within
26 the cabinet-level California Environmental protection Agency. California is the only state that is
27 permitted to have such a regulatory agency, since it is the only state that had one before the
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1 passage of the federal Clean Air Act. Other states are permitted to follow CARB standards, or
2 use the federal ones, but not set their own. The stated goals of CARB include attaining and
3 maintaining healthy air quality; protecting the public from exposure to toxic air contaminants;
4 and providing innovative approaches for complying with air pollution rules and regulations.
5

6 3. Defendants MARY NICHOLS; DANIEL STERLING; PHIL SERNA; JOHN
7 EISENHUT; MRS. BARBARA RIORDAN; JOHN R. BALMES; HECTOR DE LA TORRE;
8 SANDRA BERG; RON ROBERTS; ALEXANDER SHERRIFFS; JOHN GIOIA; JUDY
9 MITCHELL are members of the CARB Board of Directors and are sued here in their capacity as
10 individuals responsible for the decision to infringe the SOWINSKI PATENT. Hereinafter these
11 persons shall be referred to as the INDIVIDUAL DEFENDANTS.
12

13 4. Defendant SRA INTERNATIONAL, INC. ("SRA") was hired by Defendants
14 CARB and the INDIVIDUAL DEFENDANTS to develop the AUCTION system which it based
15 upon the SOWINSKI PATENT.

16 5. Defendant MARKUT NORTH AMERICA, INC. ("MARKUT") was hired by
17 Defendants CARB and the INDIVIDUAL DEFENDANTS as the Auction Administrator for the
18 AUCTION Program. MARKUT administers the auction and reserve sale services for the
19 quarterly greenhouse gases ("GHG") allowance auctions and reserve sales. MARKUT developed
20 an auction platform that allows participants to apply for, post bids to, and review results for the
21 auctions and reserve sales held by California.
22

23 6. Defendant MONITORING ANALYTICS, LLC was hired by Defendants CARB
24 and the INDIVIDUAL DEFENDANTS as the Market Monitor for the AUCTION.
25 MONITORING ANALYTICS, LLC, along with CARB staff, monitors market participants and
26 the secondary market. MONITORING ANALYTICS, LLC works closely with MARKUT to
27 ensure the market monitoring services for the AUCTION Program integrate with the Auction
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1 Platform. Additionally, Defendant developed the plan for monitoring the structure, conduct, and
2 performance of the AUCTION, including activities before, during, and after the auction.

3
4 **VENUE**

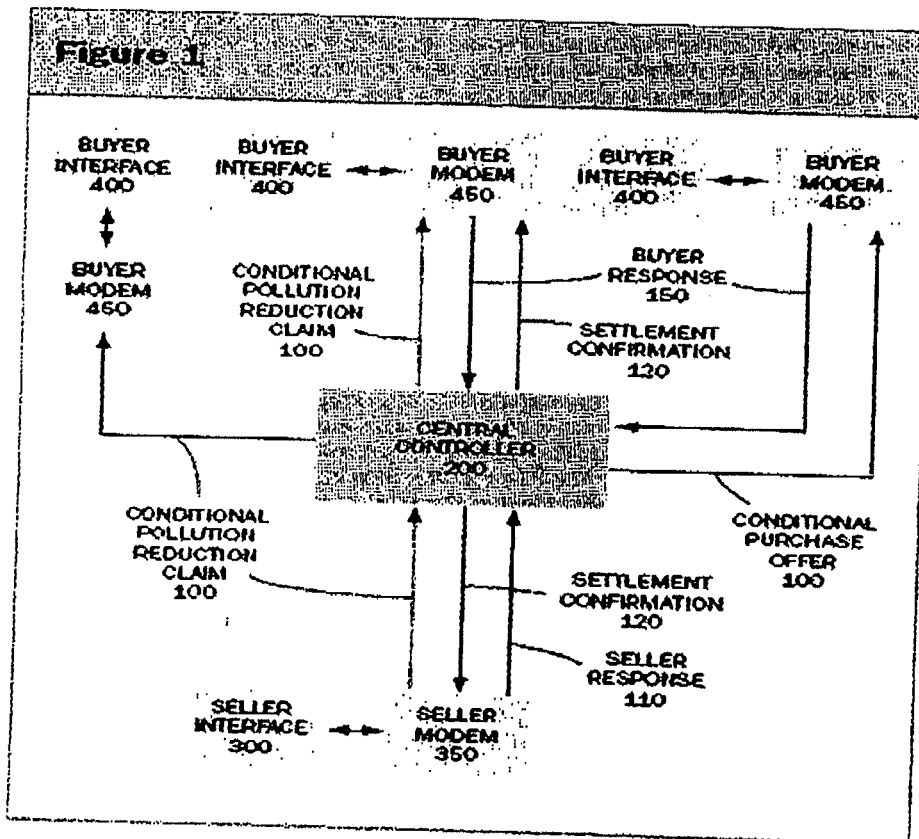
5 7. Orange County is a proper venue for this action because each of the named
6 Defendants regularly engages in business in this County and purposefully avails themselves of
7 the privilege of conducting business in this County by conducting "auctions" to sell carbon
8 credits using a method directly and specifically modeled on the SOWINSKI PATENT and which
9 thereby directly infringes upon the SOWINSKI PATENT. The Defendants do business, have
10 infringed, and continue to infringe the SOWINSKI PATENT within this County.

11 **GENERAL ALLEGATIONS**

12 8. On July 29, 2003, after a full and fair examination, the United States Patent and
13 Trademark Office duly and legally issued United States Patent No. 6,601,033 entitled
14 "POLLUTION CREDIT METHOD USING ELECTRONIC NETWORKS". A true and correct
15 copy of the SOWINSKI PATENT is attached as Exhibit A. Since its issuance, the SOWINSKI
16 PATENT has been in full force and effect and Plaintiff Sowinski owns all right, title, and interest
17 to the SOWINSKI PATENT, including the right to sue for past, present, and future
18 infringements.
19

20 9. Federal laws, Environmental Protection Agency regulations, building codes,
21 insurance requirements and local building ordinances establish clean air standards and often
22 require installation of specific measures in private homes. For example, when the individual
23 consumer installs a gas filter within his or her gas pipes and produces cleaner gas than previously
24 available, the reduced pollution has value. Dr. Sowinski noted in his patent application that
25 although regulators have encouraged the development of 'pollution credit offsets' for large
26 industries and trading of such credit offsets on the Chicago Board of Trade, trading in pollution
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1 credit offsets was not available to individuals. The SOWINSKI PATENT describes an electronic
 2 method and apparatus for validating individuals' applications for pollution reduction credits,
 3 assigning a value to the activity associated with each application, and facilitating trading between
 4 individuals, businesses and the like as set forth in the following diagram:
 5



21 10. The SOWINSKI PATENT is an electronic method and apparatus for effectuating
 22 commerce in claimant-driven individual pollution credits which allows gas utility consumers to
 23 claim pollution credit when reducing their pollution levels while employing energy efficiency
 24 measures, which has value. Such reduced pollution credit is given value by a third-party, thus,
 25 individuals, government agencies and related parties, working in concert with a third-party
 26 identify the need, establish ownership, calculate the pollution credit value, and create a new
 27 market that has economic value and environmental benefit. The SOWINSKI PATENT provides
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1 an electronic method and apparatus for prospective individual utility consumers ("seller"),
2 claiming individual pollution credit ("ipCredit"), while seeking various buyers ("buyer"), with
3 the aid of a third party escrow holder to evaluate their energy efficiency measures and pollution
4 reduction activities to be converted into a form of conditional pollution reduction credit
5 ("CPRC"), which creates value and a global market.
6

7 11. CARB set up the "cap-and-trade program" as a result of California AB 32, also
8 known as the Global Warming Solutions Act, a landmark law passed in 2006. The legislation
9 aims to reduce the state's production of carbon dioxide, methane and related gases to 1990 levels
10 by 2020. The 1990 levels are about 17% lower than current amounts. In 2012 CARB began the
11 program with an "auction" that involved 350 industrial businesses, which as a group operate
12 about 600 facilities throughout the United States and Canada. They include utilities, food
13 processors and oil refineries. Starting in 2015, the program also covers distributors of natural gas
14 and other fuels. In California's first auction of greenhouse gas pollution credits, in November,
15 2012, companies paid just a few cents more than the minimum price per ton of carbon,
16 generating almost \$290 million from the sale. At the same time CARB announced that it sold
17 all 23.1 million allowances available for 2013 at \$10.09 each, generating \$233 million. The
18 minimum price was \$10.
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21 12. In order to "auction" such credits, the INDIVIDUAL DEFENDANTS authorized
22 the unlawful theft of the SOWINSKI PATENT and authorized CARB to use a "Cap-and-Trade"
23 method directly and specifically modeled on the SOWINSKI PATENT, for market tracking that
24 supports the implementation of greenhouse gas ("GHG") cap-and-trade programs for California
25 and other jurisdictions.
26

27 13. The CARB "Cap-and-Trade" method provides accounts for market participants to
28 hold and retire compliance instruments and to participate in transactions of compliance

1 instruments with other account holders. The CARB "Cap-and-Trade" method is used to (1)
 2 register entities participating in the California Cap-and-Trade Program; (2) track the ownership
 3 of compliance instruments; (3) enable and record compliance instrument transfers; (4) facilitate
 4 emissions compliance; and (5) support market oversight. As is self-evident, the electronic
 5 applications CARB uses for its auctions are direct infringements of the Patent.
 6

7 14. Defendant SRA was hired by Defendants CARB and the INDIVIDUAL
 8 DEFENDANTS to develop the AUCTION system which it based upon the SOWINSKI
 9 PATENT, as authorized by the INDIVIDUAL DEFENDANTS.

10 15. Defendant MARKUT was hired by Defendants CARB and the INDIVIDUAL
 11 DEFENDANTS as the Auction Administrator for the AUCTION Program. MARKUT
 12 administers the auction and reserve sale services for the quarterly greenhouse gases ("GHG")
 13 allowance auctions and reserve sales. MARKUT developed an auction platform that allows
 14 participants to apply for, post bids to, and review results for the auctions and reserve sales held
 15 by California again using the SOWINSKI PATENT method.
 16

17 16. Defendant MONITORING ANALYTICS, LLC was hired by Defendants CARB
 18 and the INDIVIDUAL DEFENDANTS as the Market Monitor for the AUCTION.
 19 MONITORING ANALYTICS, LLC, along with CARB staff, monitors market participants and
 20 the secondary market. MONITORING ANALYTICS, LLC works closely with MARKUT to
 21 ensure the market monitoring services for the AUCTION Program integrate with the Auction
 22 Platform. Additionally, Defendant developed the plan for monitoring the structure, conduct, and
 23 performance of the AUCTION, including activities before, during, and after the auction, thus
 24 again infringing the SOWINSKI PATENT method.
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26 17. Defendants activities have been without express or implied license from Plaintiff
 27 Sowinski.
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1 18. There is no “alternative remedy or remedies” available to Plaintiff in this State
2 other than this action. See, *Florida Prepaid Postsecondary Ed. Expense Bd. v. College Savings*
3 *Bank*, 527 U.S. 627, 643 (1999) [“[O]nly where the State provides no remedy, or only inadequate
4 remedies, to injured patent owners for its infringement of their patent could a deprivation of
5 property without due process result. See *Parratt v. Taylor*, 451 U. S. 527, 539541
6 (1981); *Hudson v. Palmer*, 468 U. S. 517, 532-533 (1984); *id.*, at 539 (O’CONNOR, J.,
7 concurring).]

8
9 19. Prior to filing this complaint Plaintiff demanded in writing that Defendants “cease
10 and desist” their infringement and pay appropriate compensation. Defendants refused to comply
11 and stated that “CARB does not enable gas utility customers to claim pollution reduction credits
12 through energy efficiency.” That argument is irrelevant since there is **no limitation** in the
13 SOWINSKI PATENT method to individual “persons”.
14

15 20. Moreover, in fact the CARB Cap and Trade Regulations do not simply apply to
16 “natural gas suppliers” but in fact, as CARB itself **admits**, at Chapter 13, “The Compliance
17 Instrument Tracking System Service (CITSS) User Guide has been developed **to support**
18 **individuals and entity representatives** that are participating in California’s Cap-and-Trade
19 Program.” [Emphasis added].
20

21 21. Moreover, the Cap and Trade Auction **specifically** includes possible individual
22 bidders. Pursuant to Chapter 5.1.1 (Section 95914), which defines “Who is Eligible to
23 Participate in an Auction? (Section 95914)”, “voluntarily associated entities (“VAEs”) are
24 eligible to purchase allowances at auction.” Chapter 4 defines a “VAE” as “an entity that
25 intends to purchase, hold, sell, clear, or voluntarily retire allowances or offset credits.” Chapter
26 4.2.1 then describes how **either an entity or an individual** can become a VAE. “If the
27 Executive Officer approves the registration request, the entity or **individual is then designated**
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1 as a VAE, and a holding account and an exchange clearing holding account will be created for
2 the VAE. All of the requirements on trading and retiring compliance instruments apply to a
3 VAE, as do the enforcement provisions." Therefore, by its own terms the Cap and Trade auction
4 applies not only to entities but also individuals. Thus, Defendants argument is simply false.
5

6 22. Defendants also asserted that "ARB [does not] collect money for the use of
7 CITSS". That statement was false. In fact, as CARB admits, funds are generated from the direct
8 use of the SOWINSKI PATENT method via CARB's Cap and Trade Auction. Under Chapter 5
9 of CARB Regulations:

10 "Following certification of the auction, the Executive Officer will direct the financial
11 services administrator to:

- 12 • Notify each winning bidder of the **auction settlement price**, number of allowances
13 purchased, **total purchase cost**, and the deadline and method for submitting payment;
- 14 • **Collect cash payment from winning bidders** within seven (7) days of notification of
15 the auction results;
- 16 • Use the bid guarantee to cover payment for allowance purchases by any
17 entity that fails to make cash payment within seven (7) days;
- 18 • **Transfer auction proceeds from the sale of ARB allowances to the
19 Greenhouse Gas Reduction Fund**; and
- 20 • **Distribute auction proceeds to electrical distribution utilities that consigned
21 allowances for auction.**" [Emphasis added].

22 Therefore, the claim that CARB "collects no money" from its Cap and Trade Auction is simply
23 false.

24 23. Defendants will continue to infringe the SOWINSKI PATENT unless enjoined by
25 this Court. As a result of the Defendants' infringing conduct, Plaintiff Sowinski has suffered, and
26 will continue to suffer, irreparable harm for which there is no adequate remedy at law. Plaintiff
27 Sowinski is entitled to preliminary and permanent injunctive relief against such infringement,
28 under 35 U.S.C. § 283. 20.

29 24. As a result of the infringement of the SOWINSKI PATENT, Plaintiff Sowinski
30 has been damaged, will be further damaged, and is entitled to be compensated for such damages,

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pursuant to 35 U.S.C. § 284, in an amount to be determined at trial but is, at a minimum, in excess of \$100 million dollars.

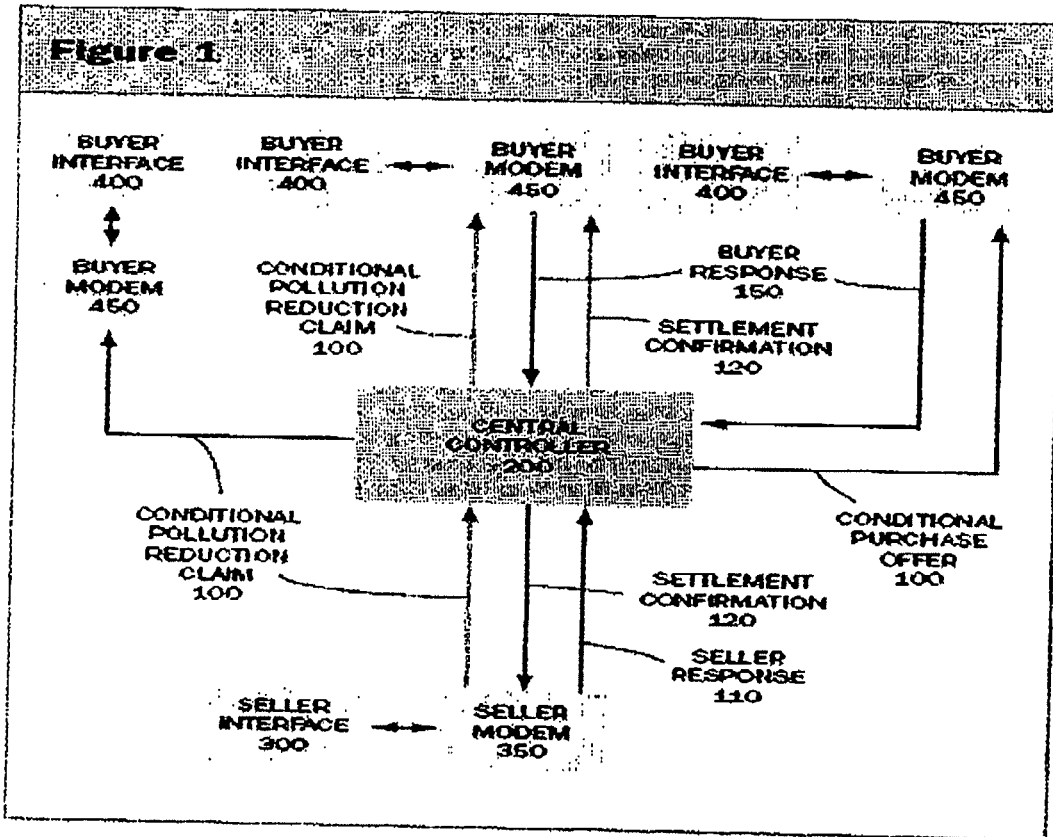
FIRST CAUSE OF ACTION
(INFRINGEMENT OF U.S. PATENT NO. 6,601,033)
(AGAINST ALL DEFENDANTS)

25. Plaintiff repeats, realleges and incorporates by this reference each and all of the allegations contained in paragraphs 1 through 25 of this Complaint.

25. On July 29, 2003, after a full and fair examination, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,601,033 entitled "POLLUTION CREDIT METHOD USING ELECTRONIC NETWORKS" to the Plaintiff. A true and correct copy of the SOWINSKI PATENT is attached as Exhibit A. Since its issuance, the SOWINSKI PATENT has been in full force and effect thru August 19, 2015. Plaintiff Sowinski owns all right, title, and interest to the SOWINSKI PATENT, including the right to sue for past, present, and future infringements.

26. Federal laws, Environmental Protection Agency regulations, building codes, insurance requirements and local building ordinances establish clean air standards and often require installation of specific measures in private homes. For example, when the individual consumer installs a gas filter within his or her gas pipes and produces cleaner gas than previously available, the reduced pollution has value. Dr. Sowinski noted in his patent application that although regulators have encouraged the development of 'pollution credit offsets' for large industries and trading of such credit offsets on the Chicago Board of Trade, trading in pollution credit offsets was not available to individuals. The SOWINSKI PATENT describes an electronic method and apparatus for validating individuals' applications for pollution reduction credits, assigning a value to the activity associated with each application, and facilitating trading between

1 individuals, businesses and utilities, as set forth in the following diagram:
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18 27. The SOWINSKI PATENT is a method and apparatus for effectuating commerce
 19 in claimant-driven individual pollution credits which allows gas utility consumers to claim
 20 pollution credit when reducing their pollution levels while employing energy efficiency
 21 measures, which has value. Such reduced pollution credit is given value by a third-party, thus,
 22 individuals, government agencies and related parties, working in concert with a third-party
 23 identify the need, establish ownership, calculate the pollution credit value, and create a new
 24 market that has economic value and environmental benefit. The SOWINSKI PATENT provides
 25 a method and apparatus for prospective individual utility consumers ("seller"), claiming
 26 individual pollution credit ("ipCredit"), while seeking various buyers ("buyer"), with the aid of a
 27 third party escrow holder to evaluate their energy efficiency measures and pollution reduction
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1 activities to be converted into a form of conditional pollution reduction credit ("CPRC"), which
2 creates value and a global market.

3 28. CARB set up the "cap-and-trade program" as a result of California AB 32, also
4 known as the Global Warming Solutions Act, a landmark law passed in 2006. The legislation
5 aims to reduce the state's production of carbon dioxide, methane and related gases to 1990 levels
6 by 2020. The 1990 levels are about 17% lower than current amounts. In 2012 CARB began the
7 program with an "auction" that involved 350 industrial businesses, which as a group operate
8 about 600 facilities throughout the United States and Canada. They include utilities, food
9 processors and oil refineries. Starting in 2015, the program also covers distributors of natural gas
10 and other fuels. In California's first auction of greenhouse gas pollution credits, in November,
11 2012, companies paid just a few cents more than the minimum price per ton of carbon,
12 generating almost \$290 million from the sale. At the same time CARB announced that it sold
13 all 23.1 million allowances available for 2013 at \$10.09 each, generating \$233 million. The
14 minimum price was \$10.
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16

17 29. In order to "auction" such credits, the INDIVIDUAL DEFENDANTS authorized
18 the unlawful theft of the SOWINSKI PATENT and authorized CARB to use a "Cap-and-Trade"
19 method directly and specifically modeled on the SOWINSKI PATENT, for market tracking that
20 supports the implementation of greenhouse gas ("GHG") cap-and-trade programs for California
21 and other jurisdictions.
22

23 30. The CARB "Cap-and-Trade" method provides accounts for market participants to
24 hold and retire compliance instruments and to participate in transactions of compliance
25 instruments with other account holders. The CARB "Cap-and-Trade" method is used to (1)
26 register entities participating in the California Cap-and-Trade Program; (2) track the ownership
27 of compliance instruments; (3) enable and record compliance instrument transfers; (4) facilitate
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1 emissions compliance; and (5) support market oversight. As is self-evident, the electronic
2 applications CARB uses for its auctions are direct infringements of the Patent.

3 31. Defendant SRA was hired by Defendants CARB and the INDIVIDUAL
4 DEFENDANTS to develop the AUCTION system which it based upon the SOWINSKI
5 PATENT, as authorized by the INDIVIDUAL DEFENDANTS.
6

7 32. Defendant MARKUT was hired by Defendants CARB and the INDIVIDUAL
8 DEFENDANTS as the Auction Administrator for the AUCTION Program. MARKUT
9 administers the auction and reserve sale services for the quarterly greenhouse gases ("GHG")
10 allowance auctions and reserve sales. MARKUT developed an auction platform that allows
11 participants to apply for, post bids to, and review results for the auctions and reserve sales held
12 by California again using the SOWINSKI PATENT method.
13

14 33. Defendant MONITORING ANALYTICS, LLC was hired by Defendants CARB
15 and the INDIVIDUAL DEFENDANTS as the Market Monitor for the AUCTION.
16 MONITORING ANALYTICS, LLC, along with CARB staff, monitors market participants and
17 the secondary market. MONITORING ANALYTICS, LLC works closely with MARKUT to
18 ensure the market monitoring services for the AUCTION Program integrate with the Auction
19 Platform. Additionally, Defendant MONITORING ANALYTICS, LLC developed the plan for
20 monitoring the structure, conduct, and performance of the AUCTION, including activities
21 before, during, and after the auction, thus again infringing the SOWINSKI PATENT method.
22

23 34. Defendants activities have been without express or implied license from Plaintiff
24 Sowinski.

25 35. There is no "alternative remedy or remedies" available to Plaintiff in this State
26 other than this action. *See, Florida Prepaid Postsecondary Ed. Expense Bd. v. College Savings*
27 *Bank*, 527 U.S. 627, 643 (1999) ["[O]nly where the State provides no remedy, or only inadequate
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1 remedies, to injured patent owners for its infringement of their patent could a deprivation of
2 property without due process result. *See Parratt v. Taylor*, 451 U. S. 527, 539541
3 (1981); *Hudson v. Palmer*, 468 U. S. 517, 532-533 (1984); *id.*, at 539 (O'CONNOR, J.,
4 concurring).]

5
6 36. CARB will continue to infringe the SOWINSKI PATENT unless enjoined by this
7 Court. As a result of CARBs' infringing conduct, Plaintiff Sowinski has suffered, and will
8 continue to suffer, irreparable harm for which there is no adequate remedy at law. Plaintiff
9 Sowinski is entitled to preliminary and permanent injunctive relief against such infringement,
10 under 35 U.S.C. § 283.20 against CARB. *See Applera Corp. v. MJ Research Inc.*, 311 F. Supp.
11 2d 293; 2004 U.S. Dist. LEXIS 3837 (D.C.D.CT. 2004)("It seems clear that a patentee may still
12 restrain a state's patent infringement by suing the responsible state officer for injunctive relief in
13 federal court pursuant to the Ex Parte Young doctrine, *see Seminole Tribe of Florida v. Florida*,
14 517 U.S. 44, 72 n.16, 134 L. Ed. 2d 252, 116 S. Ct. 1114 (1996); *see also Genentech, Inc. v.*
15 *Regents of Univ. of Cal.*, 143 F.3d 1446, 1454 (Fed. Cir. 1998) vacated on other grounds by 527
16 U.S. 1031, 144 L. Ed. 2d 789, 119 S. Ct. 2388, and, depending on the state, pursue damage
17 remedies for infringement in state court, *see Florida Prepaid*, 527 U.S. at 642-45 and n.9.")
18

19
20 37. The INDIVIDUAL DEFENDANTS will continue to infringe the SOWINSKI
21 PATENT unless enjoined by this Court. As a result of the INDIVIDUAL DEFENDANTS'
22 infringing conduct, Plaintiff Sowinski has suffered, and will continue to suffer, irreparable harm
23 for which there is no adequate remedy at law. Plaintiff Sowinski is entitled to preliminary and
24 permanent injunctive relief against such infringement, under 35 U.S.C. § 283.20 against the
25 INDIVIDUAL DEFENDANTS.

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27 38. Defendants SRA, MARKUT and MONITORING will continue to infringe the
28 SOWINSKI PATENT unless enjoined by this Court. As a result of Defendants SRA, MARKUT

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and MONITORINGS' infringing conduct, Plaintiff Sowinski has suffered, and will continue to suffer, irreparable harm for which there is no adequate remedy at law. Plaintiff Sowinski is entitled to preliminary and permanent injunctive relief against such infringement, under 35 U.S.C. § 283, 20 against the Defendants SRA, MARKUT and MONITORING.

39. As a result of the infringement of the SOWINSKI PATENT, Plaintiff Sowinski has been damaged, will be further damaged, and is entitled to be compensated for such damages as against the INDIVIDUAL DEFENDANTS and Defendants SRA, MARKUT and MONITORING, pursuant to 35 U.S.C. § 284, in an amount to be determined at trial but is, at a minimum, in excess of \$100 million dollars.

40. The INDIVIDUAL DEFENDANTS and Defendants SRA, MARKUT and MONITORING past and continuing infringement of the SOWINSKI PATENT has been deliberate and willful. Their conduct warrants an award of treble damages, pursuant to 35 U.S.C. § 284, and this is an exceptional case justifying an award of attorney fees to Plaintiff, pursuant to 35 U.S.C. § 285.

SECOND CAUSE OF ACTION

(Violations of California Elder Financial Abuse Laws)

(Against All Defendants)

41. Plaintiff repeats, realleges and incorporates by this reference each and all of the allegations contained in paragraphs 1 through 40 of this Complaint.

42. Each of the named Defendants took, secreted, appropriated, and retained the property of plaintiff, an elder, to a wrongful use within the meaning of Welfare & Institutions Code section 15610.30. Defendants engaged in such conduct either directly, or assisted others in such conduct.

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43. In engaging in such conduct, Defendants intended to defraud plaintiff within the meaning of Welfare & Institutions Code section 15610.30.

44. As a direct and proximate cause of Defendants' wrongful conduct, Plaintiff has been deprived of his property, namely his Patent and income thereof, has sustained related damages of loss of income on that Patent, has incurred attorney fees and costs, and will incur additional expenses for this action to stop further such infringement.

45. In addition to all other remedies provided by law, Plaintiff is entitled to recover reasonable attorney fees and costs for financial abuse pursuant to Welfare & Institutions Code section 15657.5.18.

46. Defendants' conduct constituted recklessness, oppression, fraud, and malice in the commission of the financial abuse and Plaintiff is entitled to recover damages for the sake of example and by way of punishing defendants for financial abuse pursuant to Welfare & Institutions Code section 15657.5 and Civil Code section 3294.

THIRD CAUSE OF ACTION

(Violations of Bus. & Prof. Code § 17200 et seq.)

(Against All Defendants)

47. Plaintiff repeats, realleges and incorporates by this reference paragraphs 1 to 46 as though fully set forth herein.

48. Defendants' conduct in infringing the SOWINSKI PATENT and engaging in elder financial abuse, constitute unlawful, unfair, and deceptive business practices within the meaning of Business and Professions Code Sections 17200 et seq.

49. As a consequence of Defendants' conduct, Plaintiff has been damaged in an amount to be determined at trial but is, at a minimum, in excess of \$100 million dollars.

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50. Plaintiff is thus entitled to equitable relief, including without limitation restitution of all amounts unlawfully obtained by Defendants, as well as an injunction preventing defendants from continuing to infringe the SOWINSKI PATENT.

PRAYER FOR RELIEF

Therefore, upon final hearing or trial, Plaintiff Sowinski prays for the following relief:

- (i) A judgment that each of the named Defendants has infringed the SOWINSKI PATENT;
- (ii) A judgment and order permanently restraining and enjoining each of the named Defendants, their directors, officers, employees, servants, agents, affiliates, subsidiaries, partners and others controlled by them, and all persons in active concert or participation with any of them, from further infringing the SOWINSKI PATENT;
- (iii) A judgment and order requiring each of the named Defendants to pay damages to Plaintiff adequate to compensate him for the Defendants' wrongful infringing acts, in accordance with 35 U.S.C. § 284;
- (iv) A judgment and order requiring each of the named Defendants to pay increased damages up to three times, in view of their willful and deliberate infringement of the SOWINSKI PATENT;
- (v) A judgment and order requiring each of the named Defendants to provide an accounting of all funds received by them to date relating to the use of the Cap-and-Trade method since its inception;
- (vi) A judgment and order requiring each of the named Defendants to pay damages to Plaintiff adequate to compensate Plaintiff for willful injury pursuant to California Civil Code § 3345 and an award of treble that amount as exemplary damages thereunder;

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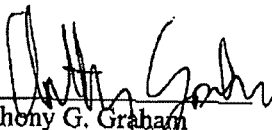
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(vii) A judgment and order finding that this is an exceptional case, pursuant to 35 U.S.C. § 285, and an award to Plaintiff of his costs, as well as his reasonable attorney fees and other expenses incurred in connection with this action;

(viii) A judgment and order requiring each of the named Defendants to pay to Plaintiff pre-judgment interest under 35 U.S.C. § 284, and post-judgment interest under 28 U.S.C. § 1961, on all damages awarded; and,

(ix) Such other costs and further relief, to which Plaintiff is entitled.

Dated: November 8, 2015


Anthony G. Graham
Attorneys for Plaintiff
Dr. Richard Sowinski

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EXHIBIT A

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(12) **United States Patent**
Sowinski

(10) Patent No.: **US 6,601,033 B1**
(45) Date of Patent: **Jul. 29, 2003**

(54) **POLLUTION CREDIT METHOD USING ELECTRONIC NETWORKS**

OTHER PUBLICATIONS

(76) Inventor: **Richard F. Sowinski, 996 Arnold Dr., Martinez, CA (US) 94553**

Andreoli, Pollution Credits to Get City Bank, Oct. 3, 1994, Crain's Chicago Business, p4, ISSN: 0149-6956.*

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 442 days.

* cited by examiner

(21) Appl. No.: 09/696,152

Primary Examiner—James P. Trammell

(22) Filed: Oct. 24, 2000

Assistant Examiner—Mary Cheung

(74) Attorney, Agent, or Firm—Harold D. Messner

(51) Int. Cl.⁷ G06F 17/60

(57) **ABSTRACT**

(52) U.S. Cl. 705/1; 705/37; 705/52
(58) Field of Search 705/1, 52, 30-32, 705/37; 123/325, 434; 422/900; 110/345; 60/274

The present invention is a method and apparatus for effectuating commerce in claimant-driven individual pollution credits which allows gas utility consumers to claim pollution credit when reducing their pollution levels while employing energy efficiency measures, which has value. Such reduced pollution credit is given value by a third-party, thus, individuals, government agencies and related parties, working in concert with a third-party identify the need, establish ownership, calculate the pollution credit value, and create a new market that has economic value and environmental benefit.

(56) **References Cited**

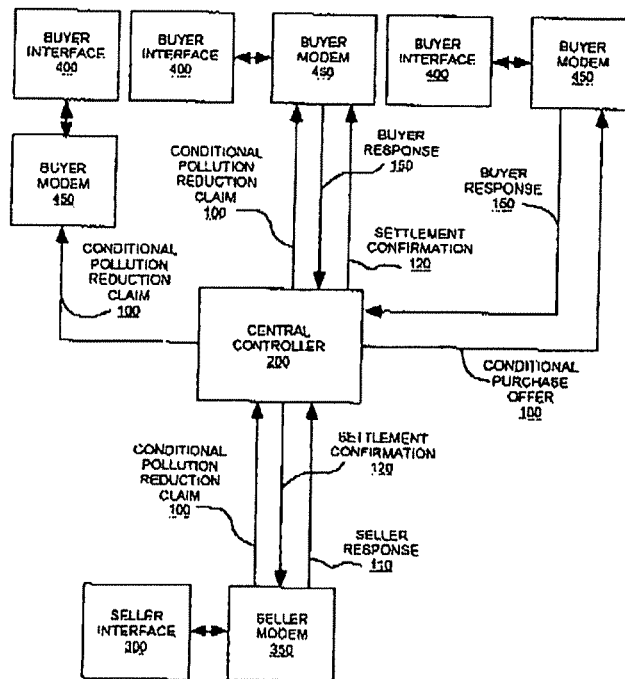
U.S. PATENT DOCUMENTS

5,873,071 A * 2/1999 Ferstenberg et al. 705/37
6,058,379 A * 5/2000 Odom et al. 705/37
6,338,047 B1 * 1/2002 Wallman 705/36

FOREIGN PATENT DOCUMENTS

WO WO 00/43094 * 7/2000

16 Claims, 20 Drawlog Sheets



CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): Anthony G. Graham State Bar # 148682 Graham & Martin LLP 3130 South Harbor Blvd., Suite 250 Santa Ana, CA 92704 TELEPHONE NO.: (714) 850-9390 FAX NO.: (714) 850-9392 ATTORNEY FOR (<i>Name</i>): Dr. Richard Sowinski	FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of Orange 11/24/2015 at 11:55:15 AM Clerk of the Superior Court By Georgina Ramirez, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 Civic Centre Drive MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA BRANCH NAME: Central	CA 30-2015-00822179-CU-BT-CXC JUDGE: Judge Thierry Patrick Colaw DEPT: Cx-105
CASE NAME: Dr. Richard Sowinski v. California Air et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input checked="" type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (<i>not specified above</i>) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (<i>not specified above</i>) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (*check all that apply*): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (*specify*): Patent Infringement, Elder Abuse, 17200
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: November 18, 2015
 MICHAEL MARTIN

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUPERIOR COURT OF CALIFORNIA

ORANGE

751 W. Santa Ana Blvd

Santa Ana , CA 92701

(657) 622-5300

www.occourts.org

NOTICE OF CASE ASSIGNMENT

Case Number: **30-2015-00822179-CU-BT-CXC**

Your case has been assigned for all purposes to the judicial officer indicated below. A copy of this information must be provided with the complaint or petition, and with any cross-complaint that names a new party to the underlying action.

ASSIGNED JUDGE	COURT LOCATION	DEPARTMENT/ROOM	PHONE
Hon. Thierry Patrick Colaw	Civil Complex Center	CX105	(657) 622-5300
Hearing:	Date:	Time:	
JUDGE	COURT LOCATION	DEPARTMENT/ROOM	PHONE
Hon.			

[x] ADR Information attached.

SCHEDULING INFORMATION

<p>Judicial Scheduling Calendar Information</p> <p>Individual courtroom information and the items listed below may be found at: www.occourts.org.</p> <p>Case Information, Court Local Rules, filing fees, forms, Civil Department Calendar Scheduling Chart, Department phone numbers, Complex Civil E-filing, and Road Map to Civil Filings and Hearings.</p>
<p>Ex Parte Matters</p> <p>Rules for Ex Parte Applications can be found in the California Rules of Court, rules 3.1200 through 3.1207 at: www.courtinfo.ca.gov. Trials that are in progress have priority; therefore, you may be required to wait for your ex parte hearing.</p>
<p>Noticed Motions</p> <ul style="list-style-type: none"> * The following local Orange County Superior Court rules are listed for your convenience: <ul style="list-style-type: none"> - Rule 307 - Telephonic Appearance Litigants - Call CourtCall, LLC at (310) 914-7884 or (888) 88-COURT. - Rule 380 - Fax Filing, Rule 450 - Trial Pre-Conference (Unlimited Civil) * All Complex Litigation cases are subject to mandatory Electronic Filing, unless excused by the Court. * Request to Enter Default and Judgment are strongly encouraged to be filed as a single packet.
<p>Other Information</p> <p>Hearing dates and times can be found on the Civil Department Calendar Scheduling Chart.</p> <p>All fees and papers must be filed in the Clerk's Office of the Court Location address listed above.</p>

Date: 11/25/2015

Georgina Ramirez, Deputy Clerk

NOTICE OF CASE ASSIGNMENT

EXHIBIT B



**Service of Process
Transmittal**

12/09/2015
CT Log Number 528293936

TO: Adriaen Morse, Jr.
CSRA Inc.
3170 Fairview Park Dr
Falls Church, VA 22042-4528

RE: Process Served in California

FOR: SRA INTERNATIONAL, INC. (Domestic State: VA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Dr. Richard Sowinski, Pltf. vs. California Air Resources Board, et al., Dfts. // To: SRA INTERNATIONAL, INC.

DOCUMENT(S) SERVED: Notice(s) and Acknowledgment(s), Summons, Instructions, Complaint, Exhibit(s)

COURT/AGENCY: Orange County - Superior Court - Santa Ana, CA
Case # 30201500822179CUBTCXC

NATURE OF ACTION: Intellectual Property Litigation - Patent infringement - United States Patent No. 6,601,033

ON WHOM PROCESS WAS SERVED: C T Corporation System, Los Angeles, CA

DATE AND HOUR OF SERVICE: By Regular Mail on 12/09/2015 postmarked on 12/02/2015

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: Within 30 days after service

ATTORNEY(S) / SENDER(S): Anthony G. Graham
Graham & Martin, LLP
3130 South Harbor Blvd.
Suite 250
Santa Ana, CA 92704
714-850-9390

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day , 781901935724

Image SOP

Email Notification, Mary Kim Mkim38@csgov.com

Email Notification, Adriaen Morse, Jr. Amorse4@csgov.com

Email Notification, Kathy Lofgren klofgren@csgov.com

Email Notification, Lori Pogash lori_pogash@sra.com

SIGNED: C T Corporation System
ADDRESS: 818 West Seventh Street
Los Angeles, CA 90017
TELEPHONE: 213-337-4615

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

EXHIBIT C

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): SBN 148682 Anthony G. Graham Graham & Martin 3130 South Harbor Blvd., Suite 250 Santa Ana, CA 92704 TELEPHONE NO.: (714) 850-9390 FAX NO. (Optional): (714) 850-9392 E-MAIL ADDRESS (Optional): anthonyggraham@msn.com ATTORNEY FOR (Name): Dr. Richard Sowinski	FOR COURT USE ONLY CASE NUMBER: 30-2015-00822179-CU-BT-CXC
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange STREET ADDRESS: 700 Civic Centre Drive MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA 92647 BRANCH NAME: Central	
PLAINTIFF/PETITIONER: Dr, Richard Sowinski DEFENDANT/RESPONDENT: SRA International, Inc.	
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL	

TO (insert name of party being served): SRA International, Inc. by Agent for Service CT Corporation

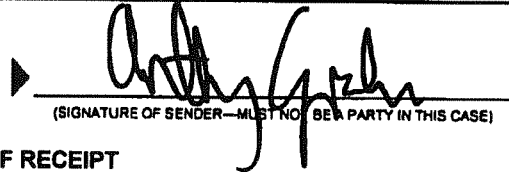
NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: December 2, 2015

Anthony Graham
(TYPE OR PRINT NAME)


(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

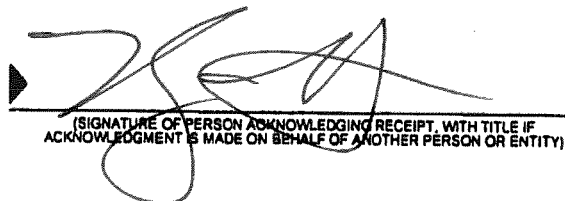
This acknowledges receipt of (to be completed by sender before mailing):

1. A copy of the summons and of the complaint.
2. Other (specify):

(To be completed by recipient):

Date this form is signed: December 21, 2015

Ryan M. Nishimoto, SRA International, Inc.
(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)


(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)