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JAMES N. HATTEN
By: *[Signature]* Deputy Clerk

CIVIL ACTION NO.:

1:08-CV-1029

CODE

NOW COMES Global Resources International, Inc. (“GRI” or “Plaintiff”), Plaintiff in the above-captioned matter, and hereby files this its Complaint for Declaratory Judgment and respectfully requests that this Court enter judgment declaring that GRI does not infringe any valid intellectual property rights of International Technidyne Corporation (“ITC” or “Defendant”). In support of this Complaint, GRI respectfully shows the Court as follows:

-1-

Plaintiff GRI is a corporation organized under the laws of the State of Georgia with a registered agent located at 4142 Industry Way, Flowery Branch, Georgia 30542.

-2-

Defendant ITC is, upon information and belief, a corporation organized under the laws of the State of New Jersey. ITC regularly transacts business in the State of Georgia and in this judicial district by advertising, marketing, making, using, selling and/or offering for sale, among other things, incision devices of the type described in U.S. Patent Numbers 5,314,441 (the '441 Patent) and/or 5,772,677 (the '677 Patent). ITC is subject to service of process at its registered agent CT Corporation System, 1201 Peachtree St. NE, Atlanta, Georgia 30361.

-3-

Jurisdiction is proper before this Court pursuant to 35 U.S.C. § 271, and 28 U.S.C. §§ 1331, 1338 and 2201 in that an actual controversy exists within this jurisdiction regarding alleged infringement of the '441 and '677 Patents, alleged infringement of copyrights, alleged trade dress infringement and alleged false and deceptive advertising.

-4-

Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 and 1400.

-5-

Defendant ITC has represented that it is the owner of U.S. Patent No. 5,314,441 issued May 24, 1994 and entitled "Disposable slicing lancet assembly." A true and correct copy of the '441 Patent is attached hereto as Exhibit "A."

-6-

Defendant ITC has represented that it is the owner of U.S. Patent No. 5,772,677 issued June 30, 1998 and entitled "Incision device capable of automatic assembly and a method of assembly." A true and correct copy of the '677 Patent is attached hereto as Exhibit "B."

-7-

Defendant ITC is in the business of, among other things, designing, developing, manufacturing, selling and offering for sale incision devices, including those alleged to be covered by the '441 and '677 Patents.

-8-

Plaintiff GRI is in the business of, among other things, designing, developing, manufacturing, selling and/or offering for sale incision devices in competition with Defendant's incision devices. GRI devices are offered for sale and sold in, among other places, this judicial district.

-9-

By letter dated February 21, 2008, Defendant accused GRI of infringing one or more claims of the '441 Patent. A true and correct copy of this February 21, 2008 letter is attached hereto as Exhibit "C."

-10-

By letter dated February 21, 2008, ITC stated it is "analyzing" GRI devices to determine whether GRI devices infringe the '677 Patent. See Exhibit "C".

-11-

GRI denies that it has infringed or currently infringes any valid claim of the '441 Patent. GRI further denies that it has infringed or currently infringes any valid claim of the '677 Patent.

-12-

GRI has a reasonable apprehension of suit as a result of the February 21, 2008 letter from ITC accusing GRI of patent infringement.

-13-

In light of ITC's conduct, GRI is justifiably fearful that ITC will interfere with GRI's marketing, selling, and/or offering for sale its incision devices and that ITC will intimidate potential customers into not purchasing GRI incision devices for fear of a patent infringement lawsuit by ITC.

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As one example of ITC's attempt to interfere with GRI customer relationships, ITC sent a copy of its February 21, 2008 letter to Cardinal Health, Inc., which is a customer of GRI. A true and correct copy of the letter sent to Cardinal Health is attached hereto as Exhibit "D."

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In the February 21, 2008 letter to GRI, ITC further accuses GRI of copyright infringement. See Exhibit C, page 2. More specifically, ITC accuses GRI of infringement of copyright registration numbers VA-162-5781 and TX-6821-751. GRI denies that it has infringed or currently infringes any valid copyright of ITC.

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In its communication dated February 21, 2008, ITC further accuses GRI of infringing certain trade dress allegedly associated with the size, color and shape of ITC's incision devices. GRI denies it has engaged in any trade dress infringement and asserts that any alleged trade dress claimed by ITC is functional.

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In its February 21, 2008 letter, ITC further accuses GRI of engaging in "false and deceptive advertising." See Exhibit "C" at page 3. GRI denies that it has engaged in any false or deceptive advertising.

COUNT I

Declaratory Judgment (Non-Infringement '441 Patent)

-18-

GRI hereby incorporates the allegations of the preceding paragraphs as if set forth fully herein.

-19-

There exists an actual controversy regarding whether GRI's making, using, selling and/or offering for sale of its incision devices constitutes infringement of the '441 Patent.

-20-

GRI has not and does not infringe any valid claim of the '441 Patent.

-21-

In keeping with the remedial objectives of the Declaratory Judgment Act, 28 U.S.C. § 2201, there is a need for this Court to speedily and expeditiously declare that GRI does not infringe any valid claim of the '441 Patent by making, using, selling and/or offering for sale its incision devices.

COUNT II

Declaratory Judgment (Non-Infringement '677 Patent)

-22-

GRI hereby incorporates the allegations of the preceding paragraphs as if set forth fully herein.

-23-

There exists an actual controversy regarding whether GRI's making, using, selling and/or offering for sale of its incision devices constitutes infringement of the '677 Patent.

-24-

GRI has not and does not infringe any valid claim of the '677 Patent.

-25-

In keeping with the remedial objectives of the Declaratory Judgment Act, 28 U.S.C. § 2201, there is a need for this Court to speedily and expeditiously declare that GRI does not infringe any valid claim of the '677 Patent by making, using, selling and/or offering for sale its incision devices.

COUNT III

Declaratory Judgment – Invalidity '441 Patent

-26-

GRI hereby incorporates the allegations of the preceding paragraphs as if set forth fully herein.

-27-

In keeping with the remedial objectives of the Declaratory Judgment Act 28 U.S.C. § 2201, there is a need for this Court to speedily and expeditiously declare that the '441 Patent is invalid and unenforceable for failure to comply with the conditions and requirements for patentability specified in title 35 U.S.C., including without limitation, 35 U.S.C. §§ 102, 103, 112, 116 and/or 282.

COUNT IV

Declaratory Judgment – Invalidity ‘677 Patent

-28-

GRI hereby incorporates the allegations of the preceding paragraphs as if set forth fully herein.

-29-

In keeping with the remedial objectives of the Declaratory Judgment Act, 28 U.S.C. § 2201, there is a need for this Court to speedily and expeditiously declare that the ‘677 Patent is invalid and unenforceable for failure to comply with the conditions and requirements for patentability specified in title 35 U.S.C., including without limitation, 35 U.S.C. §§ 102, 103, 112, 116 and/or 282.

COUNT V

Declaratory Judgment – Copyright Infringement

-30-

GRI hereby incorporates the allegations of the preceding paragraphs as if set forth fully herein.

-31-

In keeping with the remedial objectives of the Declaratory Judgment Act, 28 U.S.C. §2201, there is a need for this Court to speedily and expeditiously declare that GRI has not infringed any valid copyright of ITC, to include copyright registration numbers TX-6821-751 and VA-162-5781.

COUNT VI

Declaratory Judgment – Trade dress Infringement

-32-

GRI hereby incorporates the allegations of the preceding paragraphs as if set forth fully herein.

-33-

In keeping with the remedial objectives of the Declaratory Judgment Act, 28 U.S.C. § 2201, there is a need for this Court to speedily and expeditiously declare that GRI has not infringed any valid trade dress owned by ITC, to include alleged trade dress associated with the shape, size, and colors of ITC's Tenderfoot® devices.

COUNT VII

Declaratory Judgment – False and Deceptive Advertising

-34-

GRI hereby incorporates the allegations of the preceding paragraphs as if set forth fully herein.

-35-

In keeping with the remedial objectives of the Declaratory Judgment Act, 28 U.S.C. §2201, there is a need for this Court to speedily and expeditiously declare that GRI has not engaged in any false or deceptive advertising allegedly arising out of any statements made by Cascade Healthcare Products, Inc. regarding any GRI or ITC incision devices.

PRAYER

WHEREFORE Plaintiff respectfully prays that this Court enter a Declaratory Judgment in favor of Plaintiff and against Defendant declaring the following:

- a) That judgment be entered in favor of Plaintiff and against Defendant declaring that Plaintiff does not directly infringe any valid claim of the '441 and/or '677 Patents;

- b) That judgment be entered in favor of Plaintiff and against Defendant declaring that Plaintiff does not contributorily infringe any valid claim of the '441 and/or '677 Patents;
- c) That judgment be entered in favor of Plaintiff and against Defendant declaring that Plaintiff does not induce infringement of any valid claim of the '441 and/or '677 Patents;
- d) That judgment be entered in favor of Plaintiff and against Defendant declaring that Plaintiff does not infringe any valid claim of the '441 and/or '677 Patents through the doctrine of equivalence;
- e) That judgment be entered in favor of Plaintiff and against Defendant declaring that the '441 and '677 Patents are invalid and/or unenforceable;
- f) That judgment be entered in favor of Plaintiff and against Defendant declaring that Plaintiff has not engaged in copyright infringement of copyright registration numbers VA-162-5781 and/or TX-6821-751;
- g) That judgment be entered in favor of Plaintiff and against Defendant declaring that Plaintiff has not infringed any valid trade

dress of ITC related to the shape, size and/or color of ITC's

Tenderfoot® devices;

- h) That judgment be entered in favor of Plaintiff and against Defendant declaring that Plaintiff has not engaged in any false or deceptive advertising with respect to the sale of GRI incision devices;
- i) That the Court grant a trial by jury on all issues so triable;
- j) That this Court declare this an exceptional case and grant Plaintiff its attorney's fees and costs of litigation; and
- k) That the Court grant additional and necessary relief as the Court may deem just and appropriate.

Respectfully submitted this 12th day of March, 2008.

FLYNN PEELER & PHILLIPS, LLC



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