IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Southern Division

ATLANTIS HOLDING COMPANY, LLC, SUMMIT HOLDING COMPANY, LLC, and AQUARIUS HOLDINGS COMPANY, LLC D/B/A PROACTIVE ENVIRONMENTAL PRODUCTS 2710 Thomes Avenue Cheyenne, Wyoming 82001, Plaintiffs, v. **PINE ENVIRONMENTAL SERVICES, INC.** Windsor Industrial Park, 92 North Main Street, Bldg. 20 Windsor, New Jersey 08561 SERVE ON: National Registered Agents, Inc. of Maryland, 835 Park Avenue, Second Floor, Baltimore, Maryland 21201 Defendant.	**Case No. _____** **JURY TRIAL DEMANDED**

VERIFIED COMPLAINT FOR PATENT INFRINGEMENT,
TRADEMARK INFRINGEMENT, UNFAIR COMPETITION & RELATED CLAIMS

Plaintiffs Atlantis Holding Company, LLC ("Atlantis"), Summit Holding Company, LLC ("Summit") and Aquarius Holdings Company, LLC d/b/a Proactive Environmental Products ("Proactive") (collectively "Plaintiffs"), by and through undersigned counsel, for their Complaint against Pine Environmental Services, Inc. ("Defendant"), allege as follows upon actual knowledge with respect to Plaintiffs and their own acts, and upon information and belief as to all other matters:

PARTIES

1. Plaintiffs Atlantis, Summit and Proactive are Wyoming limited liability companies headquartered at 2710 Thomes Avenue, Cheyenne, Wyoming 82001.

2. Defendant Pine Environmental Services, Inc. is a corporation organized and existing under the laws of the State of Pennsylvania with a principal place of business located at Windsor Industrial Park, 92 North Main Street, Bldg. 20, Windsor, New Jersey 08561.

JURISDICTION AND VENUE

3. This civil action is for patent infringement under the Patent Laws of the United States of America, 35 U.S.C. §§ 1 *et seq*., including 35 U.S.C. § 271; infringement of U.S. trademark registrations and trademark counterfeiting under 15 U.S.C. § 1114; unfair competition and false designation of origin under 15 U.S.C. § 1125(a); fraudulent use and imitation of a trade name under Md. Bus, Reg. Sec. 1-415; and trademark infringement and unfair competition under Maryland common law.

4. This Court has subject matter jurisdiction over Plaintiff's patent and trademark claims based on 15 U.S.C. §1121 and 28 U.S.C. §§1331, 1332, and 1338(a) and (b). In addition, the matter in controversy exceeds the sum of $75,000, exclusive of interest and costs, and is between citizens of different states. This Court has supplemental jurisdiction over all causes of action under the laws of Maryland under 28 U.S.C. § 1367, because all of the state claims are so related to the federal patent, trademark and unfair competition claims that they form part of the same case or controversy under Article III of the United States Constitution.

5. Defendant is a rental equipment company that offers for sale, sells and distributes environmental testing equipment, including groundwater sampling devices, throughout the United States and within this judicial district. Defendant has established minimum contacts with

the forum by purposely availing itself of the laws and benefits of the forum, and the exercise of jurisdiction over Defendant would not offend traditional notions of fair play and substantial justice. Defendant has voluntarily conducted business in this judicial district on a regular basis by using, offering for sale, selling, renting, transporting, and/or shipping infringing products into this district. Defendant additionally places infringing products into the stream of commerce with the expectation that those products will be rented, purchased or used by consumers in this judicial district. Defendant's registered agent for service of process in Maryland is National Registered Agents, Inc. of Maryland located at 835 Park Avenue, Second Floor, Baltimore, Maryland 21201.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and/or 1400 because Defendant is subject to personal jurisdiction in this judicial district.

FACTUAL BACKGROUND

7. Plaintiffs and Defendants service the groundwater quality sampling industry. Groundwater sampling has many applications including in industrial and municipal waste disposal site monitoring, ambient ground-water quality monitoring, scientific and educational research, and bacteriological and chemical quality monitoring. The goal in any method of groundwater sampling is to obtain a representative water sample with minimum disturbance to the geochemical and hydro-geological conditions and to try to maintain the sample integrity from field to laboratory. For effective groundwater sampling, the relative proportions of all components must be the same in the sample as in the material being sampled and there must be a minimum of disturbance to the sample during the sampling process. Groundwater sample collection and handling procedures can be a source of variability in water-quality concentrations due to the equipment being used to obtain the sample, so it is important that flaws and defects in groundwater quality sampling equipment be detected prior to the equipment's sale and/or use.

8. Founded in 1989, Plaintiff Proactive is a U.S.-based designer, innovator and manufacturer of environmental products for the groundwater sampling industry including stainless steel submersible groundwater sampling pumps. Proactive sells its products in the United States and in this judicial district to authorized Proactive distributors.

9. Given the need for accuracy in groundwater sampling, and given the above problems that can ensue from the use of faulty groundwater sampling equipment, Proactive set out in 2005 to transform the groundwater sampling field by designing, developing, and then patenting a complete line of highly durable, stainless steel submersible electric groundwater sampling pumps and a replaceable stainless steel motor module for these pumps. These products include Proactive's stainless steel MEGA TYPHOON®, MEGA-MONSOON®, MONSOON®, TYPHOON®, HURRICANE® and SAMPLE CHAMP® submersible electric groundwater pumps (collectively "Proactive Pumps"). Proactive's goal in developing the Proactive Pumps was to help groundwater professionals maximize their groundwater sampling efforts including their time spent out in the field.

10. Proactive historically has been the innovator in the groundwater quality sampling market and has developed numerous technical breakthroughs and improvements, many of which have been incorporated directly into the Proactive Pumps, including the stainless steel motor module referenced above. In recognition of Proactive's substantial innovations in the groundwater sampling field, the U.S. Patent & Trademark Office issued U.S. Patent No. 7,584,785 ("the '785 Patent") on September 8, 2009 to Proactive's founder, Craig Intelisano. A Copy of the '785 Patent is attached hereto as Exhibit A.

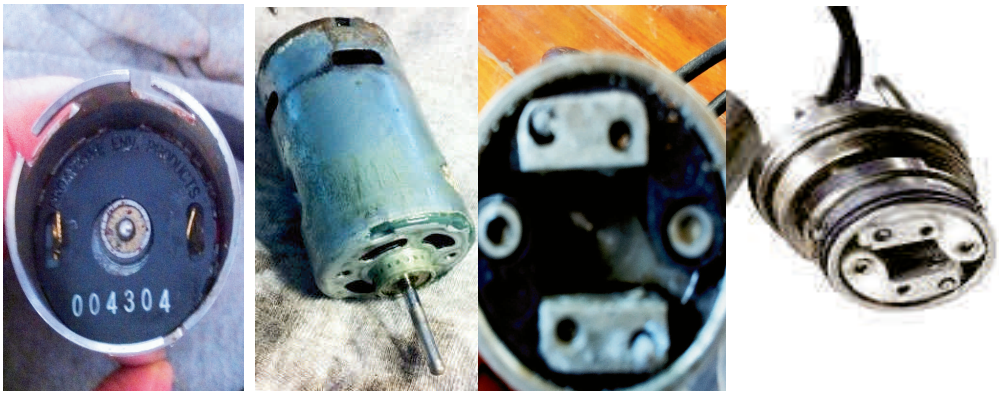
11. Plaintiff Summit is the owner by assignment of the '785 Patent and Plaintiff Proactive is the exclusive licensee of the '785 Patent. Together, Summit and Proactive possess

all substantial rights in the '785 Patent, including the right to bring suit for patent infringement.

12. The '785 Patent is directed to an easily replaceable motor for a groundwater sampling device. Representative Claim 7 of the '785 Patent covers the following:

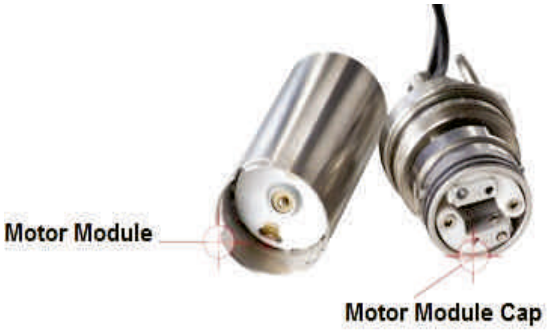
> A replaceable internal electric motor for a groundwater sampling device for withdrawing groundwater from a well comprising: a DC-operated electric motor positioned within said groundwater sampling device, said motor comprising an upper end having electrical input terminals; and a motor module cap having electrical output terminals coupleable to said ground water sampling device, wherein said cap makes automatic biased contact with the electrical input terminals of said motor upon assembly of the device, wherein said motor module cap is rotatably couplable by mating engagement of a plurality of spaced L-shaped slots formed into the upper end of an inner housing and an equal plurality of pins extending radially outwardly from said motor module cap.

Proactive's commercial embodiment is depicted here disassembled:



13. At all relevant times, Proactive has provided notice of the '785 Patent by patent marking on Proactive's products directly and on websites that Proactive operates, including www.gopronow.biz. This website allows distributors to purchase Proactive Pumps covered by the '785 Patent, to submit inquires directly to Proactive regarding Proactive's Pumps, and to obtain manuals and other information for the proper use and operation of Proactive's Pumps.

14. A key advantage of the Proactive Pumps is the easily removable and replaceable motor module unit that fits inside the pump body, as shown and described in the '785 Patent. This motor module can be switched for a new module in a matter of seconds if and when the motor wears out, without completely disassembling and/or having to dispose of the entire pump. Now instead of having to dispose of the original pump and purchase a new one, purchasers of Proactive Pumps could unscrew the top of the pump, twist out the old motor module and install a new motor module with a simple quarter turn twist. With the motor module installed, the pump is essentially new and has a lifespan virtually identical to a new Proactive Pump. This innovative design results in a highly versatile, user friendly and economical product, and few, if any, non-infringing alternatives are on the market today. The following illustration shows (on the left) one of the Proactive Pumps sold under the Proactive Trademarks with the motor module assembly (not visible) secured inside the device and (on the right) the patented motor module unit assembly detached and removed from the pump:



A demonstration video of the motor module change out process is available on the homepage of Proactive's website. *See* http://www.gopronow.biz.

15. Proactive maintains high quality control standards for its Proactive Pumps. Distributors of Proactive Pumps sold under the PROACTIVE®, PROACTIVE ENVIRONMENTAL PRODUCTS®, MEGA-TYPHOON®, TYPHOON®, MEGA-

MONSOON®, MONSOON®, HURRICANE® and SAMPLE CHAMP® trademarks (collectively "Proactive Trademarks") are required by Proactive at all times to adhere to Proactive's rigorous product quality control standards in connection with the distribution, rental and sale of such products, including Proactive's published Trademark Usage Guidelines, a Proactive Brand Policy and Proactive distributor guidelines.

16. Plaintiff Proactive has been offering the Proactive Products under the Proactive Trademarks since at least as early as 2005. Plaintiff Atlantis is the owner of several United States trademark registrations for the Proactive Trademarks, and Plaintiff Proactive is Atlantis' exclusive licensee under such marks, all of which are registered for submersible groundwater pumps.

17. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3563220 (hereinafter "the '220 Registration") for the mark PROACTIVE. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit B, and incorporated herein by reference.

18. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3131729 (hereinafter "the '729 Registration") for the mark PROACTIVE ENVIRONMENTAL PRODUCTS. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit C, and incorporated herein by reference.

19. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3465895 (hereinafter "the '895 Registration") for the mark MEGA MONSOON. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit D, and incorporated herein by reference.

20. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3465767 (hereinafter "the '767 Registration") for the mark MONSOON. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit E, and incorporated herein by reference.

21. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3687974 (hereinafter "the '974 Registration") for the mark TYPHOON. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit F, and incorporated herein by reference.

22. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3687975 (hereinafter "the '975 Registration") for the mark MEGA-TYPHOON. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit G, and incorporated herein by reference.

23. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3603448 (hereinafter "the '448 Registration") for the mark SAMPLE CHAMP. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit H, and incorporated herein by reference.

24. Atlantis is the owner, and Proactive is the exclusive licensee, of United States Trademark Registration No. 3729156 (hereinafter "the '156 Registration") for the mark HURRICANE. A true and correct copy of the Certificate of Registration is attached hereto as Exhibit I, and incorporated herein by reference.

25. Since the inception of their use, the Proactive Trademarks have been used by Atlantis and Proactive in connection with the sale of the highest quality groundwater sampling devices. Each of the Proactive Trademarks is highly distinctive and is recognized by the public

as identifying Proactive's goods and/or services, and each of the Proactive Trademarks and their corresponding registrations identified above remains active, valid, and enforceable.

26. Proactive and Atlantis have used the Proactive Trademarks throughout the United States and have heavily advertised and promoted them. These marks have developed and represent valuable, substantial, and exclusive goodwill and reputation inuring to Proactive's and Atlantis' benefit. Proactive and Atlantis have always exercised great care, skill, and diligence in maintaining uniform standards of high quality for Proactive's Pumps bearing the Proactive Trademark. The reputation associated with and the goodwill developed in the Proactive Trademarks in the United States are of high value to Atlantis and Proactive.

27. Genuine Proactive Pumps bearing the Proactive name and the Proactive Trademarks are distributed throughout a network of authorized distributors selected by Proactive. To maintain its reputation and the goodwill associated with the Proactive Trademarks, Proactive does not permit its distributors to resell, rent, or provide to the public Proactive Pumps marked with Proactive Trademarks if those products have not been tested, approved or otherwise authorized for sale or use by Proactive. In line with this policy, Proactive specifically instructs its distributors to not change or physically alter the nature or structure of Proactive's Pumps prior to selling these products. Rather, Proactive distributors are required to sell Proactive's Pumps for their intended purpose and in the same condition in which the distributor received them from Proactive.

28. In line with its quality control and inspection procedures, Proactive selects, approves, and appoints a limited number of Proactive distributors as Authorized Proactive Repair Centers ("Repair Center") based on demonstrated levels of commitment to the Proactive brand and a willingness to assist Proactive in maintaining high levels of product quality control over

Proactive Pumps. Proactive distributors who achieve this status receive and may display the following emblem in their storefronts, on their websites and in their advertising:

Repair Centers are continuously evaluated by Proactive based on their willingness and ability to uphold Proactive's high level of customer service and maintain uniform standards of high quality for Proactive Pumps bearing the Proactive Trademarks. The Authorized Proactive Repair Center program is a quality control mechanism that Atlantis and Proactive employ to maintain the valuable goodwill and reputation of the Proactive brand including the Proactive Trademarks.

29. Proactive has established an industry-wide following and consumer demand for its goods and services, including but not limited to the Proactive Pumps sold and offered for sale under the Proactive Trademarks. The demand for Proactive Pumps has been established through hard work, extensive advertising, significant investment and brand development. As a result, Proactive and Atlantis have established and own valuable intellectual property rights in the Proactive Trademarks. To protect Proactive's valuable reputation and the goodwill built up in the Proactive Trademarks, Proactive does not authorize its distributors or Repair Centers to sell Proactive Pumps if they do not contain genuine Proactive parts, or to sell Proactive parts and products that have been tampered with or which have not gone through Proactive's thorough and rigorous inspection and repair process.

30. Defendant is engaged in the business of renting and selling environmental equipment and related accessories, including groundwater sampling pumps. Defendant

previously was a distributor of Proactive Pumps covered by one or more of the claims of the '785 Patent, including but not limited to Proactive Pumps bearing one or more of the Proactive Trademarks. Defendant is not now and never was a Repair Center for Proactive Pumps. Defendant was terminated as a Proactive distributor in 2011 for, among other reasons, Defendant's failure to adhere to Proactive's Brand Policy, Trademark Usage Guidelines, and Proactive's distributor policies.

31. At least as recently as 2011, Defendant began purchasing from third parties (or manufacturing itself) unauthorized components for use in Proactive Pumps, namely motor modules and their elements ("Counterfeit Components"), then either selling these components separately or incorporating them into groundwater quality sampling pumps ("Counterfeit Pumps"), and selling the Counterfeit Pumps and Counterfeit Components using one or more of the Proactive Trademarks appearing in the '220 Registration, the '729 Registration, the '895 Registration, the '767 Registration, the '974 Registration, the '975 Registration, the '448 Registration, and the '156 Registration, or copies or colorable imitations thereof (collectively "Counterfeit Marks"). The Counterfeit Components and Counterfeit Pumps that Defendant manufactured, imported, offered for sale, sold, used, distributed, reconstructed and/or rented, on or in connection with which appear one or more Proactive Trademarks and/or Counterfeit Marks, were not made by Proactive (or its suppliers), were not subject to Proactive's quality control standards and supervision, and were substandard and inferior to genuine Proactive Pumps and their parts. The Counterfeit Components and Counterfeit Pumps offered for sale, sold and distributed by Defendant were materially different from genuine Proactive Pumps sold under the Proactive Trademarks, and their offer for sale, sale and distribution by Defendant has severely undermined Proactive's ability to exercise quality control over its products.

32. Defendant, without authorization or license from Proactive, has knowingly and willfully imported, purchased, advertised, offered for sale, rented, distributed, and sold Counterfeit Components and Counterfeit Pumps bearing Proactive Marks and/or Counterfeit Marks in interstate commerce. The Counterfeit Marks and designations used by Defendants in interstate commerce are spurious marks that are identical with, or substantially indistinguishable from, the Proactive Trademarks. Defendant knows of Proactive's and Atlantis' rights to the Proactive Marks and that it is willfully using a counterfeit of one or more of the Proactive Marks to rent, sell, offer for sale, advertise, label, package and distribute Counterfeit Pumps and Counterfeit Components.

33. Proactive did not manufacture, produce or inspect the Counterfeit Components or the Counterfeit Pumps, and did not approve the Counterfeit Pumps and Counterfeit Components for use, rental, sale and/or distribution at any time.

34. Defendant's use of the Proactive Trademarks and Counterfeit Marks on or in connection with the advertising, marketing, distribution, offering for sale and sale of Counterfeit Components and Counterfeit Pumps is likely to cause and has caused confusion among consumers who have been deceived or misled into believing they were buying genuine Proactive Pumps.

35. Defendant's activities have caused irreparable harm to the Proactive Trademarks and to Proactive and Atlantis.

36. Proactive terminated Defendant as a distributor in 2011, yet Defendant continues to import, manufacture, use, offer for sale, rent, distribute and sell Counterfeit Components and Counterfeit Pumps to the general public for use in groundwater sampling applications on or in connection with which appear Proactive Trademarks and/or Counterfeit Marks. Before filing

this lawsuit, Proactive notified Defendant of its objection to Defendant's unauthorized use of the Proactive Trademarks, specifically Defendant's rental, sale, distribution and use of Counterfeit Components, Counterfeit Pumps, and Counterfeit Marks with the hope that the parties could resolve this matter amicably. Defendant, however, has not stopped its unlawful activities.

37. None of the aforementioned activities of Defendant were authorized by Proactive or any other of the plaintiffs in this case. Such activities constitute trademark infringement and trademark counterfeiting.

38. Plaintiffs Atlantis and Proactive have filed these claims for federal trademark infringement, counterfeiting, unfair competition, false designation of origin and common law trademark infringement based on Defendant's unauthorized commercial use and exploitation of the Proactive Trademarks on or in connection with the manufacture, sale, offer for sale, distribution and/or rental of stainless steel groundwater sampling devices and their components, including Counterfeit Components and Counterfeit Pumps.

39. Atlantis and Proactive seek (1) injunctive relief against Defendant's continued unauthorized and improper commercial use and exploitation of any trademark confusingly similar to the Proactive Trademarks on or in connection with the sale of any groundwater sampling devices, including groundwater pumps, or their components or accessories; and (2) all damages arising from Defendant's past and present infringement and reimbursement of attorneys' fees and costs for having to bring this suit to enforce their trademark rights.

40. Plaintiffs Summit and Aquarius bring this action for patent infringement against Defendant based on Defendant's unauthorized importation, manufacture, reconstruction, use, practice, provision, supplying, distribution, rental, sale, and/or offer for sale of environmental supplies including subsurface stainless steel groundwater sampling pumps covered by one or

more claims of the ’785 Patent, including products sold by Defendant bearing Proactive Trademarks.

COUNT I – INFRINGEMENT OF THE ‘785 PATENT
(35 U.S.C. § 271, et. seq.)
(Summit and Proactive against Defendant)

41. The allegations of paragraphs 1 through 40 are incorporated by reference as though fully set forth herein.

42. Upon information and belief, Defendant, without authority, makes, uses, offers to sell, sells within the United States, and/or imports into the United States, products that incorporate or make use of one or more inventions covered by the ‘785 Patent, including but not limited to its unauthorized importation, manufacture, reconstruction, use, practice, provision, supplying, distribution, rental, sale, and/or offer for sale of infringing environmental supplies including subsurface stainless steel groundwater sampling pumps under the Proactive Trademarks and/or Counterfeit Marks, including but not limited to Counterfeit Pumps and Counterfeit Components, thereby infringing, either literally or through the doctrine of equivalents, contributing to the infringement of, and/or actively inducing infringement of one or more claims of the ‘785 Patent.

43. Upon information and belief, Defendant had actual knowledge of the ‘785 Patent prior to its unauthorized importation, manufacture, reconstruction, use, practice, provision, supplying, distribution, rental, sale, and/or offer for sale of infringing environmental supplies including subsurface stainless steel groundwater sampling pumps. Accordingly, Defendant's infringement of the ‘785 Patent is intentional and willful.

44. Plaintiffs are entitled to damages as a result of the intentional and willful infringement by Defendant.

45. Defendant will, if not permanently enjoined by this Court, continue in its acts of patent infringement set forth above, which have caused and will continue to cause irreparable damage.

COUNT II – FEDERAL TRADEMARK INFRINGEMENT & COUNTERFEITING
(15 U.S.C. § 1114(1)(a))
(Atlantis and Proactive Against Defendant)

46. The allegations of paragraphs 1 through 45 are incorporated by reference as though fully set forth herein.

47. The Proactive Trademarks and the goodwill of the businesses and products associated with them in the United States are of great and incalculable value, are highly distinctive and arbitrary, and have become universally associated in the public mind with Proactive as being products of the highest quality and reputation.

48. Without Proactive's authorization or consent, and having knowledge of the Proactive Trademarks and prior rights in the Proactive Trademarks, as evidenced by the fact that the Counterfeit Pumps and Counterfeit Components bear marks that are identical to one or more of the Proactive Trademarks, Defendant has distributed, offered for sale, sold and/or rented Counterfeit Components and Counterfeit Pumps to the consuming public in direct competition with Proactive's sale of genuine Proactive Pumps, in or affecting interstate commerce, with the intent to misrepresent the source of these goods.

49. Defendant has distributed and sold the Counterfeit Pumps and Counterfeit Components as genuine Proactive Pumps when they are not genuine Proactive Pumps.

50. Defendant's use of copies or colorable imitations of the Proactive Trademarks, including the Counterfeit Marks, on or in connection with the Counterfeit Pumps and Counterfeit Components is likely to cause and has caused confusion, mistake and deception among the

general purchasing public as to the origin of the Counterfeit Pumps and Counterfeit Components, and is likely to deceive the public into believing the Counterfeit Pumps and Counterfeit Components being sold by Defendant originate from, are associated with or are otherwise authorized by Proactive, all to the damage and detriment of Proactive's reputation, goodwill and sales.

51. Proactive is without an adequate remedy at law and has suffered irreparable harm and injury to its goodwill and reputation.

52. As a result of Defendant's activities, Proactive has been damaged in an amount to be ascertained. Proactive seeks an accounting of Defendant's profits and its actual and consequential damages resulting from Defendant's infringing acts. Proactive also seeks injunctive relief pursuant to 15 U.S.C. § 1116, including seizure of Defendant's Counterfeit Components and Counterfeit Products. Proactive seeks punitive, additional, and enhanced damages from Defendant, as well as recovery of Proactive's attorneys' fees and costs of litigation. In addition, or in the alternative, Proactive seeks recovery of the maximum amount of statutory damages as permitted by 15 U.S.C. § 1117(c), including but not limited to $2,000,000.00 per counterfeit mark per each type of good sold, offered for sale, or distributed.

COUNT III – UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN
(15 U.S.C. § 1125(a))
(Atlantis and Proactive against Defendant)

53. The allegations of paragraphs 1 through 52 are incorporated by reference as though fully set forth herein.

54. The Unauthorized Components and Counterfeit Pumps sold and offered for sale by Defendant are of the same general nature and type as the Proactive Pumps sold and offered for sale by Proactive and, as such, Defendant's use of the Proactive Trademarks and Counterfeit Marks caused confusion to the general purchasing public.

55. By misappropriating and using the Proactive Trademarks, Defendant misrepresented and falsely described to the general public the origin and source of the Unauthorized Components and Counterfeit Pumps and created a likelihood of confusion by ultimate purchasers as to both the source and sponsorship of such products.

56. Defendant's unlawful, unauthorized and unlicensed importation, manufacture, distribution, offer for sale and/or sale of the Counterfeit Pumps created express and implied misrepresentations that the Counterfeit Pumps and Unauthorized Components were created, authorized or approved by Proactive, all to Defendant's profit and to Proactive's great damage and injury.

57. Defendant's acts are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), in that Defendant's use of the Proactive Trademarks and Counterfeit Marks, in connection with Defendant's goods and services, in interstate commerce constitutes a false designation of origin and unfair competition.

58. Atlantis and Proactive are without an adequate remedy at law and have suffered irreparable harm and injury to their goodwill and reputation.

59. As a result of Defendant's activities, Proactive has been damaged in an amount to be ascertained. Proactive seeks an accounting and its actual and consequential damages resulting from Defendant's infringing acts. Moreover, Proactive seeks punitive, additional, and enhanced damages from Defendant. In addition, or in the alternative, Proactive seeks recovery of the maximum amount of statutory damages as permitted by 15 U.S.C. § 1117(c).

COUNT V – FRAUDULENT USE OR IMITATION OF TRADE NAME
(Md. Bus. Reg. Sec. 1-415)
(Atlantis and Proactive against Defendant)

60. The allegations of paragraphs 1 through 59 are incorporated by reference as though fully set forth herein.

61. The Counterfeit Marks and Proactive Trademarks appearing on Unauthorized Components and Counterfeit Pumps are the same as, or similar to, the Proactive Marks and the PROACTIVE and PROACTIVE ENVIRONMENTAL PRODUCTS trade names as used in connection with Proactive's business in Maryland. Defendant has used and promoted the Proactive Marks and Counterfeit Marks in connection with their business in Maryland, as described above, with the intent to defraud and/or imitate the PROACTIVE and/or PROACTIVE ENVIRONMENTAL PRODUCTS trade name.

COUNT VI – TRADEMARK INFRINGEMENT & UNFAIR COMPETITION UNDER MARYLAND COMMON LAW
(Atlantis and Proactive Against Defendant)

62. The allegations of paragraphs 1 through 61 are incorporated by reference as though fully set forth herein.

63. Defendant's actions, as described above, are likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant with Proactive and/or Atlantis, or as to the origin, sponsorship, or approval of Defendant, its products, and its commercial activities by or with Plaintiff such that Defendants acts constitute infringement of Plaintiff's proprietary rights in the Proactive Trademarks, misappropriation of Plaintiff's goodwill in those marks, and unfair competition under Maryland common law.

64. As a result of the infringement by Defendant, Proactive has suffered and will continue to suffer injury and damage in an amount yet to be determined. The acts of

infringement by Defendant have resulted in substantial unjust profits and unjust enrichment on the part of Defendant in an amount yet to be determined. Such acts of trademark infringement and unfair competition have caused great harm to Proactive.

65. The continuing acts of Defendant are jeopardizing the goodwill of Proactive and Proactive's valuable Proactive Trademarks, and such acts have caused and will continue to cause irreparable injury to Proactive and to the consuming public. The acts of Defendant complained of herein have caused irreparable injury to Proactive and to the public, for which there is no adequate remedy at law. Additionally or in the alternative, Proactive seeks an accounting and its actual and consequential damages as a result of Defendant's infringing acts which have resulted in confusion among the public. Moreover, Proactive seeks punitive and enhanced damages for Defendant's willful conduct.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs demand a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, judgment is respectfully requested against Defendant as follows:

(a) That Defendant has committed acts of patent infringement in violation of the Patent Act, 35 U.S.C. § 271 and that such infringement was willful;

(b) That Defendant, its officers, agents, servants, employees and attorneys, and any other persons in active concert or participation with them, are enjoined from continuing the acts herein complained of, and that Defendant and such other persons be permanently enjoined and restrained from further infringing activities;

(c) Awarding Plaintiffs all relief available under the patent laws of the United States, including but not limited to monetary damages, including prejudgment

interest and enhanced damages, based on the Defendant's infringement of the '785 Patent;

(d) Trebling all damages awarded to Plaintiffs for Defendant's willful infringement pursuant to 35 U.S.C. § 284;

(e) Finding this to be an exceptional case, and award Plaintiffs costs and reasonable attorneys' fees in respect thereto in accordance with 35 U.S.C. § 285;

(f) Finding that Defendant has infringed each of the Proactive Trademarks and/or contributorily infringed and/or induced the infringement of one or more of the Proactive Trademarks, including but not necessarily limited to, the marks appearing in the '220 Registration, the '729 Registration, the '895 Registration, the '767 Registration, the '974 Registration, the '975 Registration, the '448 Registration, and the '156 Registration, by distributing, selling and offering to sell Counterfeit Components and Counterfeit Pumps as genuine Proactive Pumps when they are not genuine Proactive Pumps;

(g) Finding that Defendant has falsely and intentionally misled consumers by directly or indirectly representing that the Counterfeit Components and Counterfeit Pumps were endorsed by, sponsored by, or affiliated with Proactive;

(h) Finding that Defendant has engaged in unfair competition;

(i) Preliminarily and permanently enjoining Defendant, its agents, employees, representatives, affiliates, successors, assigns, if any, and those in privity or concert with them from further acts that would amount to infringement and/or counterfeiting of the Proactive Trademarks including the '220 Registration,

the ‘729 Registration, the ‘895 Registration, the ‘767 Registration, the ‘974 Registration, the ‘975 Registration, the ‘448 Registration, and the ‘156 Registration, and any marks confusingly similar thereto, infringement of Proactive’s and Atlantis’ common law trademark rights in the Proactive Trademarks, or other acts of unfair competition;

(j) Ordering that Defendant disclose their source(s) for the Counterfeit Components and Counterfeit Pumps and that Defendant deliver up for destruction or other disposition all products, including motor modules, motors, pumps, labels, wrappers, containers, contracts, forms, invoices, and other items in its possession or under its control on or in connection with which appear one or more of the Proactive Trademarks, in any manner or form, or any reproduction, counterfeit, copy, variation or colorable imitation of those marks, either alone or in combination with any other designation, on or in connection with any business, goods or services, as well as all documents, including electronically stored information, concerning the source of the Counterfeit Components and Counterfeit Pumps, and Defendant’s purchase, manufacture, distribution and sale of them.

(k) Ordering that Defendant be directed to file with the Court and serve upon Plaintiffs’ counsel within thirty (30) days after entry of such judgment a report in writing under oath setting forth in detail the manner and form in which Defendant has complied with the above.

(l) An accounting for all profits derived by Defendant and its subsidiaries and affiliates from their unlawful use of the Proactive Trademarks.

(m) An order from this Court requiring Defendant to mail notice letters at its expense to all distributors, dealers, accounts, salesmen, employees, jobbers, and suppliers, informing them that Defendant has committed patent infringement, trademark infringement and counterfeiting and unfair competition against Plaintiffs and that it has no affiliation, connection, or other business relationship with Plaintiffs; and requesting that they return to Defendant for full credit or refund all Counterfeit Products and Counterfeit Components;

(n) Awarding Plaintiffs all damages caused by the acts of Defendant and all profits of Defendant from acts complained of, and/or all costs to Plaintiffs caused by Defendant's activities complained of herein;

(o) Trebling the damages and profits awarded to Plaintiffs as authorized by 15 U.S.C. § 1117;

(p) Awarding the maximum statutory damages for willful use of counterfeit Proactive Trademarks as authorized by 15 U.S.C. § 1117(c);

(q) Granting Plaintiffs pre-judgment and post-judgment interest on the damages caused by reasons of Defendant's activities complained of herein at the highest rates allowed by law;

(r) Finding that this is an exceptional case and awarding Proactive its reasonable and necessary attorneys' fees in accordance with 15 U.S.C. § 1117;

(s) Granting Plaintiffs such other relief as this Court deems just and equitable.

Dated: September 28, 2011

Respectfully Submitted,

/s/

Thomas G. Southard (Bar No. 16861)
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Attorneys for Plaintiffs Atlantis Holding Company, LLC, Summit Holding Company, LLC and Aquarius Holdings Company, LLC d/b/a Proactive Environmental Products

VERIFICATION OF COMPLAINT

I, Craig Intelisano, declare that:

1. I am a member of ATLANTIS HOLDING COMPANY, LLC, SUMMIT HOLDING COMPANY, LLC, and AQUARIUS HOLDINGS COMPANY, LLC D/B/A PROACTIVE ENVIRONMENTAL PRODUCTS, the named plaintiffs in this civil action.

2. I have read the foregoing Verified Complaint for Patent Infringement, Trademark Infringement, Unfair Competition and Related Claims, and Exhibits thereto, ("the Complaint") and I know the contents thereof. I am informed and believe and on that ground allege that the matters stated in the Complaint are true and correct.

3. The matters stated in the Complaint are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true and correct.

4. I hereby verify that I am authorized to make this Verification on behalf of all Plaintiffs named in the Complaint.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed at Bradenton, Florida on September 28, 2011

Craig Intelisano