

1 **THE PARTIES**

2 2. Yellow Dog is a limited liability company organized and existing under the
3 laws of Arizona. Yellow Dog maintains a regular place of business at 10645 N. Oracle
4 Rd. #121, Oro Valley, Arizona 85737.

5 3. On information and belief, Defendant Fuel Recyclers, LLC is a limited
6 liability corporation organized and existing under the laws of New Jersey. On information
7 and belief, Defendant Fuel Recyclers has its principal place of business at 2 Emery Ave.,
8 Randolph, New Jersey 07869. On information and belief Defendant Fuel Recyclers also
9 maintains a place of business at 4578 N. First Ave. # 160, Tucson, Arizona 85718.

10 4. On information and belief, Defendant Dane Ogden is an individual residing
11 in Missouri.

12 5. On information and belief, Defendant Mordechai Kahana is an individual
13 residing in New Jersey.

14 **JURISDICTION AND VENUE**

15 6. This Court has original jurisdiction over this action pursuant to 28 U.S.C.
16 §§ 1331 and 1338(a), and the United States Patent Laws, Title 35 of the United States
17 Code.

18 7. On information and belief, Defendant Fuel Recyclers is subject to this
19 Court's specific and general jurisdiction due at least to Defendant Fuel Recyclers'
20 operation of a place of business within this forum.

21 8. Upon information and belief, Defendants Mr. Ogden and Mr. Kahana are
22 subject to this Court's specific and general jurisdiction pursuant to due process and/or the
23 Arizona Long Arm Statute, due at least to Defendants Mr. Ogden's and Mr. Kahana's
24 substantial business in this forum, including: (i) having solicited and conducted business
25 in Arizona, thereby purposefully availing themselves of the privilege of conducting
26 activities in Arizona, (ii) the claim is related to Defendants Mr. Ogden's and Mr. Kahana's
27 Arizona-related activities, and (iii) the exercise of jurisdiction would be reasonable.

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

FACTUAL ALLEGATIONS

1
2 10. On April 24, 2012, the U.S. Patent and Trademark Office issued U.S. Patent
3 No. 8,165,781 B2 ("the '781 Patent"), a copy of which is attached hereto as Exhibit A.
4 The '781 Patent describes and claims a method for recovering fuel from a tank of a
5 combustion engine and a system for performing the same.

6 11. Yellow Dog is the owner of the entire right, title, and interest in the '781
7 Patent.

8 12. Upon information and belief, on or about August 2011, Defendants Mr.
9 Kahana and Mr. Ogden, individually and collectively, supplied Defendant Fuel Recyclers
10 with fuel pump controllers, the sole use of which is for automotive defueling services.

11 13. On information and belief, since August 2011, Defendants Mr. Kahana and
12 Fuel Recyclers, individually and collectively, have been using these fuel pump controllers
13 to provide automotive defueling services throughout the United States. A print-out from
14 an online blog by, upon information and belief, Defendant Mr. Kahana includes posts
15 dating August 2, 2011, August 8, 2011, and August 25, 2011, introducing Defendant Fuel
16 Recyclers and explaining the goods and services offered by Defendant Fuel Recyclers is
17 attached as Exhibit B.

18 14. An element by element comparison of the claims of the '781 Patent and the
19 controllers provided by Defendants Mr. Ogden and Mr. Kahana and the services offered
20 by Defendants Mr. Kahana and Fuel Recyclers show that the same infringes certain claims
21 of the '781 Patent. For example, the fuel pump controllers supplied by Defendants Mr.
22 Ogden and Mr. Kahana and used in connection with providing automotive defueling
23 services by Defendants Mr. Kahana and Fuel Recyclers read on all of the elements of
24 claim 1 of the '781 Patent. Additionally, the defueling services offered by Defendants Mr.
25 Kahana and Fuel Recyclers and described in Exhibit B reads on all of the elements of
26 claim 16 of the '781 Patent.

27 15. On April 27, 2012, only three days after the issuance of the '781 Patent,
28 Yellow Dog sent a letter to Defendant Mr. Ogden providing notice that the '781 Patent

1 had issued and including a copy of the same (hereinafter the "April 27, 2012, Letter"). A
2 copy of the April 27, 2012, Letter providing notice of the '781 Patent is attached hereto as
3 Exhibit C.

4 16. On May 4, 2012, Yellow Dog further sent a letter to Defendant Mr. Kahana
5 providing notice that the '781 Patent had issued and including a copy of the same
6 (hereinafter the "May 4, 2012, Letter"). A copy of the May 4, 2012, Letter providing
7 notice of the '781 Patent is attached hereto as Exhibit D.

8 17. Defendants Mr. Ogden and Mr. Kahana are each members of Defendant
9 Fuel Recyclers. A copy of a print-out from the Arizona Corporation Commission listing
10 Mr. Ogden and Mr. Kahana as members of Defendant Fuel Recyclers is attached hereto as
11 Exhibit E.

12 18. By providing notice to Defendants Mr. Ogden and Mr. Kahana of the
13 issuance of the '781 Patent via the April 27, 2012, Letter and the May 4, 2012, Letter,
14 respectively, and by virtue of Defendants Mr. Ogden and Mr. Kahana being members of
15 Defendant Fuel Recyclers, Defendant Fuel Recyclers had constructive notice of the '781
16 Patent.

17 19. Defendants Mr. Ogden and Mr. Kahana, individually and collectively, by
18 providing fuel pump controllers for use in automotive defueling services and which have
19 no non-infringing uses, have induced infringement of certain claims of the '781 Patent.

20 20. Defendants Mr. Kahana and Fuel Recyclers, individually and collectively,
21 by offering automotive defueling services and through the use of fuel pump controllers in
22 connection with the same have directly infringed and continue to infringe certain claims
23 of the '781 Patent.

24 21. On information and belief, Defendants, individually and collectively, have
25 purposefully directed their infringing activities at this forum by selling infringing services
26 and using infringing products here.

1 COUNT I

2 CLAIM FOR DIRECT INFRINGEMENT OF THE '781 PATENT

3 (Defendants Mr. Kahana and Fuel Recyclers)

4 22. Yellow Dog realleges and incorporates by reference as if fully set forth
5 herein the allegations contained in paragraphs 1 through 21.

6 23. By providing automotive defueling services to consumers and by using fuel
7 pump controllers in connection with the same, the Defendants, collectively and
8 individually, directly infringe one or more claims of the '781 Patent.

9 24. Despite that Defendants Mr. Ogden and Mr. Kahana had specific notice and
10 Defendant Fuel Recyclers had constructive notice of the '781 Patent, the Defendants Mr.
11 Kahana and Fuel Recyclers have continued to provide automotive defueling services to
12 consumers and to using the fuel pump controllers in connection with the same.

13 25. The Defendants Mr. Kahana's and Fuel Recyclers' infringement will
14 continue unless enjoined by this Court.

15 26. Defendants Mr. Kahana's and Fuel Recyclers' infringement has been
16 intentional, willful, and with reckless disregard for the rights of Yellow Dog.

17 27. Defendants Mr. Kahana and Fuel Recyclers have caused Yellow Dog to
18 suffer, and unless enjoined by this Court, will cause Yellow Dog to continue to suffer
19 substantial injury, including lost profits, for which Yellow Dog is entitled to damages
20 adequate to compensate it for the Defendants' infringement.

21 28. The Defendants Mr. Kahana's and Fuel Recyclers' infringement warrants the
22 assessment of increased damages pursuant to 35 U.S.C. § 284, and an awarding of
23 attorneys' fees pursuant to 35 U.S.C. § 285.

24 COUNT II

25 CLAIM FOR INDUCED INFRINGEMENT OF THE '781 PATENT

26 (Defendants Mr. Kahana and Mr. Ogden)

27 29. Yellow Dog realleges and incorporates by reference as if fully set forth
28 herein the allegations contained in paragraphs 1 through 28.

1 30. In using the fuel pump controllers supplied by Defendants Mr. Ogden and
2 Mr. Kahana and in providing automotive defueling services, Defendants Mr. Kahana and
3 Fuel Recyclers directly infringe claims of the '781 Patent.

4 31. Yellow Dog is informed and believes that by supplying fuel pump
5 controllers to Defendants Fuel Recyclers and Mr. Kahana to be used in automotive
6 defueling services, Defendants Mr. Ogden and Mr. Kahana have knowingly and
7 intentionally caused the same to infringe claims of the '781 Patent.

8 32. After having been put on notice of the existence of the '781 Patent and the
9 infringing nature of the fuel pump controllers they supplied as well as the infringing
10 nature of the automotive defueling services offered by Defendants Mr. Kahana and Fuel
11 Recyclers using these fuel pump controllers, Defendants Mr. Ogden and Mr. Kahana have
12 continued to allow the use of the same.

13 33. Yellow Dog is informed and believes that Defendants Mr. Ogden's and Mr.
14 Kahana's actions constitute active inducement of infringement under 35 U.S.C. § 271(b).

15 34. Yellow Dog is informed and believes that Defendants Mr. Ogden's and Mr.
16 Kahana's active inducement of infringement will continue unless enjoined by this Court.

17 35. Defendants Mr. Ogden's and Mr. Kahana's induced infringement has been
18 intentional, willful, and with reckless disregard for the rights of Yellow Dog.

19 36. Defendants Mr. Ogden and Mr. Kahana have caused Yellow Dog to suffer,
20 and unless enjoined by this Court, will cause Yellow Dog to continue to suffer substantial
21 injury, including lost profits, for which Yellow Dog is entitled to damages adequate to
22 compensate it for Defendants Mr. Ogden's and Mr. Kahana's induced infringement.

23 37. Defendants Mr. Ogden's and Mr. Kahana's infringement warrants the
24 assessment of increased damages pursuant to 35 U.S.C. § 284, and an awarding of
25 attorneys' fees pursuant to 35 U.S.C. § 285.

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Yellow Dog Technologies, LLC, respectfully requests judgment and relief against the Defendants as follows:

- A. A judgment that the Defendants have infringed the '781 Patent;
- B. An injunction against the Defendants, their subsidiaries, affiliates, parents, successors, assignees, officers, agents, servants, employees, and all persons acting in concert or in participation with them, or any of them, permanently enjoining each of them from infringing, contributing to, or inducing the infringement of the '781 Patent;
- C. Awarding Yellow Dog damages adequate to compensate for the Defendants' infringement of the '781 Patent, but in no event less than a reasonable royalty on the Defendants' use of Yellow Dog's invention;
- D. Awarding pre-judgment interest on any damages award;
- E. Adjudging that the Defendants' infringement of the '781 Patent is willful, and increasing the Defendants' liability for damages up to three times the amount found or assessed;
- F. Declaring that this is an exceptional case under 35 U.S.C. § 285, and for an award of increased damages, attorneys' fees, and costs; and
- G. Granting such other and further relief as the Court deems just and proper.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR A JURY TRIAL

The Plaintiff, Yellow Dog, hereby demands a trial by jury in this action on all claims and issues triable before a jury.

RESPECTFULLY SUBMITTED this 1st day of August, 2012.

QUARLES & BRADY LLP
One South Church Avenue, Suite 1700
Tucson, Arizona 85701-1621

By s/Dale F. Regelman
Dale F. Regelman
Nikia L. Gray

Attorneys for Plaintiff