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FILED
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

HRL

11 A TRULY ELECTRIC CAR COMPANY, **CV 09**
12 Plaintiff,
13 v.
14 MAGNA INTERNATIONAL, INC.,
15 BLUWAV SYSTEMS, LLC, and
16 PAPERBOY VENTURES, LLC,
17 Defendants.

18 Case No. **1364**

19 COMPLAINT FOR COPYRIGHT
20 INFRINGEMENT, MISUSE OF
21 CONFIDENTIAL INFORMATION,
22 AND OTHER CLAIMS

23 JURY TRIAL DEMANDED

24 1. **Subject Matter Jurisdiction.** This court has subject matter
25 jurisdiction over this lawsuit under one or more of 35 USC §116, 35 USC §216,
26 28 USC §1331, 28 USC §1332, 28 USC §1338 and 28 USC §1367.

27 2. **Personal Jurisdiction.** Organized under the laws of the Canadian
28 province of Ontario, Defendant Magna International, Inc. ("Magna") has its
principal place of business in Ontario. A Delaware limited liability company,

1 prosecuting the following patent applications:

- 2 • *Adaptive Electric Motors and Generators Providing Improved*
- 3 *Performance and Efficiency*, US 2004/0021437
- 4 • *Adaptive Electric Motors and Generators Providing Improved*
- 5 *Performance and Efficiency*, US Appln. No. 10/359,293 (filed
- 6 February 6, 2003)
- 7 • *Adaptive Electric Car*, US 2005/0052080
- 8 • *In-Wheel Electric Motors*, US 2005/0045392
- 9 • *Software-Based Adaptive Control System for Electric Motors and*
- 10 *Generators*, US 2005/0046375
- 11 • *Low-Voltage Electric Motors*, US 2005/0127856
- 12 • *Electric Propulsion System*, US 2004/0263099

13
14 SECOND CAUSE OF ACTION:

15 CORRECTION OF PATENT INVENTORSHIP

16 8. Although not named as an inventor on the applications as filed,
17 Edward Durney contributed as an inventor to at least the following six patent
18 applications owned by Defendants Magna and BluWav:

- 19 • *Adaptive Electric Motors and Generators Providing Improved*
- 20 *Performance and Efficiency*, US 2004/0021437
- 21 • *Adaptive Electric Car*, US 2005/0052080
- 22 • *In-Wheel Electric Motors*, US 2005/0045392
- 23 • *Software-Based Adaptive Control System for Electric Motors and*
- 24 *Generators*, US 2005/0046375
- 25 • *Low-Voltage Electric Motors*, US 2005/0127856
- 26 • *Electric Propulsion System*, US 2004/0263099

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FOURTH CAUSE OF ACTION:

MISUSE OF CONFIDENTIAL INFORMATION

15. Plaintiff ATECC provided confidential information to Defendant Magna regarding Plaintiff ATECC's bid to purchase Defendant BluWav.

16. Defendant Magna misused Plaintiff ATECC's confidential information to buy BluWav itself, causing harm to Plaintiff ATECC.

17. Plaintiff ATECC provided confidential information to Defendant BluWav regarding Plaintiff ATECC's bid to purchase Defendant BluWav.

18. Defendant BluWav misused Plaintiff ATECC's confidential information to sell itself to Defendant Magna, causing harm to Plaintiff ATECC.

19. Plaintiff ATECC provided confidential information to Defendant Paperboy regarding Plaintiff ATECC's bid to purchase Defendant BluWav.

20. Defendant Paperboy misused Plaintiff ATECC's confidential information to sell Defendant BluWav to Defendant Magna, causing harm to Plaintiff ATECC.

FIFTH CAUSE OF ACTION:

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS

21. Defendant Magna knew of Plaintiff ATECC's agreement with Defendant Paperboy giving Plaintiff ATECC the exclusive right to negotiate the purchase of Defendant BluWav.

22. Defendant Magna intentionally interfered with the contractual relationship between Defendant Paperboy and Plaintiff ATECC, causing harm to Plaintiff ATECC.

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EIGHTH CAUSE OF ACTION:
UNJUST ENRICHMENT

31. Expecting to profit from it, Plaintiff ATECC provided Defendant Magna with information about Defendant Paperboy's desire to sell Defendant BluWav. Defendant Magna used the information it received from Plaintiff ATECC to buy Defendant BluWav at a low price.

32. Letting Defendant Magna enjoy the benefit of the information provided by Plaintiff ATECC without paying Plaintiff ATECC for it unjustly enriches Defendant Magna.

NINTH CAUSE OF ACTION:
PREDATORY PRACTICE TO RESTRAIN COMPETITION

33. In purchasing Defendant BluWav, Defendant Magna used predatory practices to maintain and extend its market power and to restrain competition from Plaintiff ATECC.

JURY DEMAND

34. Plaintiff ATECC demands a jury trial.

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REQUESTED RELIEF

35. Plaintiff ATECC respectfully asks the Court to order Defendants Magna, BluWav and Paperboy to do any or all of the following, as the Court finds appropriate:

- a. Defendant Magna transfer ownership of Defendant BluWav to Plaintiff ATECC in exchange for appropriate consideration.
- b. Defendants Magna and BluWav, jointly or severally, pay at least \$2 million in damages to Plaintiff ATECC, including costs, expenses and attorneys' fees incurred in bringing this lawsuit.
- c. Defendant Paperboy pay at least \$135,000 in damages to Plaintiff ATECC, including costs, expenses and attorneys' fees incurred in bringing this lawsuit.
- d. Defendant Magna or BluWav add inventors to certain patent applications, or to transfer ownership of those patent applications to Plaintiff ATECC.
- e. Plaintiff ATECC be awarded any other relief (including injunctive relief) as the Court may deem just and proper.

DATED: March 27, 2009


Edward Durney

APPENDIX A

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Short Form TX
For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TXu 1-209-372



Effective Date of Registration

JUL 22, 2005

Application Received
JUL 22 2005

Deposit Received
JUL 22 2005 Two

Fee Received

Examined By

PM

Correspondence

TYPE OR PRINT IN BLACK INK. DO NOT WRITE ABOVE THIS LINE.

Title of This Work:

1

FOUR PATENT APPLICATIONS ABOUT ELECTRIC MOTORS AND VEHICLES

Alternative title or title of larger work in which this work was published:

Name and Address of Author and Owner of the Copyright:

2

**EDWARD G. DURNEY
11 ROSALITA LANE
MILLBRAE, CA 94030**

Nationality or domicile: Phone, fax, and email:

Phone (**650**) **244-9621** Fax (**650**) **244-9591**
Email **edurney@prodigy.net**

Year of Creation:

3

2003

If work has been published, Date and Nation of Publication:

4

a. Date _____ (Month, day, and year all required)
Month Day Year
b. Nation _____

Type of Authorship in This Work:

5

Text (includes fiction, nonfiction, poetry, computer programs, etc.)
 Illustrations
 Photographs
 Compilation of terms or data

Check all that this author created

Signature:

6

Registration cannot be completed without a signature.

I certify that the statements made by me in this application are correct to the best of my knowledge.* Check one
 Author Authorized agent

x *Edward G. Durney*

Name and Address of Person to Contact for Rights and Permissions: Phone, fax, and email.

7

Check here if same as #2 above

Phone () Fax ()
Email



Certificate will be mailed in window envelope to this address:

Name **EDWARD G. DURNEY**
Number/Street/Apt **11 ROSALITA LANE**
City/State/ZIP **MILLBRAE, CA 94030**

Complete this space only if you currently hold a Deposit Account in the Copyright Office.

Deposit Account # _____
Name _____

*17 U.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
 Register of Copyrights, United States of America



Short Form TX
 For a Non-dramatic Literary Work
 UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TXu 1-256-390



TX (TXU)

Effective Date of Registration

AUG 16 2005

Application Received
 AUG 16 2005

Deposit Received
 AUG 16 2005 Two

Examined By

JM

Correspondence

Fee Received

TYPE OR PRINT IN BLACK INK. DO NOT WRITE ABOVE THIS LINE.

Title of This Work:

1

Adaptive Electric Motors and Generators Providing Improved Performance and Efficiency: A Patent Application

Alternative title or title of larger work in which this work was published:

Name and Address of Author and Owner of the Copyright:

2

Edward G. Durney
 11 Rosalita Lane
 Millbrae, CA 94030

Nationality or domicile:
 Phone, fax, and email:

Phone (650) 244-9621
 Email edurney@prodigy.net

Fax (650) 244-9591

Year of Creation:

3

2003

If work has been published, Date and Nation of Publication:

4

a. Date _____ (Month, day, and year all required)
 Month Day Year
 b. Nation _____

Type of Authorship in This Work:

5

Check all that this author created.

- Text (includes fiction, nonfiction, poetry, computer programs, etc.)
- Illustrations
- Photographs
- Compilation of terms or data

Signature:

6

Registration cannot be completed without a signature.

I certify that the statements made by me in this application are correct to the best of my knowledge.* Check one:

- Author Authorized agent

x *Edward G. Durney*

Name and Address of Person to Contact for Rights and Permissions:

7

Phone, fax, and email:

Check here if same as #2 above.

Phone ()
 Email

Fax ()

8

Certificate will be mailed in window envelope to this address:

Name ▼
 Edward G. Durney
 Number/Street/Apt ▼
 11 Rosalita Lane
 City/State/ZIP ▼
 Millbrae, CA 94030

Complete this space only if you currently hold a Deposit Account in the Copyright Office.

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 Name _____