

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

---

**INVENTION SUBMISSION CORPORATION  
t/d/b/a INVENTHELP,**

*Plaintiff,*

-vs-

Civil Action No. 5:10-CV-74 (FJS/DEP)

**IP WATCHDOG INC., EUGENE R. QUINN,  
JR., and RENEE QUINN,**

*Defendants.*

---

**DECLARATION OF EUGENE R. QUINN, JR. IN OPPOSITION  
TO PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

**EUGENE R. QUINN, JR.** hereby declares as follows:

1. I am a defendant in the above-captioned action, and the Chief Executive Officer of defendant IPWatchdog, Inc. ("IPWatchdog"). I make this Declaration in opposition to plaintiff Invention Submission Corporation t/d/b/a InventHelp's ("Plaintiff") motion for a preliminary injunction.

2. I am also an attorney duly licensed to practice law before the courts of the State of New Hampshire, as well as the United States Patent and Trademark Office ("USPTO").

3. I received a B.S. in Electrical Engineering from Rutgers University, and a J.D. and a LL.M. in Intellectual Property from Franklin Pierce Law Center.

4. Between 2003 and 2007, I wrote a monthly column for *Patent World* and served on the *Patent World* editorial board. I also previously taught a variety of intellectual property courses at the law school level, including patent law, patent claim drafting, patent prosecution, copyright law, trademark law and introduction to intellectual property. Between 1998 and 2008, I taught at Syracuse University College of Law, Temple University School of Law, The

University of Toledo College of Law, Franklin Pierce Law Center, and Whittier Law School. I presently teach as an adjunct instructor at Concord Law School, and am a principal lecturer in the Practising Law Institute (“PLI”) Patent Bar Review Course, which helps aspiring patent attorneys and patent agents prepare themselves to pass the patent bar exam.

5. Prior to moving into the academic world, I practiced at a general civil litigation firm, where I primarily engaged in representing clients involved in complex litigation matters. In addition, I was a founding member and managing partner of Smith, Quinn & Associates, a small intellectual property boutique firm located in Concord, New Hampshire, and later a founding member of White & Quinn, a patent boutique located in Northern Virginia. I also spent two years as Vice President and General Counsel for an independent record label in Orlando, Florida.

6. Currently, I also maintain a part-time, private practice as a patent attorney. The focus of my practice is in the area of strategic patent consulting, patent application drafting, patent prosecution and technology licensing. In my 11 years of practice as a patent attorney, I have worked with inventors and start-up businesses in a variety of different technology fields.

7. The current focus of my practice is working with inventors who have computer implemented processes, such as software, business methods and Internet or e-Commerce applications. I estimate that over 50% of those coming to me for legal work present me with software, business methods and/or Internet or e-Commerce related inventions. I estimate that over 80% of those that move forward toward a patent application of any kind have inventions that relate to software, business methods and/or Internet or e-Commerce related inventions. The percentage of software, business methods and/or Internet or e-Commerce related clients continues to grow and I expect will continue to grow moving forward.

***IPWatchdog.com***

8. In 1999, I started IPWatchdog, which operates a website located at www.IPWatchdog.com (“IPWatchdog.com”), that is dedicated to providing a free, reliable and easily understandable resource on intellectual property law and related topics.

9. My wife, defendant Renee Quinn, serves as the Chief Operating Officer of IPWatchdog.

10. Since its creation, IPWatchdog.com has had millions of unique visitors. At least in part due to the exposure created by IPWatchdog.com, I have been quoted in the *Wall Street Journal*, the *New York Times*, the *LA Times*, *CNN Money*, *Popular Mechanics*, the *ABA Journal*, and various other newspapers and magazines worldwide.

11. In December 2009, the IPWatchdog.com Blog was selected as a Top 100 Blog by the American Bar Association (“ABA”) in the Third Annual *ABA Journal* Blog 100. The ABA Journal Blog 100 selects the best legal blogs in the opinion of the Journal’s editors and recognizes the best 100 blogs for lawyers.

12. During 2009, I, through IPWatchdog.com, also had several milestone events. First, in March 2009 I was granted an interview with then-Acting Commissioner for Patents at the USPTO, Peggy Focarino.

13. In or about the spring of 2009, I was also informed by the Communications Department at the USPTO that they considered me to be a member of the press, and when contacting USPTO officials I was requested to go through public relations personnel. This is significant because the patent process is an *ex parte* process and members of the Patent Bar are allowed to, even encouraged, to communicate directly with USPTO employees on an *ex parte* basis.

14. I was also granted press credentials by the Supreme Court to cover the oral arguments in *Bilski v. Kappos*, which was heard by the Court on November 9, 2009. The press credentials I was given and wore while in the Courtroom bore the name IPWatchdog, which is significant because based on my research this would make me the first blogger granted press credentials by the Supreme Court.

15. During 2009, I also covered several industry conferences live, including the National Association of Patent Practitioners conference in San Diego, CA, and oral arguments held at the United States Court of Appeals for the Federal Circuit.

16. The predominant content on IPWatchdog.com is pages associated with the IPWatchdog.com blog. As of March 2, 2010, there are 629 articles indexed in the IPWatchdog.com blog category. Approximately 46 of those have been written by guest bloggers, 10 were written by defendant Renee C. Quinn, 7 were press releases, and the remainder were written by me.

17. In addition to the IPWatchdog.com Blog articles, there are hundreds, if not thousands, of archived pages, pages cataloging articles based on subject matter (*i.e.*, Category) and pages cataloging articles based on content (*i.e.*, Tags). IPWatchdog.com also has thousands of pages in PDF format, which primarily consist of issued United States patents and published United States patent applications, as well as cases and court documents (*i.e.*, complaints, motions, decisions and orders) in dozens, if not hundreds, of past and pending litigations.

18. Indeed, according to the IPWatchdog.com server statistics (attached hereto as Exhibit 1) there were approximately 80,583 different pages on IPWatchdog.com having distinct Uniform Resource Locator (“URL”) addresses that received traffic in 2009.

19. During 2009, the IPWatchdog.com homepage was viewed 506,782 times, and the

RSS feed containing patent articles for professionals was viewed 33,292,213 times. The other most popular pages during 2009 were “The Cost of Obtaining a Patent” (viewed 76,676 times), “Confidentiality Agreements” (viewed 134,632 times), “Sample Confidentiality Agreements” (viewed 79,683 times), “Standard Confidentiality Agreement” (viewed 32,604 times), “Simple Confidentiality Agreement” (viewed 31,761 times), “Patent Bar Review” (viewed 25,403 times), “The Museum of Obscure Patents” (viewed 20,004 times), “Mutual Confidentiality Agreement” (viewed 18,439 times) and “Simple Confidentiality Agreement 2” (viewed 18,253). See Exhibit 1.

20. During 2009, the majority of traffic on IPWatchdog.com was to the IPWatchdog.com blog article pages. Blog articles on IPWatchdog.com can be easily identified by “id=” within the URL. The most popular article during 2009 was entitled “Obama Wants Open Source IT Solutions for US” (viewed 35,500 times). The top 8 articles each received over 10,000 page views, 18 articles received over 5,000 page views, 33 articles over 4,000 page views, 62 articles over 2,500 page views and a staggering 304 articles were viewed over 1,000 times during 2009 (See Exhibit 2 attached hereto).

21. In comparison, the only page on IPWatchdog.com relating to invention promoters that is among in the top 50 URLs in terms of traffic for 2009 is a generic page warning inventors of the dangers of working with invention promoters (sometimes referred to as “invention submission companies”) (attached hereto as Exhibit 3, which shows this page as it is live on IPWatchdog.com as of March 4, 2010), and even this page is in the bottom half of the top 50.

22. Based on IPWatchdog.com server statistics, the aforementioned page concerning invention promoters generally, and other pages where Plaintiff is mentioned, accounted for 33,928 views during 2009. According to those same statistics, IPWatchdog.com as a whole had

38,908,157 pages viewed. This means that only **.0872%** of traffic to IPWatchdog.com related to pages concerning Plaintiff in 2009.

23. As seen in Exhibit 4 (attached hereto), traffic on IPWatchdog.com, over the 30 days preceding March 2, 2010, came from a variety of businesses and governmental agencies. This list was created from data from Quantcast.com. IPWatchdog.com has Quantcast tags embedded to attempt to independently verify traffic. Quantcast tags cannot be embedded into PDF files, but are embedded in HTML and PHP files on IPWatchdog.com. Because the PDFs on IPWatchdog.com relate to information likely only of interest to attorneys and other professionals, such as patents and court documents, it is quite likely our traffic numbers and visits from these various entities is much higher.

24. As we continually update this list for purposes of providing this information to potential advertisers, I can say these numbers have remained extremely steady going back to August 2009, which is when this list was first compiled.

25. Based on the Quantcast data (as seen in Exhibit 4), IPWatchdog.com received over 1,500 unique visitors from the USPTO. It also received visitors from the United States House of Representatives, the United States Senate, NASA, various universities, the European Patent Office, the Japanese Patent Office, many Fortune 500 companies, and patent law firms of every size, including numerous of the top patent firms in the United States.

***Invention Promoters***

26. Invention promoters have been widely criticized in numerous circles, including political circles in Washington, DC, for many years.

27. In 1999, the American Inventors Protection Act (“AIPA”), 35 U.S.C. § 297, was enacted in an effort to address head-on the problems faced by a large number of inventors.

Regardless of one's view of whether the AIPA is viewed as a net positive or net negative for independent inventors, it is clear that certain provisions of the AIPA unequivocally attempted to provide important protections for inventors against invention promoters.

28. Under the AIPA, "invention promotion services" are defined as "the procurement or attempted procurement for a customer of a firm, corporation, or other entity *to develop and market* products or services that include the invention of the customer." (emphasis added) An "invention promoter" is "any person, firm, partnership, corporation, or other entity who offers to perform or performs invention promotion services for, or on behalf of, a customer, and who holds itself out through advertising in any mass media as providing such services."

29. Unlike Plaintiff, Defendants are not invention promoters and do not provide invention promotion services. Moreover, Defendants do not compete, and never have, with Plaintiff or any of the other invention promoters.

30. The legal services I offer as a patent attorney through IPWatchdog.com are expressly set forth on the website ([www.ipwatchdog.com/about/services/](http://www.ipwatchdog.com/about/services/)) (a hard copy is attached hereto as Exhibit 5). They include the preparation of: (a) patent searches and patentability opinions; (b) provisional patent applications; (c) nonprovisional patent applications; and (d) design patent applications. I also provide consulting services concerning general intellectual property concepts (*i.e.*, patents, trademarks, copyrights, trade secrets, and unfair competition) in order to assist clients in determining whether pursuing intellectual property protection is feasible and economically wise. In other words, the services I offer through IPWatchdog.com are no different than countless other intellectual property attorneys across the country and around the world. Notably, none of these services constitute "invention promotion services."

31. It should be noted that because my primary office is located in Virginia and I am not admitted to practice in Virginia, any services offered in areas other than patent law are always provided by and through another attorney appropriately admitted to practice.

32. To the extent that I discuss marketing with inventors, it is solely in the context of discussing a patent search and working on a patent application. In order to fulfill my obligations to my clients, I need to understand what each inventor wants to do with a patent should they obtain one. Regardless of the specific answer, it must be factored into the professional opinion and advice that I develop and provide.

33. That said, the services I offer vary greatly from those provided by Plaintiff because my services include offering negative opinions to inventors, and counseling them that it might not be wise to pursue a patent.

34. Although unique content drives Internet traffic to IPWatchdog.com, only a small portion of the revenues derived by IPWatchdog are attributable to the provision of legal services. The majority of revenue derived by IPWatchdog comes from my teaching in the PLI Patent Bar Review Course and from advertisers on IPWatchdog.com.

35. As previously stated, the majority of inventors and start-up businesses that I work with have inventions that relate to software, business methods and/or Internet or e-Commerce inventions. These innovations do not relate to tangible or consumer products. In other words, these innovations do not relate in any way to the type of inventions that Plaintiff or any other invention promoter deals with. Therefore, it is difficult to understand how or why Plaintiff could be of the belief that I compete with them given that the "lion share" of my legal practice is in a field where they simply do no business.

36. The overwhelming majority of my practice is devoted to working with

entrepreneurs, primarily those who are starting small businesses to pursue their inventions. In fact, I do not know of any clients whose primary interest is the desire to obtain a patent for the purpose of licensing or selling any intellectual property rights.

37. In addition, and to the best of my knowledge and recollection, I have not been retained by nor have I provided legal services to any current or former clients of Plaintiff. Rather, it has been my experience that Plaintiff's current or former clients are looking for a company that will provide invention promotion services, which are services that we do not provide.

38. Moreover, Plaintiff's claim that we are in competition with it fails from a logical perspective as well. If that were the case, then Defendants would not offer thousands of pages of *free* information on IPWatchdog.com.

39. In stark contrast to Defendants, Plaintiff solely provides "invention promotion services." In other words, Plaintiff serves, for a fee, as a liaison between an independent inventor and an industry contact regarding the evaluation and development of a potential commercial product. This is confirmed by Plaintiff's President, Robert J. Susa, in the declaration submitted in support of Plaintiff's motion (Docket No. 7-1 at ¶ 6):

[Plaintiff] offers a confidential submission program involving, among other things, a Data Bank of companies that have agreed to review inventions submitted to them by [Plaintiff]. [Plaintiff] submits its clients' inventions to these companies to obtain a good faith review and to determine whether there is a preliminary interest in the invention. We also refer our submission clients to a patent attorney to draft a patent application and perform patent application services.

40. In fact Plaintiff itself cannot provide the legal services I provide, and under 37 C.F.R. 11.5(b), it is my belief that it is not supposed to take in inventor clients and refer them to a patent attorney or patent agent for legal work.

41. Rule 11.5(b) defines “law-related service” as any service “relating to a client’s rights, privileges, duties, or responsibilities under the laws or regulations administered by the Office for the grant of a patent . . . .” The Rule specifically prohibits non-practitioners from, among other things, “communicating with and advising a client concerning matters pending or contemplated to be presented before the Office.”

42. On August 14, 2008, Rule 11.5(b) was published in the Federal Register, Vol. 73, No. 158, starting at Page 47650. The USPTO also published comments it received, including one which complained that the Rule would make it impossible for invention promoters to help inventors obtain patents.

43. In response, the USPTO stated, in part:

The Office frequently finds itself challenged by so-called “invention promoters” who exploit unsophisticated inventors, heap every invention with praise regardless of the merits or the real prospects of legal protection, and entice inventors into engagement agreements filled with hollow guarantees of patent protection and promises of royalty-bearing licenses that seldom yield anything of any significant value.

. . .

Non-practitioners are not entitled to provide legal advice or otherwise practice law. To the extent practice of law includes a law-related service that comprehends any matter connected with the presentation to the Office, the preparation of necessary documents in contemplation of filing the documents with the Office, and communicating with . . . a client concerning matters pending or contemplated to be presented before the Office as in § 11.5(b), a practitioner authorized by relevant law must provide the legal services. For example, consultation with a client in contemplation of filing a patent application or other document with the Office as in § 11.5(b)(1) requires a registered practitioner to provide the services.

44. Plaintiff appears to recognize this, and states on its website ([www.inventhelp.com/inventhelp-about.asp](http://www.inventhelp.com/inventhelp-about.asp)) (a hard copy is attached hereto as Exhibit 6) that:

InventHelp gives no patent advice. It is advisable that you seek such advice from an independent patent attorney.

45. Nevertheless, Plaintiff argues that it competes with Defendants. However, to do so, it is tacitly acknowledging that it is engaged in the unauthorized practice of law because I am authorized to provide legal services pursuant to my status as a Registered Patent Attorney, and none of these services are supposed to be provided by a non-practitioner, such as Plaintiff.

46. Notwithstanding, it is my understanding that those within Plaintiff that interface with inventors are commissioned sales people, not patent attorneys or patent agents. I further understand that they discuss with the inventors the patent search and whether the inventor should move forward, which under 37 C.F.R. 11.5(b) is the practice of law and, is only to be carried out by patent attorneys or patent agents. Not surprisingly, it is my understanding that these commissioned sales people encourage the inventor to move forward because they have no ethical obligation to provide advice that is in the inventor's best interest, and their commission depends upon convincing an inventor to move forward.

***Invent + Patent System<sup>TM</sup>***

47. The Invent + Patent System<sup>TM</sup> is an innovative approach I developed to allow an independent inventor to document his or her invention or ideas and then proceed to file a patent application in a cost-effective and timely manner. The Invent + Patent System<sup>TM</sup> was originally created as a teaching tool to help me teach law students how to draft patent applications and over time was adapted for use with inventors. The Invent + Patent System<sup>TM</sup> is capable of three separate, yet related, endeavors. (The Invent + Patent System<sup>TM</sup> is described more fully at [www.ipwatchdog.com/patent/invent-patent-system](http://www.ipwatchdog.com/patent/invent-patent-system), a hardcopy of which is attached hereto as

Exhibit 7).

48. First, independent inventors who have not yet reached the invention stage can use the system to collect their thoughts and begin to pull their ideas together. The Invent + Patent System™ can be effectively used to coax users into formulating their ideas in a more tangible way so that the concepts can move from pure idea into something descriptive enough to be legally viewed as an invention. In this aspect it is capable of invention “mining” and recognizes that as an idea becomes more tangible it can transform into an invention. This is because an idea that is adequately described as required by 35 U.S.C. 112, allows others to appreciate the scope of the invention, and then to both make and use the invention described with enough specificity to be legally called an invention.

49. Second, the Invent + Patent System™ can be used to create a provisional patent application that can be filed by the inventor at the United States Patent and Trademark Office. At the completion of the online questionnaire, independent inventors will receive the answers together with a patent application template, that includes instructions on where and how to insert the answers the system coached the user into creating. The user will also receive detailed filing instructions and the form that he or she will need to file a provisional patent application.

50. Finally, the Invent + Patent System™ can be used by those who want to take the first step toward filing a nonprovisional utility patent application with the United States Patent and Trademark Office or filing an international patent application with the United States Patent and Trademark Office. The system is used to collect all the information necessary to turn over to a patent attorney or patent agent, who will then be in a much better position to actually begin the patent application drafting stage. In this incarnation, the system provides far greater efficiencies than simply working with a patent attorney or patent agent. This is because in the traditional

situation, an independent inventor contacts a patent attorney or patent agent with an idea, or perhaps a sketch and a few paragraphs of text. The attorney or agent then tries to interpret this information and put it into the format required to file a patent application. The procedure could involve many sessions – back and forth – between the independent inventor and attorney, before a satisfactory first draft is produced. The process was, and is, slow, expensive and frustrating. Ultimately, an application would be filed not because it has covered the invention to the fullest extent possible, but because the independent inventor could not afford to pay the patent attorney or patent agent to spend any additional time working on the application. By using the Invent + Patent System™, the independent inventor can provide extremely directed information to the patent attorney or patent agent, thereby cutting costs and allowing for a much smoother and quicker patent application drafting process.

51. In my practice, I use the Invent + Patent System™. I have potential clients complete the online questionnaire at the earliest possible time, even before a patent search is conducted or a quote for services is provided. By collecting this information, I can provide a precise quote, and can obtain a patent search that is more targeted because more is known about the invention.

52. I then typically take the results of a patent search and go over them with the inventor, usually asking the inventor to provide his or her thoughts in writing. This allows me to collect further information about the invention.

53. In the situation where there is likely patentable subject matter and the inventor wishes to proceed with either a provisional patent application or a nonprovisional patent application, the inventor is asked once again to complete the online questionnaire, this time armed with the knowledge provided by the patent search and my consultations. Thus, when we

set out to draft a patent application we have received volumes of useful information from the inventor, tailored in specificity due to the fact that the online questionnaire asks targeted questions, provides answer templates for the inventor to use and depending upon the type of invention at issue, gives illustrative example answers to coach the inventor into understanding an appropriate level of detail. Help text explaining the question and how the answers will be used in a patent application also ensure more relevant answers.

54. This entire process leads to disclosure from the inventor that is typically at least 6 to 8 pages of single spaced text in addition to inventor notes and thoughts about the patents found. This information, combined with my patentability assessment (3 to 4 pages) or patentability opinion (1 to 2 pages) and my notes provide an excellent foundational disclosure that can be massaged into an extraordinarily detailed patent application.

55. At no time have I or anyone else affiliated with IPWatchdog represented that the Invent + Patent System™ can or would be used for “invention promotion services.”

***Views Concerning Invention Promoters***

56. My familiarity with what I and many others, including Senator Orrin Hatch, Senator Joseph Lieberman, the United States Patent Office and, the Federal Trade Commission, have characterized as invention-related “scams,” dates back to my law school days in the early to mid-1990’s at Franklin Pierce Law Center.

57. Thomas G. Field was one of my law professors at Franklin Pierce Law Center, and my faculty advisor when I was a student. Professor Field has written at some length over the years warning inventors to be careful who they work with, and republished the 1996 warning of a now-defunct inventor group titled Inventor Red Flags, which provided a warning list to help inventors. The founder of Franklin Pierce Law Center, Bob Rines, was a patent attorney and

world class Hall of Fame inventor. His wife Joann Rines founded Inventors Digest. Mr. and Mrs. Rines were inventor advocates for years. Thus, my exposure to the existence of scams within the invention community goes well back to the earliest days of my career.

58. When IPWatchdog.com first went live, it was little more than a place for me to publish my academic writings and to collect materials that could easily be disseminated to students I was teaching at the law school level.

59. Throughout the subsequent years, I have written on the pages of IPWatchdog.com about invention promoters, warning inventors to be careful.

60. In preparing this Declaration, I reviewed old versions of IPWatchdog.com archived by The Way Back Machine, and the earliest writing I can presently find regarding invention promoters is from a version of IPWatchdog.com archived on May 29, 2003. The title of this page was “The Truth About Invention Submission & Idea Promotion Companies” and a copy is attached hereto as Exhibit 8. This page had this title for many years. Over time, the page grew, being re-written to add information, and the title for the last couple years was simply “Invention Submission Companies.”

61. My writings about invention promoters have never focused solely on Plaintiff, as reflected by this earliest available writing, which states:

The sad but simple truth is that many inventors and entrepreneurs have had their share of difficulty with the various invention submission and idea promotion companies out there. You have probably seen them advertised on television, usually in the extremely late night or extremely early morning hours. They promise free information, and tell you that they will help you patent your idea, make your invention and/or market your product. Unfortunately many inventors and entrepreneurs have learned the hard way that these companies all too frequently talk big and perform little or nothing.

The Federal Trade Commission has compiled a long list of complaints on its website. In response to a request under the Freedom of Information

Act, in February 2002, the FTC sent information regarding complaints filed against [Plaintiff], Inventor's Helpline and Invention Technologies (also known as Invent-Tech). The cover letter explains that the FTC has received these complaints but has not verified the allegations of the complaints. Nevertheless, these complaints do sound all too familiar.

62. As a result of writing periodically over the years about scams and government action being taken against a variety of invention promoters, I started being contacted by individuals who reported they had bad dealings with a variety of invention promoters.

63. I have heard literally hundreds of horror stories over the years from people who invested practically everything they had and were unsuccessful. I have heard stories about invention promoters taking money from clients and then going out of business, never notifying their customers, who only found out the company had gone out of business when they could not get in touch with the company and went back to see the vacated place of business. I have heard horror stories about individuals paying \$20,000 for a design patent. I have heard horror stories about individuals being told that their invention was one of the best ever seen, and then later the person saying that acted like they hardly recognized the inventor once the contract was signed. I have also heard stories of patent searches that were done by a variety of invention promoters that did not find any relevant prior art, and when an industry standard patent search was done, many references were located, including references nearly identical to the inventor's inventions.

64. In 2008, I became a member of the United Inventors Association ("UIA") Board of Directors. It is my understanding that the UIA was formed in 1990 for the express purpose of providing an educational and informational resource for independent inventors, and to warn inventors to be careful of those operators with less than favorable reputations who many believe operate scams.

65. In the fall of 2009, I learned that Plaintiff approached both the President and the

Executive Director of the UIA to discuss the possibility of becoming a member. I was told that Plaintiff also commented that it wanted the UIA to control me, and, get me to stop writing about them.

66. I was told that I was invited to go to Pittsburgh for a tour of Plaintiff's corporate offices. I struggled with whether to go or not, ultimately deciding against going. My decision was based on many reasons, including fear that Plaintiff would use such a tour in a public relations campaign without my permission.

67. I also decided that, based on everything I had learned about Plaintiff over the years, whatever I saw would likely not change my opinion of Plaintiff and its model utilizing commissioned sales staff to counsel inventors relating to their inventions, and, that they are quite persuasive in convincing inventors to proceed with their inventions.

68. In fact, it is known throughout the patent bar that Plaintiff and other invention promoters typically advise moving forward regardless of the results of a patent search and regardless of the invention.

69. Notwithstanding, I did offer to speak with Plaintiff via telephone, or to meet with them if they wanted to come to me. I made this offer to the UIA Executive Director, Patrick Raymond. In fact, I even offered to sign a mutual confidentiality agreement, which would allow an open and frank discussion that no one would fear would be written about or discussed in public. I do not know whether this offer was conveyed to Plaintiff.

70. In time, it became clear to me that the UIA was pursuing a relationship with Plaintiff and it seemed that others in the UIA were on board, despite the misgivings I expressed. I sought the counsel of others with respect to what to do, and decided to carefully consider what to do without making any rash decisions.

71. Then, Plaintiff sent out a widely-distributed e-mail implying (at least in my opinion) that there was some kind of partnership or relationship between the UIA and Plaintiff.

72. At this point, I felt I needed to make a clean break from the UIA, and on or about October 14, 2009, I publicly resigned from the UIA Board of Directors.

73. After doing so, I heard from many inventors who believed they were scammed by Plaintiff. I also started hearing from members of the patent bar who had fixed patent problems created by the attorneys Plaintiff hired to work on behalf of inventors.

74. It is my recollection that the number of complaints became so great that around this time I had to remove our phone number from our website because we could not get any work done as a result of all the calls complaining about Plaintiff. I cannot recall for certain whether the complaints became so voluminous prior to or after my public resignation on or about October 14, 2009, but I do specifically recall internal discussion in the late Summer or early Fall of 2009 whereby it was decided we needed to remove our phone number from IPWatchdog.com due to so many complaints. I did endeavor to remove the phone number, but because our phone number was embedded within certain PHP file templates I do not believe I successfully removed our phone number from all pages until sometime within the last few months.

75. At or about the time I resigned from the UIA we were contacted by a patent attorney who earlier in his career worked for a firm that provided legal services to Plaintiff's clients. He provided a wealth of information about Plaintiff's practices, including how its sales force is commissioned, how its representatives speak with inventors about patent searches, and how the most relevant prior art found in a search is either buried deep within the search or glossed over by the sales force. What he told me seemed consistent with what I had been told over the years by many who have had dealings with Plaintiff and other invention promoters.

76. While the number of complaints about Plaintiff have decreased since we took our phone number off our website, lately we have received more e-mails and complaints as well.

77. Over about the last year or so we have increasingly heard that Plaintiff offers its customers financing. From what I have been able to piece together from a variety of inventors, inventors pay for a period of years, with a common term of 3 years. During this payment term, I have been repeatedly told by inventors that nothing happens with their invention, including several inventors explaining that they have been paying for over 2 years, have nothing to show for their payments, and cannot get any information.

78. The aforementioned patent attorney also told me there is at least a period of time where the inventor pays and nothing is done with the invention. This is extraordinarily problematic due to the statutory bar (35 U.S.C. § 102(b)) that can unknowingly be created by third-parties not in privy or even known to the inventor.

79. While it is true that I have written that it is my belief that Plaintiff and the services it provides are a scam, Plaintiff fails to mention that I have also defended them, as well.

80. Great disappointment has been expressed in the inventor community that Inventors Digest accepts ads for INPEX, which is a trade show sponsored and run by Plaintiff. In an article published on IPWatchdog.com on October 26, 2009 and entitled "My Position on Invent Help, the UIA and Inventors Digest" (a copy is attached hereto as Exhibit 9), I do say that it is my opinion that Plaintiff is a scam, but that INPEX is an excellent trade show and inventors should not be afraid to attend. I explain that it is my understanding that more inventors get licensing deals from INPEX than any other trade show. I say unequivocally "I believe INPEX is a worthwhile trade show." I also say: "I really couldn't care less why [Plaintiff] sponsors

INPEX. If they offer a platform for inventors that allows for success then inventors should not shy away out of unreasonable fear.”

81. It is disingenuous for Plaintiff to point only to the negative things I write about to paint an unfair and unrealistic picture, when I have favorably written about Plaintiff’s trade show and have encouraged inventors to attend because it is a good show that leads to deals being done.

***Plaintiff’s Mischaracterizations Of Statements Related To Patents***

82. As is clear from the details and statistics previously discussed, the articles and pages identified by Plaintiff represent an extraordinarily small snapshot of the pages and content of IPWatchdog.com.

83. Moreover, it is disingenuous for Plaintiff to suggest that I do not provide an accurate picture of patent law, inventing, and innovation. In many instances, for example, information that is alleged not to appear on IPWatchdog.com does indeed specifically appear on the pages of IPWatchdog.com. As examples:<sup>1</sup>

- “About the Invention Process” (published on January 4, 2008 and attached hereto as Exhibit 10): “Now you should ask yourself why it is that you want a patent. Obtaining a patent can be the best decision, and may even be the best business move you could make. Nevertheless, what you need to understand is that most patents do not make inventors money. Furthermore, based on what is coming out of the Patent Office these days, the question should not be whether you can get a patent, but rather whether any patent you are able to obtain is worth the investment. In other words, is the scope of protection meaningful? Are you going to actually be able to prevent competitors from making, using, selling and importing your invention? Is there a market for your invention? These and other questions should be considered.”

---

<sup>1</sup> With respect to the articles in Exhibits 10, 13 and 16, this information has been available on IPWatchdog.com since well before the “published” date mentioned and showing on the Exhibits themselves. At about the end of 2007, I converted static html pages over to a Wordpress content management format, so these pages were converted to the Wordpress management system, being actually republished through Wordpress on those dates.

- “Patents: A Most Difficult Legal Instrument to Draft” (published May 4, 2009 and attached hereto as Exhibit 11): “an attorney can always make [a patent application] better.” I also explain “[a] good patent attorney can always make an application better by spending additional time on the application.”
- “Should Inventors Draft Patent Applications” (published June 27, 2008 and attached hereto as Exhibit 12): “I am frequently asked if it is a good idea for inventors to file their own patent applications. I suspect when this question is asked the person asking the question already knows the answer, but is hoping against hope that they may be told to go right ahead.” Attorney Quinn also asks: “If a patent attorney who has drafted 10 patent applications under the guidance of a mentor is not yet ready to go solo, why would you as an independent inventor with no experience think you could do an adequate job on your own?”
- “Provisional Patent Applications” (published on December 25, 2007 and attached hereto as Exhibit 13): “The reason that cutting corners makes a provisional patent application worthless is because in the United States in order for a patent application to be useful to ultimately lead to the protection of an invention the application must be complete as of the time of filing.” Furthermore, this page explains: “Anything that is not included in a patent application is not considered to be a part of your invention. For this reason you may hear patent attorneys explain that a provisional patent application is helpful to protect whatever is included in the application. Said another way, the provisional patent application is only as good as the level of detail you include, which is why you want to not only describe your invention but also any possible alternatives and variations.”
- “Top 5 Things Inventors Do Wrong” (published September 19, 2008 and attached hereto as Exhibit 14): “A provisional patent application is a great tool when it is used properly, and devastating when it is not use properly.” I go on to explain: “Unfortunately, the law requires that a provisional patent application describe the invention with the same level of detail as is required of a nonprovisional patent application. This means that while you can easily get a provisional patent application on file and have a “patent pending” if you do not describe the invention with the level of detail and sophistication required by the patent laws your provisional application is worthless.” Furthermore, this article says: “If filed a provisional application that is not specific enough and then used or sold your invention you have forever forfeited foreign rights, and the application you filed may not be able to be used later to support a filing date. Worse of all, a badly done provisional patent application could conclusively prove that as of the time that you filed the application you did not have a completed invention.”
- “Confidentiality After Filing a Patent” (published September 30, 2008 and attached hereto as Exhibit 15): “It is important to understand that no exclusive rights will attach to your invention unless and until a patent is actually awarded by the Patent Office. Filing a patent application, whether a provisional patent application or a nonprovisional patent application, is an important first step that

works to legally define the scope of your invention, but no rights attach at the time of filing.”

- “Applying for a Patent in the US” (published January 3, 2008 and attached hereto as Exhibit 16): “You absolutely must file a patent application and have that application mature into an issued patent in order to obtain exclusive rights to your invention.” The article also goes on to explain: “You can also file what is called a provisional patent application. Unlike the other patent applications mentioned above, this application will not actual mature into an issued patent, but rather acts as an economical way to start the patenting process.”

### ***Views Concerning Patent Protection***

84. Plaintiff characterizes my writings and position regarding provisional patent applications as being the so-called “sole basis” by which an inventor may safely submit his or her invention. I have read the affidavit of Kenneth Glaser [Docket No. 7-3], and it seems clear to me that my positions and opinions are being severely mischaracterized.

85. As already stated, I do explain the limitations and pitfalls of provisional patent applications throughout IPWatchdog.com. I also explain the benefits of confidentiality agreements (similar to those presumably utilized by Plaintiff and its clients), and give away free samples that can be used and modified at the user’s discretion. In fact, the free confidentiality agreements and related pages are month after month, year after year, among the top pages on IPWatchdog.com in terms of traffic.

86. There is a wide range of views on the appropriateness of provisional patent applications. It is my professional opinion that, as a general rule, provisional patent applications are extremely useful and when done properly provide only an upside for inventors. Like virtually any legal advice, this is highly fact dependent, and to get the benefits of provisional patent applications, strict legal requirements must be followed.

87. I explain that exclusive rights do not attach unless and until a patent ultimately issues, and I counsel my clients giving them a full range of options and advice, contrary to what

is alleged by Plaintiff.

88. Given that no representatives of Plaintiff have ever been present when I dispense legal advice to my clients or talk to prospective clients, I have no idea how they could do anything but speculate with respect to what I do say and advise.

89. I believe provisional patents are extremely valuable for several reasons. First, it allows an inventor to obtain a priority filing date with respect to whatever is disclosed at the time of filing. Because it is legally deemed to be a patent application in the United States the terms “patent pending” can be used for marketing purposes, and most importantly as a patent application it stops the clock from running under 35 USC § 102(b).

90. Second, in my experience, in many, if not most, situations, an independent inventor reaches a certain point in the invention process where they will need some type of assistance from another individual or company to move forward.

91. Documenting what they have at the time by a provisional patent filing can work to perfect whatever rights they have as of that time and establish them as an inventor, perhaps the sole inventor, with respect to what is described in the provisional patent application.

92. With the Section 102(b) clock effectively tolled, the inventor can develop or sell a product that embodies the invention and openly talk to others without fear that they would scoop the invention and misrepresent that the invention was actually theirs.

93. I do advise inventors that it is always best to obtain a confidentiality agreement if possible, even after filing a patent application. Not only do I do this verbally with clients and prospective clients, but I explain this in “Confidentiality After Filing a Patent,” which was published on IPWatchdog.com on September 30, 2008 and is attached hereto as Exhibit 15. In this article I explain: “you are always better off getting a confidentiality agreement signed

whenever possible.” I go on to say: “there is no reason that others could not use, make and sell your invention prior to the issuance of a patent.”

94. I also say: “You need to realize though that many people are just not going to sign confidentiality agreements. This is not because they plan on stealing your invention but because if they sign they are creating liability for themselves.” Plaintiff disputes this position.

95. Nevertheless, it is my experience that most companies simply do not sign confidentiality agreements to review ideas and inventions, particularly inventions that are not patented or do not at least have patent pending status. In fact, I think it is extremely safe to say that the overwhelming majority of companies that an inventor would like most to submit their invention to are the same ones that are least likely to agree to sign a confidentiality agreement.

96. A simple Internet search demonstrates that numerous large and market dominant companies simply refuse to sign confidentiality agreements and force inventors to agree that whatever they submit is submitted on a non-confidential basis.

97. In fact, some companies even specifically force inventors to agree that the company can use whatever ideas or inventions are submitted for free and without payment to the inventor unless such use would violate an issued patent.

98. Some of the companies that will only accept non-confidential submissions include: 3M, Apple, Inc., AGFA, Baxter, Becton Dickinson, Benjamin Moore Paints, BFS Innovations, Black & Decker, Blue Highway, Campbell Soup, Cargill, Coca-Cola, Codman (a Johnson & Johnson company), Coleman, Covidien, Dial, Fisher-Price, Ford, Fossil, General Mills, General Motors, Hollister, Intel, KCI, Kraco Enterprises, Kraft, Johnson & Johnson, Lensfest Media Group, Lifecore Biomedical, Maidenform, Nestle, Procter & Gamble, Rolls-Royce, Rubbermaid, Rhythm Tech, Shell, Springs Global US, Stanley, Telebrands, Unilever and

Xerox.

99. I also have reason to believe that Honeywell also will not accept confidential submissions, although their policy is not available on their website.

***Alleged Targeting of Internet Traffic***

100. I understand that Plaintiff has claimed that “[d]efendants have developed a scheme to target . . . the inventor assistance services market by designing [IPWatchdog’s article entitled] ‘Beware InventHelp Press Release’ so that www.ipwatchdog.com is the third-ranked web site in the Google search results for ‘Invent Help’ and/or ‘InventHelp.’” [Plaintiff’s Memo, pp. 5-6.]

101. However, not only is this assertion not true, it ignores the reality of how search engines such as Google operate. While publishers can attempt to provide information useful to a search engine, the truth is that the search engine determines which websites to return based upon a user’s search query.

102. The claims of the Plaintiff that I have maliciously misspelled “InventHelp” as “Invent Help” are also false. This was a harmless mistake, much as I assume it was a harmless mistake that the Plaintiff refers to “IP Watchdog” as the name of my company. The official name of the company is “IPWatchdog, Inc.” without any space between “IP” and “Watchdog.” I have not wanted to make a big deal of this, and even throughout refer to “IP Watchdog” since the case has been so styled up to this point. Notwithstanding, it is disingenuous and incorrect to assume malice or attempted search engine manipulation was intended on my part.

103. No outsider knows the ranking algorithms utilized by the search engines, and what is known is that ranking algorithms change and evolve over time to prevent gaming.

104. Published articles and pages on IPWatchdog.com are only written for original

content and without an eye toward engaging in search engine optimization or writing for any particular ranking.

105. Additionally, according to Google Webmaster Tools, a page which is attached hereto as Exhibit 17, the 20 most common keywords Google found when it last crawled IPWatchdog.com. While the picture painted of IPWatchdog.com by Plaintiff makes it seem like IPWatchdog.com targets Plaintiff and is little more, the reality is the overwhelming majority of IPWatchdog.com has nothing to do with Plaintiff or invention promoters, does not mention Plaintiff, and the Google bot crawl of IPWatchdog.com confirms this fact. Far and away the most common keyword is “patent.” The remainder of the list is not at all surprising given its focus on everything patents, invention and innovation, with a clear focus on software, as evidenced by the term “software” and “bilski” being on the list.

106. Google Webmaster Tools also allows for me to see what the top search queries used by users of Google Search result in impressions (*i.e.*, displaying an IPWatchdog.com page in search results that an individual can see) and clickthroughs (*i.e.*, a visitor who conducted a search actually clicked through to IPWatchdog.com). Google Webmaster Tools allow for me to see the top 100 impressions and top 100 clickthroughs. (See Exhibit 18 attached hereto.)

107. With respect to impressions, the following queries related to Plaintiff resulted in less than 1% of searches returning an IPWatchdog.com page:

- “inventhelp”
- “invent help”
- “inventhelp.com”
- “inventhelp scam”
- “inventhelp corporate headquarters”

108. With respect to clickthroughs, the only queries related to Plaintiff that actually translated into traffic for IPWatchdog.com during February 2010 were the following and they each contributed less than 1% of the traffic to IPWatchdog.com as a result of Google Search:

- “inventhelp”
- “invent help”
- “inventhelp reviews”
- “inventhelp scam”

***Relationship With Lambert & Lambert***

109. I met Trevor Lambert of Lambert & Lambert in March 2009 when we were both in North Carolina to participate in the filming of a 10-part mini-series sponsored by the UIA aimed at providing inventors information about the invention, patent, and commercialization process.

110. Since shortly after that time, Lambert & Lambert has been an advertiser on IPWatchdog.com.

111. Up until that point, I had incorporated Google AdSense into IPWatchdog.com, which delivered advertisements to various pages on IPWatchdog.com served by Google, Inc. I had limited control with respect to which advertisers could appear on IPWatchdog.com, and many individuals and businesses that I did not want to have advertising on IPWatchdog were appearing through being served from Google.

112. I started receiving complaints from readers of IPWatchdog.com and from some inventors that Plaintiff and other invention promoters were having their ads appear on IPWatchdog.com.

113. After much deliberation, I decided that having Google serve ads was not the best

business decision, so I set out to become Google ads free. To accomplish this goal I decided I would actively seek out advertisers that I felt comfortable appearing on IPWatchdog.com and whom had good reputations.

114. Advertising started on a trial basis with Lambert & Lambert, and has grown over the months since we first started.

115. I have never had a referral relationship with Lambert & Lambert in any business sense.

116. Lambert & Lambert pays a flat monthly advertising fee for the right to have their ads appear on various IPWatchdog.com pages. No other fees are paid or monies exchanged. There are specifically no referral fees.

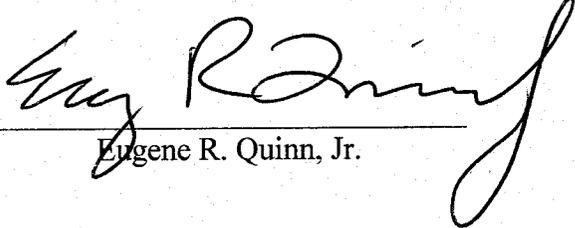
117. I never push any of my clients to work with Lambert & Lambert or any other professionals, and I never receive any referral fee from any professional I refer clients (or non-clients) to.

118. I view my role in the invention-to-commercial-success process as limited based on my own knowledge and expertise, but I do what I can to point individuals and businesses in the right direction so that they might work with other professionals they may need assistance from, such as other attorneys who handle corporate matters, industrial designers and licensing professionals.

119. I have never engaged in licensing an invention or pitching an invention for purpose of licensing on behalf of a client or potential client.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing  
is true and correct.

Dated: March 5, 2010

  
\_\_\_\_\_  
Eugene R. Quinn, Jr.