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Vice Admiral James Houck, Judge Advocate General, USN

USN-OJAG
Washington Naval Yard
1322 Patterson Avenue SE Suite 3000
Washington, DC 20374-5066

Re: Administrative Claim under DFAR 227.7001 for compensation for infringement of United States Patent Number 6,425,764

Dear Sir:

This is a formal Administrative Claim under DFAR 227.7001 for compensation for infringement of United States Patent Number 6,425,764 ("the Patent").

As you will recall from my previous letter of May 1, 2010 (copy attached), I represent Dr. Ralph Lamson with respect to enforcement of the Patent. Dr. Lamson first notified the Navy on Dec. 5, 2008 of this infringement at NMRC San Diego and graciously followed the request in your letter of January 30, 2009 (Exhibit PX20090130 attached) that Dr. Lamson contact Mr. Ken Hemby, Esq., Counsel, NMRC. Mr. Hemby stalled until August 27, 2009 and then dashed off a flush letter stating that the Government did not infringe so had no interest and he did not know about any other uses. He knew (see attached article from 2006 or the Rizzo piece linked to below). In fact, Hemby's letter was just 3 days before VRET was presented at the national forum! I notified you a second time on May 1, 2010 of this growing infringement. You did not reply. As you know (and Mr. Hemby ignored), the Government is required by the policy stated at DFAR 227.7001 and 227.7006 to take all necessary step to thoroughly investigate and to settle administratively, deny, or otherwise dispose of this claim prior to suit against the United States. Please advise the time required for expeditious resolution of this claim. We are not going away, so I encourage you to respond promptly and honestly, not 9 months later with false denials like Ken Hemby, as otherwise I will proceed under 28 USC 1498 at the US CFC. The Government has stalled and denied this growing infringement for nearly 2 years now. No more games. I expect a reply within 10 business days and a full and proper response within no more than 2 months. We are ready to negotiate this to a resolution at any time.

Accordingly, pursuant to DFAR Subpart 227.70, which in pertinent part states claims must be in writing and should include the following underlined items, we provide in writing all such items:

DFAR 227.7004 (a) items:

1. An allegation of infringement; On behalf of Dr. Lamson, I hereby allege infringement of US Patent 6,425,764 by the DOD (Navy, Army, and Air Force) as well as the DVA (Dept. Vet. Affairs) and their various sub-contractors in virtual reality psychotherapy . A partial list of Government funded infringing sites is attached as Exhibit PX20100729-E , which is section 14 of a lengthy article accessible online at <http://www.veteranstoday.com/2010/07/29/virtual-iraqafghanistan-and-how-it-is-helping-some-troops-and-vets-with-ptsd/> . Your investigation will find others.
2. A request for compensation, either expressed or implied; We hereby request compensation for past, present and future use of the claimed invention of the Patent by the Government and we note that damages (reasonable royalty, plus attorneys fees and costs) apply retroactively for six years prior to your receipt of this claim.
3. A citation of the patent or patents alleged to be infringed; The Patent is attached hereto as Exhibit PX20020730. It is United States Patent Number 6,425,764 issued July 30, 2002 to Ralph J. Lamson for VIRTUAL REALITY IMMERSION THERAPY FOR TREATING PSYCHOLOGICAL, PSYCHIATRIC, MEDICAL AND SELF-HELP PROBLEMS.
4. A sufficient designation of the alleged infringing item or process to permit identification, giving the military or commercial designation, if known, to the claimant; Use of immersive interactive virtual reality technology with encoded environments for treatment of PTSD and other psychological and medical conditions. One known infringing item is the Virtual Iraq PTSD Treatment. We believe there are many other infringements occurring in Government VR labs and Government-funded VR labs, including those referenced in section 1 above.
5. A designation of at least one claim of each patent alleged to be infringed; Based on information and belief, claims 1-2, 4-5, 7, 9, 10-15, and 19-31 are infringed. We suspect that claims 3,6,8 and 16-18 are also infringed, since the equipment being used to treat PTSD is normally adaptable to use in Behavioral Medicine for treating many other conditions through encoding of different environments, including substance abuse and other medical conditions diagnosed as having a mental disorder component. So, we believe ALL 31 claims of the patent are infringed. The independent claims are 1, 19, 23 and 26. These are all method claims.
6. As an alternative to (a)(4) and (5) of this section, a declaration that the claimant has made a bona fide attempt to determine the item or process which is alleged

to infringe, but was unable to do so, giving reasons, and stating a reasonable basis for his belief that his patent or patents are being infringed. Your failure to respond coupled with the allegedly false statements of Mr. Hemby that the Navy did not infringe and had no interest in invention, made only 3 days prior to a nation-wide military health forum promoting such infringement and use of the claimed invention, have prevented Dr. Lamson from direct investigation, so he has had to rely on published documents indicating such use. Our reasonable basis for belief that the Patent is being infringed have been previously described to you. You are undoubtedly aware of the Virtual Iraq program relative to PTSD. We have no doubt there are numerous other programs in nascent or fully operational state relative to PTSD and other behavioral medicine issues in which the claimed methods of the Patent are being used by the Government.

DFAR 227.7001(b) material and information generally necessary in the course of processing a claim of patent infringement which claimants are encouraged to furnish at the time of filing a claim to permit the most expeditious processing and settlement of the claim.

1. A copy of the asserted patent(s) and identification of all claims of the patent alleged to be infringed. Attached in hard copy as Exhibit PX20020730. Also enclosed in electronic form on CD. Based on information and belief, claims 1-2, 4-5, 7, 9, 10-15, and 19-31 are infringed. We suspect that claims 3,6,8 and 16-18 may be infringed, since the equipment being used to treat PTSD is normally adaptable to use in Behavioral Medicine for treating many other conditions through encoding of different environments, including substance abuse and other medical conditions diagnosed as having a mental disorder component.
2. Identification of all procurements known to claimant which involve the alleged infringing item or process, including the identity of the vendor or contractor and the Government procuring activity. All past, present and future procurements for the virtual reality treatment of PTSD. As a starting point for your investigation, I refer you to the extensive discussion online at <http://www.veteranstoday.com/2010/07/29/virtual-iraqafghanistan-and-how-it-is-helping-some-troops-and-vets-with-ptsd/> . All procurements for virtual reality labs and the methods in use by all VR labs should be reviewed to see if they infringe the Patent, particularly any VR lab doing psychological evaluations, psychological therapy development, psychotherapy or behavioral medicine. Also, any sub-contract to a virtual reality provider for services related to psychotherapy or behavioral medicine, such as those related to Virtually Better, VRMC, World Viz, etc. and various universities such as USC, Harvard, MIT, Johns Hopkins, Emory Univ., Georgia Tech, etc. should be reviewed for possible use of the patented methods.
3. A detailed identification of the accused article or process, particularly where the article or process relates to a component or subcomponent of the item procured, an element by element comparison of the representative claims with

the accused article or process. If available, this identification should include documentation and drawings to illustrate the accused article or process in suitable detail to enable verification of the infringement comparison. A good starting point for investigation might be to look at YouTube video of Virtual Iraq found readily at <http://www.youtube.com/watch?v=R6kl2BuhKmM>. A detailed review of the Virtual Iraq program is available online at <http://www.veteranstoday.com/2010/07/29/virtual-iraqafghanistan-and-how-it-is-helping-some-troops-and-vets-with-ptsd/>. Understanding how real it can be, then one might review the annual nation-wide Military Health Research Forum program in Kansas City held 2009-08-31 through 2009-09-03, since it included a talk by Greg Reger, PhD of the National Center for Telehealth & Technology held a featured morning session on 2009-09-01(**three business days after Mr. Hemby had written that the Government has no desire to use the claimed method of the patent**) entitled "Treatment of Post-Traumatic Stress Disorder with Virtual Reality Exposure Therapy". In this talk, Dr. Reger describes an ongoing Government-funded research program "that creates an interactive, immersive environment in which the user has a sense of participating in an environment in which they are not physically located." So, Mr. Hemby was not being straightforward in his communications. Dr. Reger went on to describe "Future directions for this innovative form of exposure therapy." Despite Mr. Hemby's statements, the forum leaves no reasonable doubt that the Government is practicing the claimed invention and no reasonable doubt the Government has great interest in the claimed invention, and no doubt that use of the claimed invention has gone mainstream in the Government with respect to PTSD. Indeed, the methods have gone mainstream to such an extent that "Virtual Iraq" was published in the New Yorker Magazine, is on YouTube with

4. Names and addresses of all past and present licenses under the patent(s), and copies of all license agreements and releases involving the patent(s). There are no license agreements and no releases.
5. A brief description of all litigation in which the patent(s) has been or is now involved, and the present status thereof. No such litigation exists.
6. A list of all persons to whom notices of infringement have been sent, including all departments and agencies of the Government, and a statement of the ultimate disposition of each. You have been notified twice before, once by the inventor Ralph Lamson and once by me. You referred the inventor to Mr. Hemby who we contend gave him a dishonest response. You failed entirely to respond to my letter of 2010-05-01, a copy of which is attached as Exhibit PX20100501, so here you are with our Administrative Claim and the prospect of a suit at the Court of Federal Claims if this is not handled to my client's satisfaction.
7. A description of Government employment or military service, if any, by the inventor and/or patent owner. None

8. A list of all Government contracts under which the inventor, patent owner, or anyone in privity with him performed work relating to the patented subject matter. None.
9. Evidence of title to the patent(s) alleged to be infringed or other right to make the claim. The patent lists the inventor and no assignee. The assignee information at the United States Patent and Trademark Office lists the patentee as the owner. Ralph Lamson owns his patent. Although not required, I have attached a printout showing the first and second maintenance fees on this patent are paid.
10. A copy of the Patent Office file of each patent if available to claimant. A CD containing the file history ("file wrapper history" or "prosecution history") is enclosed.
11. Pertinent prior art known to claimant, not contained in the Patent Office file, particularly publications and foreign art. The patent lists many, many references and discusses the prior art exceptionally thoroughly in the Background section of the patent. The claimant has thoroughly investigated the prior art and found no "pertinent" references which could be considered closer than those of record in the prosecution history. There is virtually no chance this patent can be invalidated based on uncited prior art since the inventor is the pioneer in this field.
12. In addition in the foregoing, if claimant can provide a statement that the investigation may be limited to the specifically identified accused articles or processes, or to a specific procurement, it may materially expedite determination of the claim. The investigation may be limited to methods and use of virtual reality services and equipment in virtual reality immersion therapy for treating psychological (anxiety disorder and phobias and the like), psychiatric, medical (including, but not limited to, drug addiction, eating disorders and psychosomatic ailments) and self-help treatments using VR, and behavioral medicine.

We note that DFAR 227.7004 (c) provides:

(c) Any Department receiving an allegation of patent infringement which meets the requirements of this paragraph shall acknowledge the same and supply the other Departments which may have an interest therein with a copy of such communication and the acknowledgment thereof.

1. For the Department of the Army--Chief, Patents, Copyrights, and Trademarks Division, U.S. Army Legal Services Agency;

2. For the Department of the Navy--The Patent Counsel for Navy, Office of Naval Research;
3. For the Department of the Air Force--Chief, Patents Division, Office of The Judge Advocate General;
4. For the Defense Logistics Agency--The Office of Counsel; for the National Security Agency, the General Counsel;
5. For the Defense Information Systems Agency--The Counsel;
6. For the Defense Threat Reduction Agency--The General Counsel; and
7. For the National Geospatial-Intelligence Agency--The Counsel.

In that regard, we call attention to the VR labs in use by the VA at Ann Arbor VA Michigan, Atlanta VA Georgia, Baltimore VAMC Maryland, Bronx VA NY, Brooklyn VA NY, Colchester VA Vermont, Central Arkansas VA, Dayton VA Ohio, Houston VA Texas, Long Beach VA California, Madison VA Wisconsin, Manhattan VA New York, Montrose VA New York, Newington VA Connecticut, Providence VA Rhode Island, San Antonio VA Texas, Washington DC VA, West Los Angeles VAMC California, and White River Junction VA Vermont. In view of such extensive infringement by the VA, you have a duty to notify them, as well.

We also note that DFAR 227.7004 (d) requires that if this communication alleging patent infringement does not meet the requirements of DFAR 227.7004, the sender shall be advised in writing that his claim for infringement has not been satisfactorily presented, and of the elements considered necessary to establish a claim.. While we are confident this communication fully meets such requirements, we are ready, willing, and able to provide, at DOD expense, any reasonable assistance DOD may need in its investigation as to the extent of infringement of the Patent by the Navy and other DOD entities.

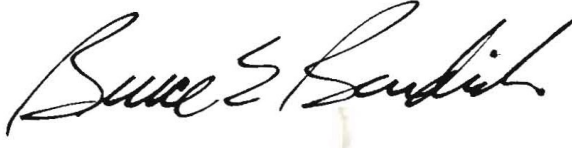
As I stated in my prior letter to you, the only doubt remaining is whether Dr. Lamson will be fairly compensated by his Government for the infringements of his Government or whether his Government is going to try to cheat him out of a reasonable royalty on the patent issued by his Government after being examined and allowed by his Government and now adopted with great fanfare by his Government for one of the most visible programs of his Government, the treatment by the Government of traumatized returning soldiers for PTSD and other conditions.

The Government is now using immersive interactive virtual reality psychotherapy as a primary mode of treatment for PTSD, which is covered by the claims of the patent. It is being used because as the inventor envisioned nearly two decades ago, it works wonderfully. I am writing you because you were the one who referred Dr. Lamson to Mr. Hemby and you failed to make things right when asked in my last letter to do so and because you are still in a position as head legal officer of the Navy to make things right.

As stated in my previous letter, Dr. Lamson and I are ready to promptly negotiate the terms of a reasonable royalty in good faith. There are numerous win-win scenarios possible since Dr. Lamson wants soldiers to receive the benefit of this marvelous invention. Dr. Lamson is a practicing psychologist who has been working on his VIRTIGO™ virtual psychotherapy treatment methods for over 17 years and has amassed a huge and extremely valuable amount of experience and expertise to offer in this field. A research contract might form part of the compensation so that the Government receives benefit of such expertise. Purchase of services from Dr. Lamson might be another partial compensation. There are numerous other cooperative approaches and programs that could make things right as regards Dr. Lamson, and he and I want to explore those with the appropriate legal, medical and technical personnel. As you can appreciate, Dr. Lamson is has a great desire to see his patented methods used as fully as possible so veterans can get their PTSD and other behavioral medical conditions treated as effectively and efficiently as possible.

Our desire is to work cooperatively. You have forced us to take this adversarial approach by your non-response. We are ready to negotiate a mutually beneficial resolution at any time.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Bruce E Burdick". The signature is fluid and cursive, with a small vertical mark below the end of the name.

Bruce E Burdick, JD Registered Patent Attorney,

Managing Attorney, THE BURDICK LAW FIRM

Cc Dr. Ralph Lamson, Psychologist & Inventor

David Pressman, Esq., Reg. Patent Attorney