

The BURDICK Law Firm

3656 Western Avenue, Alton, IL 62002-3156 (618) 462-3450 Fax (618) 208-1712
www.burdilaw.com

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Bruce E Burdick, Managing Attorney
beb@burdilaw.com

Mr. Will A. Gunn, General Counsel

Office of General Counsel (OGC)
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

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

Dear Sir:

This is a formal Administrative Claim for compensation for infringement of United States Patent Number 6,425,764 (“the Patent”) by the Department of Veterans Affairs (“VA”). I represent Dr. Ralph Lamson with respect to enforcement of the Patent. .

I have previously filed an Administrative Claim (“AC”) with DOD, specifically with Vice Admiral James Houck, Judge Advocate General for the Navy, who was first advised of this patent at least two years ago. That administrative claim was delegated to Mr. Robert Thomas, USN OJAG for initial response, then forwarded by Mr. Thomas to Mr. John Forrest, IP Counsel of the Navy at the Office of General Counsel at ONR, and is currently tasked to Mr. Ken Hemby, Patent Counsel at Naval Medical Research Center (“NMRC”), Silver Springs, MD and Mr. Andrew Zager, ONR Office of General Counsel (OOCC). I urge you and the assigned officer at DVA to coordinate with Mr. Zager, and I will copy him to advise him of this claim.

I am not familiar with VA regulations for submission of administrative claims for patent infringement, and after searching for some time online to find them was unable to do so. However, surely following the detailed DOD guidelines in the DFAR, which I do know, will suffice for your purposes. If not, please advise what more you need. I am taking the step of filing an Administrative Claim to give the VA an opportunity to resolve this matter without my client having to proceed to the Court of Federal Claims under 28 USC 1498.

Accordingly, using DFAR 227.7004 as a guide, we inform the VA as follows:

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 Department of Veterans Affairs (“VA”)
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.
3. A citation of the patent or patents alleged to be infringed; The Patent is available online at <http://burdlaw.com/references/6425764.pdf>. 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. This is available online on my website at the following URL
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 Virtual Interactive Reality Therapy (“VIRT”) with encoded environments for treatment of PTSD and other psychological and medical conditions. An excellent video talk concerning the infringing applications given by Dr. Skip Rizzo of USC can be seen online at <http://www.youtube.com/watch?v=V9EF8v-w5Xc>. Here is a specific mention of VA use of the allegedly infringing activity at the Atlanta VA Hospital, as well as AF, Army, Navy, DcoE. <http://burdlaw.com/references/PX20100222%20In%20nextgov%20T2%20%20%27Army%20studying%20use%20of%20VR%20to%20treat%20PTSD%27%20-%20cites%202007%20use%20of%20Virtual%20Iraq%20at%20MIL%20hospitals.pdf> We also know of DARPA infringement.
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. From the published literature, we suspect that claims 3,6,8 and 16-18 are also being infringed, since the VIRT equipment being used to treat PTSD is easily adaptable to use in Behavioral Medicine for treating many other conditions through encoding of special environments, including substance abuse and other medical conditions diagnosed as having a mental disorder component.
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. The 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 the Navy. You are undoubtedly aware of the Virtual Iraq program relative to PTSD. We have no doubt there are numerous others relative to PTSD and other behavioral medicine issues.

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 as Exhibit PX20020730. This is also available online on my website at <http://www.burdlaw.com/references/US6425764-1.pdf>. 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 VIRT 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 treatment of PTSD using VIRT. All procurements for virtual reality labs should be reviewed to see if they infringe the Patent, particularly any lab doing 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 (<http://www.youtube.com/watch?v=V9EF8v-w5Xc>), Emory Univ., Georgia Tech, Harvard, MIT, Johns Hopkins, etc.
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> and to read the independent claims of the Patent. We are informed that VA has at least 40 Virtual Iraq installations. (*Virtual Reality Therapy Application for OEF-OIF Combat-Related PTSD - Rizzo et al*: see acknowledgements for sponsorship reference to US Army Research, Development, and Engineering Command (ARDEC). Page7 cites 13,524 Gulf War Veterans received compensation for PTSD from Dept of Veterans Affairs (*reference: See - Fact Sheet V.A. 2004*). Comparing VRT to Usual Treatment for PTSD in 2005-2006 -

Sponsored by Department of Veterans Affairs. Military uses of virtual therapy to help troops heal wounds 06-29-09. See page 3 “*There are about 40 Virtual Iraq systems in Defense Department and Veterans Affairs hospitals and clinics*”, according to Navy Cmdr. Russell Shilling, who helped create the system and is now the senior scientific adviser for psychological health at the Defense Center of Excellence for Psychological Health and Traumatic Brain Injury.) Now, understanding how effective and efficient the claimed invention of the Patent is, and that it is in widespread use at the VA, then one might review the annual nationwide *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 Defense Centers for Excellence (“DCoE”) National Center for Telehealth & Technology (“T2”) held a featured morning session on 2009-09-01 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.” Dr. Reger went on to describe “Future directions for this innovative form of exposure therapy.” 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*” has been widely published, appearing in the *New Yorker Magazine* (http://www.newyorker.com/reporting/2008/05/19/080519fa_fact_halpern), is on YouTube (<http://www.youtube.com/watch?v=V9EF8v-w5Xc>), on MSNBC (<http://forums.army.ca/forums/index.php?topic=63379.0>), About.com, in *Bloomberg Business Week* magazine (<http://burdlaw.com/references/A%20Dose%20of%20Virtual%20Reality%20ONR%20VRMC.pdf>), in *New York Times* newspaper (http://www.nytimes.com/2007/08/28/health/28game.html?_r=1 *Time* magazine, and in *USA Today* (http://www.usatoday.com/tech/world/iraq/2007-06-18-iraq-virtual-reality_n.htm) and many others (<http://www.virtuallybetter.com/IraqMedia07.html>), as the preceding links prove, prominently on the Internet.

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. Navy JAG has been notified twice before, once by the inventor Ralph Lamson and once by me. Vice Adm. Houck referred the inventor to the Office of General Counsel of the Navy's patent attorney most directly involved, Mr. Hemby (Patent Counsel of NMRC Silver Spring, MD), who

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we contend gave the inventor a dishonest response, so here we are with a separate Administrative Claim to the VA preparatory to going to the Court of Federal Claims if the Government continues to stall and evade the issue. I am currently in close communication with Drew Zager (00CC), a patent attorney with the Office of General Counsel of the Navy assigned to ONR whom you can reach by email (andrew.zager@navy.mil) who is currently coordinating the DOD response to my formal Administrative Claim against the Navy and DOD.

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 Government's own official record at the United States Patent and Trademark Office lists the inventor patentee Ralph J Lamson as owner and no assignee. My client is unquestionably the owner.
10. A copy of the Patent Office file of each patent if available to claimant. The file history (“file wrapper” or “prosecution history”) is posted online on my website at <http://burdlaw.com/references/FH6425764.pdf>. I tried sending it to DOD on CD only to have that “powderized” in the mail, so I just posted it online for easier access and better integrity. I think it useful to point out that this application was prosecuted by one of the world's most renowned prosecution patent attorneys, the author of the largest selling book on patent prosecution, *Patent It Yourself*, David Pressman, Esq. It would not be realistic to think that this patent can be avoided by anything found in the file history.
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 any closer than those of record in the prosecution history. It is highly unlikely this patent could be invalidated based on prior art. On the contrary, the Patent Office file is exceptionally thorough in its review of the prior art.
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 virtual reality services and equipment for use in virtual reality immersion therapy for treating psychological, psychiatric, medical and self-help problems. This is referred to by the shorthand designation “rehabilitative VR” or “cybertherapy”.

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.

It is our understanding that Andrew Zager (00CC) andrew.zager@navy.mil is coordinating such notification of relevant DOD organizations.

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. No such communication has been received by the undersigned sender from the DOD as regards the AC sent to them, so we are confident no such notification will be received from you. While we are confident this communication fully meets VA requirements, we are ready, willing, and able to provide, at VA expense, any reasonable assistance VA may need in its investigation as to the extent of infringement of the Patent by the VA. However, we think you are in a far better position to obtain such information, being that VA officials are required to listen to, and respond to, you. Also, if the Navy's evasion of this issue is any indication of typical Government response to claims of patent infringement then we would expect VA personnel to similarly bureaucratically dodge my requests for such information, should I make such, while responding fully to any requests from your office. That is just human nature, especially in these times of job security concern.

The only doubt really remaining is whether Dr. Lamson will be fairly compensated by his Government for such use 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 his Government of traumatized returning Government soldiers for PTSD and other conditions.

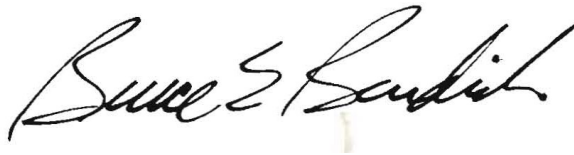
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The VA is now using immersive virtual interactive reality psychotherapy (“VIRT”) as a primary method of treatment for PTSD, which method and use is covered by the claims of the patent. I am writing you because I am informed that you are designated as the VA official responsible for patent matters.

Dr. Lamson and I are ready to negotiate the terms of a reasonable royalty in good faith and promptly. There are numerous win-win scenarios since Dr. Lamson would be willing to consider a sole source research contract as a part of the compensation for the Government’s use of his patented invention. Dr. Lamson is a practicing psychologist who has been working on his VIRTIGO™ virtual psychotherapy treatment methods for 17 years and has amassed a huge and extremely valuable amount of experience and expertise to offer in this field. 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 if given the chance. As you can appreciate, this technology is like a child to Dr. Lamson and Dr. Lamson has a great desire to see his “child” grow and develop in adulthood. He wants his patented methods used as fully as possible so veterans can get their PTSD and other behavioral medical conditions treated as quickly and effectively as possible before veterans commit suicide or harm others. Accordingly, Dr. Lamson's primary desire is to settle this with a lump sum payment so that both he and the Government can operate freely thereafter to vigorously pursue and develop this remarkable technology. Dr. Lamson wants to pursue the commercial market for the invention in the field of Behavioral Medicine and other medical applications. We hope the VA wants to pursue its establishment as a preferred method for treatment of PTSD and other behavioral medicine. If that is done, our nation's soldiers and veterans, as well as the general civilian population, can reap the clear benefits of VIRT with interactively guided outcomes.

Our desire continues to be to work cooperatively. The Government, specifically the Navy, has forced us to take this adversarial approach by dilatory tactics and non-response. We are ready to negotiate a mutually beneficial resolution at any time and I would submit that the regulations require you to explore that option.

Sincerely Yours,

A handwritten signature in black ink that reads "Bruce E. Burdick". The signature is written in a cursive, flowing style.

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

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