



**QUESTION 1**

(ANTICIPATION- PUBLICLY USED OR KNOWN )

Has Akin Gump proven by clear and convincing evidence that all of the claims in Plaintiffs' patents listed below are invalid because they were publicly used or known by others before March of 1990 ?

Answer "yes" or "no" for each patent listed below.

'378 patent         No    

'234 patent         No    

'771 patent         No    

**QUESTION 2**

(ANTICIPATION—ON SALE BAR)

Has Akin Gump proven by clear and convincing evidence that all of the claims in Plaintiffs' patents listed below are invalid because of the on-sale bar?

Answer "yes" or "no" for each patent listed below.

'378 patent         No    

'234 patent         No    

'771 patent         No

**QUESTION 3**

(ANTICIPATION—PUBLIC USE)

Has Akin Gump proven by clear and convincing evidence that all of the claims in Plaintiffs' patents listed below are invalid because of public use?

Answer "yes" or "no" for each patent listed below.

'378 patent     No    

'234 patent     No    

'771 patent     No    

**QUESTION 4**

(ANTICIPATION—MADE OR INVENTED BY SOMEONE ELSE)

Has Akin Gump proven by clear and convincing evidence that the invention claimed in the patents below was made by someone else before March of 1990?

Answer "yes" or "no" for each patent listed below.

'378 patent     No    

'234 patent     No    

'771 patent     No

**QUESTION 5**  
**(OBVIOUSNESS)**

Has Akin Gump proven by clear and convincing evidence that all of the claims in Plaintiffs' patents listed below are invalid as obvious?

Answer "yes" or "no" for each patent listed below.

'378 patent         No    

'234 patent         No    

'771 patent         No

**QUESTION 6**

**(INEQUITABLE CONDUCT)**

Has Akin Gump proven by clear and convincing evidence that any of those listed below failed to disclose to the PTO information that was material to the '378, '234, or '771 patents at issue, coupled with an intent to deceive or mislead?

Answer "yes" or "no" for each of those listed.

a. Branscomb

No

b. Hamilton\*

No

\*(during the time between January 1, 1991 and April 30, 1995)

c. Plaintiffs

No

If you have answered "No" to all of the questions above, then answer the following questions. Otherwise, do not answer the following questions.

QUESTION 7

Did the negligence, if any, of those named below proximately cause the injury in question?

"Injury in Question," means Plaintiffs' loss of reasonable royalties for the use of their patented invention.

Answer "Yes" or "No" to each of the following:

Akin Gump	<u>YES</u>
Branscomb	<u>No</u>
Hamilton & Terrile	<u>No</u>
Gary Hamilton*	<u>No</u>

\*(during the time between January 1, 1991 and April 30, 1995)

Plaintiffs	<u>No</u>
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If you answered "Yes" to Question 7 for more than one of those named above, then answer the following question. Otherwise, do not answer the following question and go to Question 9.

**QUESTION 8**

Assign percentages of responsibility only to those you found caused or contributed to cause the injury. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found.

For each person you found caused or contributed to cause the injury, find the percentage of responsibility attributable to each:

- a. Akin Gump 100 %
- b. Branscomb Ø %
- c. Hamilton & Terrille Ø %
- d. Gary Hamilton\* Ø %

\*(during the time between January 1, 1991 and April 30, 1995)

- e. Plaintiffs Ø %

Total 100 %

**QUESTION 9**

What sum of money, if paid now in cash, would fairly and reasonably compensate Plaintiffs for their loss, if any, resulting from the negligence for which you have answered "Yes" in Question No. 7?

Do not increase or reduce the amount in your answer to this question because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment. Do not include interest on any amount of damages, if any. Do not reduce your award of damages for any amount of money actually paid in settlement of Plaintiffs' litigation with the SCBA manufacturers or previous Defendants in this case. This question inquires only into the amount of money in gross, exclusive of interest, that Plaintiffs would have been awarded against the SCBA manufacturers had Plaintiffs prevailed in the infringement litigation.

Answer in dollars and cents, for damages, if any.


Answer: ~~\$ 70,611,377.83~~  
\* 72,611,397.83



QUESTION 10

From a preponderance of the evidence, do you find that Plaintiffs knew or should have known of the facts that establish their claim for malpractice against Akin Gump prior to May 28, 2001?

Answer "yes" or "no": No

  
Jury Foreperson/Presiding Juror

MAY 7, 2009  
Date