

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MORRIS S. GLOVER,)

Plaintiff/Appellant) Case No. 1:95CV 2227

vs.) JUDGE PAUL R. MATIA

CNS, INC.,) NOTICE OF APPEAL

Defendant/Appellee)

Notice is hereby given that Plaintiff, Morris S. Glover, Plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the Sixth Circuit from the District Court's order granting Defendant's Motion for Summary Judgment, entered in this action of the 15th day of May, 1996.

Respectfully submitted,

s/ _____
Steven B. Chesler
(Reg. No. 0020246)
23200 Chagrin Boulevard
Building Two, Suite 300
Beachwood, Ohio 44122
(216) 464-5609

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Notice of Appeal was served via regular U.S. Mail this 12th day of June, 1996, upon:

Charles E. Jarret, Esquire
Baker & Hostetler
3200 National City Center
1900 East Ninth Street
Cleveland, Ohio 44114-3485

and

David A. Allgeyer
4200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402

s/
Steven B. Chesler

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MORRIS S. GLOVER,) JUDGE PAUL R. MATIA
Plaintiff) CASE NO. 1:95CV2227
-vs.-)
CNS, INC.,) JUDGMENT ENTRY
Defendant)

This Court, having filed its Memorandum of Opinion and order Re: Granting Defendant's Motion for Summary Judgment, hereby enters judgment in favor of defendant, CNS, Inc., and against plaintiff, Morris Glover, on the complaint.

IT IS SO ORDERED.

s/ _____
Paul R. Matia
UNITED STATES DISTRICT JUDGE

Morris S. Glover Inventor



U.S. and foreign Patents pending and issued
Made in the U.S.A. 2000 CNS Inc. 102000

The first time only. That the Original box of Breathe Right Colds with vicks. in the fall of 2000.
Manufactured by CNS Inc., Minneapolis MN 55439
U.S. Patent NO. : 5,533,499 5,533,503 5,706,800



U.S. Patent

Oct. 25, 1994

Des. 351,924

\$2.4 Infringement: Design Patent Infringement Federal Cir.
Infringement of a design patent is defined by statute as the unauthorized manufacture or sale of the patented design or any colorable imitation thereof. The required showing is that the accused design is substantially the same as the claimed design. L.A. Gear, Inc. v. Thom McAn Shoe Co., 988 F.2d 1117, 25 USPQ2d 1913(Ped. Cir.1993).

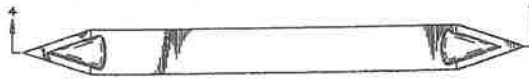


Fig.1

COPY



☆Patent Oct 25, 1994 Des. 351,924



Fig.2



☆Utility Patent No. 5,466,456 Nov 14, 1995

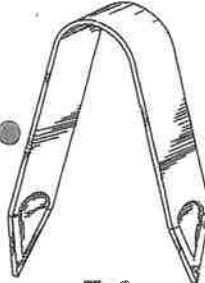


Fig.3

Over →

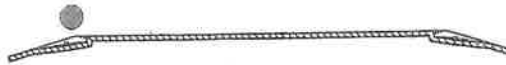
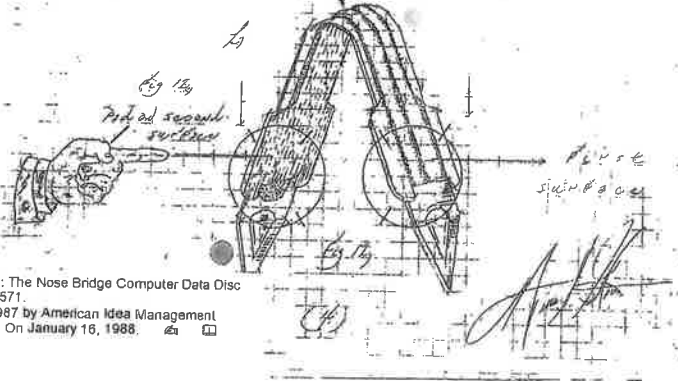
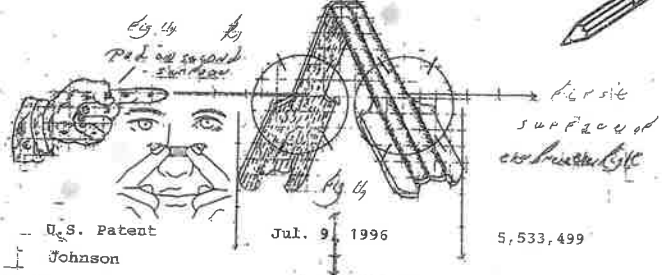
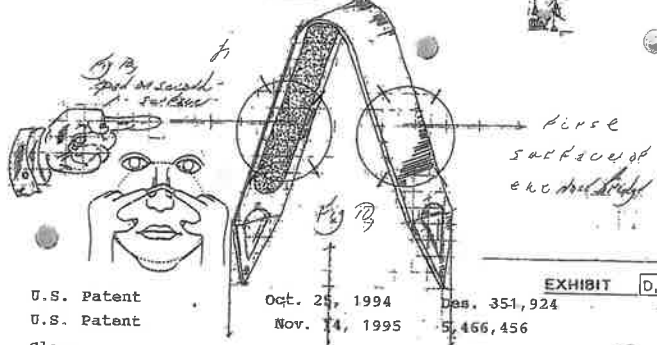


Fig.4

IN THE UNITED STATES COURT OF APPEALS
*FOR THE FEDERAL CIRCUIT *
717 MADISON PLACE, N.W.
WASHINGTON, D.C. 20439-55

Back in time: AIM showed that in 1987, That the
Nose Bridge could be made from a variety of
materials.
Also that can be manufactured by different processes
in a variety of shapes, sizes, and color's.
That's on page 5. In the AIM Marketing Book.

Morris S. Glover Inventor



Morris S. Glover Inventor



§3. ORIGINALITY DERIVATION

1.) United States Patent Patent Number: Des. 351,924
Date of Patent:**Oct.25,1994

GLOVER

Assistant Examiner-Sally Gardner for Glover Patents.

2.) United States Patent Patent Number: 5,466,456
Date of Patent: Nov.14,1995



3.) United States Patent Patent Number: 5,533,499
Date of Patent: Jul.9,1996

JOHNSON

Assistant Examiner-Kimberly L. Asher for Johnson Patent.



COPY

4.) United States Patent Patent Number: 5,512,277
Date of Patent: Apr.30,1996
Assistant Examiner-Sally Gardner for Inventors:Tomohiro Umura,
Chiba; Masanori Tanahashi,Funabashi;Yoshiyuki Muroi,Ichikai;
Yoshinao Kono,Wakayama,all of Japan

©Chesbrough-Pond's USA Co.
Greenwich, CT 06830



PATENTS: if you get a patent for an improvement on a patented invention owned by someone else, you can't use your invention without first making a deal with the owner of the underlying patent. Of course, because others can't use your patented improvement without your permission, there is a basis for a deal.

IN THE UNITED STATES COURT OF APPEALS
 FOR THE FEDERAL CIRCUIT
 717 MADISON PLACE, N.W.
 WASHINGTON, D.C. 20439-6525

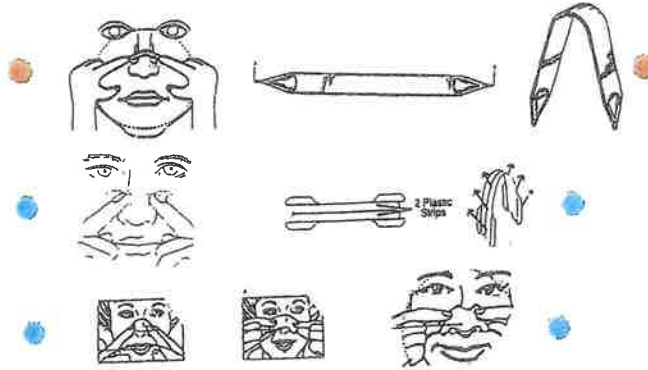
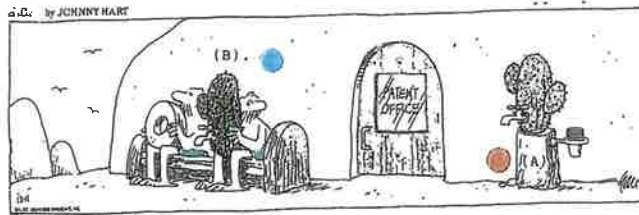


EXHIBIT B, ACCUSED DESIGN IS SUBSTANTIALLY THE SAME AS THE CLAIMED DESIGN.

EXHIBIT A, PATENTED CLAIMED DESIGN. THE INVENTION MUST BE ORIGINAL UNDER §102(f).



§3.3 Originality Derivation: Patent and the Federal Cir. According to 35 U.S.C. §102(f), a person is not entitled to a patent if "he did not himself invent the subject matter sought to be patented. This simply states a fundamental principle of American patent Law-what you patent must be your own invention: you can not patent another's invention, nor can you patent an invention imported from abroad. As the Federal Circuit's predecessor court said, "being an inventor might be regarded as a preliminary legal requirement, for if he has not invented something, if he comes with something he knows was invented by someone else, he has no right even to approach the door" of the PTO. In re Berby, 596 F.2d 952, 201 USPQ 352 (CCPA 1979).

Morris S. Glover Inventor

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office
Washington, D. C. 20231
OFFICIAL BUSINESS
Penalty for Private Use, \$300

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF COMMERCE
COM-212



Answers to Questions Frequently Asked

1. Q. What do the terms "patent pending" and "patent applied for" mean?

A. They are used by a manufacturer or seller of an article to inform the public that an application for patent on that article is on file in the Patent and Trademark Office. The law imposes a fine on those who use these terms falsely to deceive the public.

2. Q. Is there any danger that the Patent and Trademark Office will give others information contained in my application while it is pending?

A. No. All patent applications are maintained in the strictest secrecy until the patent is issued. After the patent is issued, however, the Office file containing the application and all correspondence leading up to issuance of the patent is made available in the Files Information Room for inspection by anyone, and copies of these files may be purchased from the Office.

3. Q. May I write to the Patent and Trademark Office directly about my application after it is filed?

A. The Office will answer an applicant's inquiries as to the status of the application, and inform you whether your application has been rejected, allowed, or is awaiting action. However, if you have a patent attorney or agent the Office will not correspond with both you and the attorney or agent concerning the merits of your application. All comments concerning your application should be forwarded through your attorney or agent.

4. Q. Is it necessary to go to the Patent and Trademark Office to transact business concerning patent matters?

A. No; most business with the Office is conducted by correspondence. Interviews regarding pending applications can be arranged with examiners if necessary, however, and are often helpful.

5. Q. If two or more persons work together to make an invention, to whom will the patent be granted?

A. If each had a share in the ideas forming the invention, they are joint inventors and a patent will be issued to them jointly on the basis of a proper patent application. If on the other hand one of these persons has provided all of the ideas of the invention, and the other has only followed instructions in making it, the person who contributed the ideas is the sole inventor and the patent application and patent shall be in his name alone.

6. Q. If one person furnishes all of the ideas to make an invention and another employs him or furnishes the money for building and testing the invention, should the patent application be filed by them jointly?

A. No. The application must be signed by the true inventor, and filed in the Patent and Trademark Office, in the inventor's name. This is the person who furnishes the ideas, not the employer or the person who furnishes the money.

PATENTS ASSIGNED TO CREATIVE
INTEGRATION & DESIGN, INC.

Type: Grant
Filed: September 28, 1994 ?
Date of Patent: July 9, 1996 ?
Assignee: Creative Integration & Design, Inc. ?
Inventors: William J. Doubek, Daniel E. Cohen, ?
Bruce C. Johnson

Nasal dilator
Patent number: 5533499
Type: Grant
Filed: January 19, 1994 ?
Date of Patent: July 9, 1996 ?
Assignee: Creative Integration & Design, Inc. ?
Inventor: Bruce C. Johnson

U.S. Patent: Oct. 25, 1994 Des. 351,924
U.S. Patent: Nov. 14, 1995 5,466,456
Glover

U.S. Patent: Jul. 9, 1996 5,533,499
Johnson

U.S. Patent Oct. 25, 1994 Des. 351,924

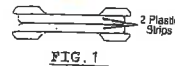


FIG. 1

Morris S. Glover Inventor
8033 BEARCREEK DRIVE NO. 104
BEDFORD HEIGHTS, OHIO 44146



THE PLAIN DEALER / SATURDAY, OCTOBER 21, 1995

Cuyahoga County

CLEVELAND

PATENT VIOLATION ALLEGED
A Bedford Heights man filed a patent infringement lawsuit yesterday against CNS Inc., the Minnesota-based manufacturer of the Breathe Right device worn by pro football players. Morris S. Glover said he invented the device in 1987 as part of a facial cleaner he developed. The lawsuit filed in U.S. District Court asks for an injunction barring further infringement and for an accounting of CNS' profits from sales of the device, which looks like a bandage and is placed across the nose to make breathing easier. Erik Huseby, a spokesman for CNS, said the company could not discuss the lawsuit because officials had not seen it yet. He said CNS is confident that the device was invented by a Minneapolis-area allergy sufferer.

EAST CLEVELAND

BOY KILLED BY CAR

A 15-year-old boy died yesterday after he apparently ran in front of a car traveling under a train bridge Thursday night on Superior Ave., police said. Carl Smith, of E. 115th St., died from abdominal injuries at Meridia Huron Hospital about 2 1/2 hours after the 11:05 p.m. accident. The car was traveling east on Superior Ave. when the boy, who was running in between several construction barrels, darted into the street, Cmdr. David Dearden said. The car's driver, a woman in her 40s, struck a bridge pillar trying to avoid the boy, Dearden said. She suffered minor injuries and was treated at Meridia Huron Hospital and released. A city prosecutor will APP087 case after the police investigation.

Steppers" and Asian India Folk Dancing group. The Cleveland Clinic also will have a health fair with free health screenings for vision, blood pressure and blood sugar.

CLEVELAND HEIGHTS

DELI OWNER WINS APPEAL

The owner of a Cleveland Heights delicatessen successfully challenged a ballot issue seeking to ban carry-out liquor sales in the neighborhood around his North Coventry store. The Cuyahoga County Board of Elections agreed Oct. 13 to remove the issue from the ballot because of petition irregularities. Merhi "Mark" Merhi, owner of the M&S Deli at 2879 Mayfield Rd., had complained that, in several cases, one person signed two people's names on petitions. Merhi charged that the North Coventry Landlords' Association, which sponsored the referendum, targeted his store because he is an Arab. Members of the association denied any anti-Arab prejudice. They said the ban would cut down on littering and loitering in the area. An issue that would ban beer sales remains on the ballot.

AIDS HOUSING GRANT

The AIDS Housing Council of Greater Cleveland, Cleveland's primary provider of housing for people with AIDS, has received a grant of \$1.48 million from the Department of Housing and Urban Development. The grant is for the purchase and renovation of an independent-living facility for families living with HIV/AIDS. The new independent-living facility, called Phoenix Court, will complement ARHC's two existing housing sites: Hebron House, a six-bed transitional housing unit, and Kamana Place, a 10-bed permanent housing unit. All three are in Cleveland.

'FAMILY FUN DAY'

A "Family Fun Day," will be held at the Gund Arena from 11 a.m. to 4 p.m. tomorrow. The free event will offer games, special exhibits and community entertainment. Special guest appearances will include Wakko, Yakko and Dot, from the television show "Animaniacs," Cleveland Lumberjacks players, the Cavs Dance Team and jugglers. Also appearing will be the Hudson High School Marching Band, St. Ignatius Circus Club, John Marshall High School "High

Breathing Problems



1. Wash and dry the nose since oils or moisture will reduce the adhesion strength.



2. Hold the strip to the middle and center between the bridge and side of the nose.



3. Fold the strip down gently to cover nostrils.



4. Correct placement. Bottom half should rest on the side of nostril.



Placement too high.



Placement too low.



5. Removal: loosen all ends and pull them away from the face or while sleeping.

Inventor's Story

Although I have always had difficulty breathing through my nose, it really did not bother me until I got older and started sleeping in one room. My breathing even more difficult. I used a variety of substances for relief, but soon became dependent on them.

Breathing through my nose at night became even more important after I developed a condition called hyponasal (grinding my teeth during sleep - making it very difficult to breathe through my mouth). I was unable to breathe adequately through my nose or my mouth. Before trying to sleep, I would push small tubes or wires from one nostril to improve my breathing. Instead of helping me to breathe, many fell out or caused sores and sometimes infections.

Then one day it occurred to me. Instead of putting things inside my nose to push open my nostrils, I could gently pull them open from the outside. That's when I came up with Breathe Right nasal strips - my kids call them "daddy's nose plunger". Since then, I have used one every night, and often being energetic, the next morning.

Although my background isn't in medicine, I've learned that many people have problems like mine. If you can't breathe well through your nose, I hope Breathe Right nasal strips help you as much as they have helped me. Good luck! And, of course, breathe right!

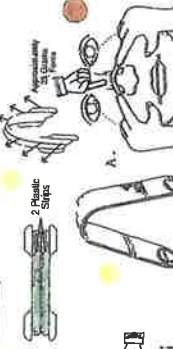
B. C. Johnson

What's New? Why? Breathing?

When you inhale through your nose, air that fills your lungs passes through your nasal valve. The valve, located at the back of the nostril, is only 2-3 millimeters (about 1/8th of an inch) wide. When the valve is partially obstructed for any reason, this increases your nasal airway resistance and makes it harder to breathe through your nose. When the valve is blocked or restricted, you may experience a feeling of nasal stuffiness.

How Breathe Right Nasal Strips

New Breathe Right nasal strips are like a breath of fresh air for many who suffer from nasal breathing difficulties. It is a small adhesive strip that, when properly placed on the nose, gently opens your nasal passages, reducing nasal airflow resistance and improving nasal breathing instantly and continuously.



It's Size and Shape Counts

Breathe Right nasal strips can be used night after night, day after day, without medicinal side effects. Since it is completely non-medicated, it can be combined safely with your regular medications for improved nasal breathing.

It's Not a Proprietary Size

Breathe Right nasal strips are available in two sizes. Small works best for adults with a small to average-size nose and for children. Medium is recommended for an average to above average-size nose. Each package includes complete directions for correct preparation and proper placement.


Breathing Is Breathe

The Breathe Right nasal strip works instantly and continuously while you wear it. You may find it hard to believe that such a simple device can work so well unless you try it yourself. We invite you to do just that.

Patents and the Federal Circuit. The products need not be directly competitive-indeed, an infringer is liable even when the patent owner puts out no product. Aulia Group Int'l, Inc. v. L.A. Gear Calif., Inc., 853 F.2d 1557, 7 USPQ2d 1548 (Fed. Cir. 1988).

Appendix "C"

GENERAL INFORMATION CONCERNING PATENTS

IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
717 MADISON PLACE, N.W.
WASHINGTON, D.C. 20439 

Oath or Declaration, Signature

 Over 

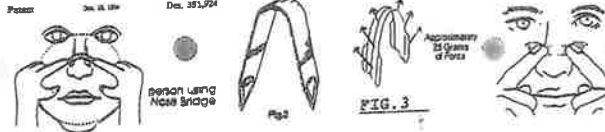
The oath or declaration of the applicant is required by law. The inventor must make an oath or declaration that he she believes himself herself to be the original and first inventor of the subject matter of the application and he she must make various other allegations required by law and various allegations required by the Patent and Trademark Office rules.



Morris S. Glover Inventor
Applicant, Pro Se

The Breeze 3-24-24



(440) 735-1835

Morris S. Glover Inventor
6361 STONEHAVEN LN.
BEDFORD HEIGHTS, OHIO 44146



B. C. Johnson

Back in time: From Exhibit 'E' Bruce C. Johnson
first original Inventor Story in the fall of 1994.
His first original Signature in the fall of 1994 on the
letter in the box. Of the Inventor Story.

Executed on this 20 day of February, 1996.

By: *B. C. Johnson*
Bruce C. Johnson

Back in time: From Exhibit 'E' DECLARATION OF
BRUCE C. JOHNSON, 1995 to 1996.
Bruce C. Johnson alleges in his 'Declaration' to the
Court, the signature that is signed is questionable in
comparison to the one in the 'Inventor's Story', and
there is no notary stamp on the 'Declaration.'



National Physician's Support

Over 6100 physicians are currently sampling Breathe Right nasal strips to their patients. This sampling program includes ear, nose and throat doctors; allergy specialists; family and general practitioners; and doctors of internal medicine.

Inventor's Story

Although I have always had difficulty breathing through my nose, it really did not bother me until I got older and developed complications that made my breathing even more difficult. I tried a variety of medications for relief, but soon became dependent on them.

Breathing through my nose at night became even more important after I developed a condition called bruxism (grinding my teeth during sleep - making it very difficult to breathe through my mouth). I was unable to breathe adequately through my nose or my mouth. Before trying to sleep, I would push small tubes or wire forms into my nostrils to improve my breathing. Instead of helping me to breathe, many fell out or caused sores and sometimes infections.

Then one day it occurred to me. Instead of putting things inside my nose to push open my nostrils, I could gently pull them open from the outside. That's when I came up with Breathe Right[®] nasal strips - my kids call them "daddy's nose things." Since then, I have used one every night, and often during exercise. With Breathe Right nasal strips, I can breathe naturally, through my nose.

Although my background isn't in medicine, I've learned that many people have problems like mine. If you can't breathe well through your nose, I hope Breathe Right nasal strips help you as much as they have helped me. Good to you. And, of course, breathe right!

B.C. Johnson

Manufactured by OCS, Inc., Charlestown, MA 03317
U.S. and foreign patents pending. Made in the U.S.A.

NOTE: There can be no assurance that everyone will receive similar results from Breathe Right nasal strips.

*"I was truly amazed that your product could give me so much relief with no side effects found in medications."
— D. Zepfbeck, IA*

*"After just 3 days of using your product, I feel 100% better—not just upon waking, but throughout the day."
— J. Fivahly, WI*

*"[My] problems have kept me from breathing freely and comfortably for most of my life... Upon application of the product, I had immediate relief and could breathe normally for the first time in many years."
— J. Dutz, AZ*

*"[My doctor] suggested I try Breathe Right strips and I'm delighted to say they've produced a significant improvement in my breathing difficulties."
— S. O'Brien, CA*

*"I wondered how I had managed to spend over \$5 for a few band-aids with imbedded flexible strips. Now I think this was probably the best investment I have ever made."
— J. Serge, MA*

Over

(440) 735-1835

Morris S. Glover Inventor
6361 STONEHAVEN LN.
BEDFORD HEIGHTS, OHIO 44146



B.C. Johnson

Back in time: From Exhibit 'E' Bruce C. Johnson first original Inventor Story in the fall of 1994. His first original Signature in the fall of 1994 on the letter in the box. Of the Inventor Story.

Executed on this 20 day of February, 1996.

By: *B.C. Johnson*
Bruce C. Johnson

Back in time: From Exhibit 'E' DECLARATION OF BRUCE C. JOHNSON, 1995 to 1996. Bruce C. Johnson alleges in his 'Declaration' to the Court, the signature that is signed is questionable in comparison to the one in the 'Inventor's Story', and there is no notary stamp on the 'Declaration'.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

Morris S. Glover

Case Number 19-734

Plaintiff

Judge

vs.

Complaint

42 U.S., 1983, 1985, 1986

Daniel E. Cohen, CNS

Patent infringement,

Bruce C. Johnson

conspiracy for a summary

Suzanne Kameese

judgment making Plaintiff's

Lowell French

patents invalid. Denial of

Creative Integration

due process of law, VII

& Design, Inc., etc.

Amendment to the

Constitution which renders

Defendants

a void judgment.

JURISDICTION

Pursuant to 28 U.S.C. 1331, 1338(a)(b)

STATEMENT OF THE CASE

On November 19, 1987, Plaintiff Morris S. Glover (hereinafter Plaintiff), submitted his idea "the Nose-Bridge" to American Idea Management Corporation, (hereinafter AIM) also known as Idea Management and Patent Assistance Corporation, (hereinafter IMPAC) with owners Suzanne Kameese and Anita French respectively. The Plaintiff also documented his creation of the "Nose Bridge" packaging drawings and product specifications in a parcel mailed to himself with relevant postmark capturing date of creation.

AIM/IMPAC were supposed to help inventors get a patent and submit their client's ideas to industries to be marketed. Instead, Plaintiff learned that they were running a scam and actually selling their client's ideas for their own profit and benefit. They sent the Plaintiff a list of companies to which they had allegedly presented his ideas. The Plaintiff tried to call all companies on the list but most of the companies did not exist. The two that he did reach stated that they never heard of AIM or IMPAC and informed Plaintiff that he was being scammed.

Plaintiff contacted AIM asked for a refund of the money (\$3500.00) he paid them for help in getting a patent and requested all his materials and drawings back. All demands for their return were ignored. Plaintiff hired a lawyer to get most of his money back. (See Exhibit A.) He filed complaints with the Attorney General's Office. He was told that the Federal Trade Commission (hereinafter FTC) had filed a complaint against AIM for fraudulent practices. (See Exhibit B.) Instead of helping inventors find markets for their products, it is documented that they were selling client ideas to others. The FTC prevailed in the complaint and AIM was ordered to make percentage restitution to their victims. They were forced out of business by the FTC. Through the FTC complaint, the Plaintiff received most of his money. However, dealing with an unscrupulous company, Plaintiff did not know of the security of his patent idea.

Plaintiff retained Wayne D. Porter, Jr., a patent attorney, to help him to get a patent for his Nose Bridge. On November 27, 1991, Mr. Porter filed for the Plaintiff three applications for design and

utility patents with the United States Patent Office. He was communicating with Daniel E. Cohen, President of CNS, Inc., who was trying to help Bruce C. Johnson get a patent for the same thing. (See Exhibit C) It is no doubt they got the idea from AIM. On October 25, 1994, Plaintiff received his design patent. Plaintiff realized Mr. Porter was stalling on the utility patent which should have been obtained with the design patent. Plaintiff went to see another patent attorney, James H. Tilberry, 60 Sterncrest Drive, Chagrin Falls, Ohio 44022, who told him that Mr. Porter had his utility application in the wrong department of the United States Patent Office, and advised him to get all his material from Mr. Porter.

After Plaintiff got most of his material, he went back to Mr. Tilberry and he showed him everything to do to get his utility patent. Plaintiff refiled an application for his utility patent on July 12, 1993 for the Nose Bridge. On November 14, 1995 the Plaintiff received a utility patent for the Nose Bridge. Plaintiff now has both design and utility patents.

To recap, Plaintiff filed for design and utility patents with the U.S. Patent Office on November 27, 1991. On October 25, 1994, he received his design patent. On July 12, 1993, Plaintiff refiled for a utility patent. Plaintiff received his utility patent on November 14, 1995. Patent information is as follows: Design Patent No. (351,924), Oct. 25, 1994, and Utility Patent No. [5,466, 456], November 14, 1995.

Plaintiff's disclosure document No. 214122
November 14, 1988 and disclosure document No.

297001 December 5, 1991, provided evidence of the date of conception. (Documents [22] filed: November 27, 1991 Date of Patent October 25, 1994 Glover Patent Number: Des. 351,924) Plaintiff's date of conception was filed November 19, 1987 with AIM. (See Exhibit D.)

The Nose Bridge was the only strip apparatus invented to go over the bridge of the nose. Plaintiff's "Nose Bridge" was invented to help drain the nose. In 1994, Plaintiff was watching a football game. A commercial came on with a football player wearing an adhesive strip across his nose called the "Breathe Right Dilator." The device looked just like the Plaintiff's patented design. Plaintiff hired a lawyer to look into the matter and contact the company.

The company, CNS of Minnesota, owned by Daniel E. Cohen claimed that the alleged inventor of their strip was Bruce C. Johnson. Johnson claimed he came up with the idea in 1991, which was four years after Plaintiff had created his prototype and mailed a sealed envelope to himself with the date of his creation as well as detailed drawings of the device. Plaintiff had reason to believe that Johnson or Cohen may have obtained data on his device from AIM who was known for their corrupt dealings with inventors. (Plaintiff had established the original record of invention and date of conception with AIM on November 19, 1987.

The fact of the matter is Daniel E. Cohen purchased the Plaintiff Morris S. Glover's idea and drawings from AIM an unscrupulous company without Plaintiff's knowledge. Then Daniel E. Cohen contacted Bruce C. Johnson, perhaps he is a

draftsman, and gave him the Plaintiff's drawings and documents. This so that they could together redesign the drawings and reword the documents and rename the Plaintiff's idea as the "Breathe Right Dilator."

Furthermore, Bruce C. Johnson alleges in his "Declaration" to the Court, the signature that is signed is questionable in comparison to the one in the "Inventor's Story", (Exhibit E) and there is no notary stamp on the "Declaration." In the Declaration, Bruce C. Johnson, Part One, admits that he did not have a patent on the Breathe Right device. Then how can he transfer any rights in the device to Creative Integration & Design, Inc, which in turn granted CNS an exclusive license for the Breathe Right device. How can this be? How can he grant a license? The fact of the matter is Bruce C. Johnson is nothing but Dan Cohen's puppet or pawn. It was Daniel Cohen who purchased the document from AIM. Daniel E. Cohen filed a "Declaration" on the 12th of January 1996, as if he were the inventor. He tries to explain how CNS has made the Breathe Right nasal device successful, as if the idea originated with Bruce C. Johnson when the "Declaration" neither provided a date of conception nor showed a date of disclosure. They (Cohen and Johnson) only dwell on the year 1991. Bruce C. Johnson and Daniel E. Cohen allege that they are the inventors and originators of the idea of the device that is placed over the nose when the Plaintiff can go back beyond 1991 and has the documents and drawings to prove he had the original idea and was inventor of the device to be placed over the nose. (See Exhibit E - Plaintiff and Dan Cohen's declarations" along with Bruce C. Johnson's "Declaration.") William J. Doubek was another alleged inventor of the device. (See Exhibit E

- documents page three of Creative Integration & Design, Inc.

Plaintiff has spent a lot of money on getting his patents and now the Court tells him his patents are invalid, this because the Defendants tell the Court to make them invalid. Did the patent office refund the Plaintiff his money when it granted Bruce C. Johnson a patent for the same device?

Bruce C. Johnson and Daniel E. Cohen's "Declarations" support an infringement of the Plaintiff's Nose Bridge which they renamed the Breathe Right Nasal Dilator and resigned without the Plaintiff's permission.

The Plaintiff and Bruce C. Johnson document similar, if not identical, functions for their devices. Plaintiff in his November 19, 1987 Record of Invention (P-2571 AIM's Computer Data Disc document,) described how his "Nose Bridge" would be used to open pores and drain the nose. "At first I use a dull knife end of a letter open[er] and drain my pores from my nose. I [had] been doing this for 10 years, so I got tired of doing this so I decided that this would be a better way to drain my nose." Johnson, in his Breathe Right Inventor's Story writes, "I would push small tubes or wire forms into my nostrils to improve my breathing. Instead of helping me breathe, many fell out or caused sores and sometimes infections."

Bruce C. Johnson, President of Creative Integration & Design, filed for a patent application on June 10, 1991, now abandoned. He filed a second patent application on May 15, 1992, now abandoned.

A third application was filed on April 16, 1993, now abandoned. They were rejected three times because there was a patent pending for the same device - more than likely that of the Plaintiff.

Bruce Johnson and CNS did not have a patent for their "Breathe Right" device when the present case was filed by the Plaintiff in Federal Court. The Breathe Right package stated 11 patents pending." (Exhibit F.) The Plaintiff filed a lawsuit against the companies in question in the Federal Court of Cleveland, Ohio for infringement. The Defendants filed for a Summary Judgment which the Court granted. The Defendants showed no date of conception, no showing of a disclosure document of an earlier date of the "Breathe Right clear pore strip", invention and no showing of a serial number to see if a patent application was filed prior to 1991. The Plaintiff presented all necessary documents to the Court including his patents. (See Exhibit G.)

The Court made Plaintiff's patents invalid on recommendation of the Defendant's Motion for Summary Judgment. This despite the fact that the patents in question were the property of the Plaintiff - purchased and paid for by him. If the stance of the Court was that the Plaintiff's device was totally different from that of the Defendants, Plaintiff's property (patents) should have been off limits.

Plaintiff's attorney filed an appeal in the Sixth Circuit Court of Appeals. The case was transferred to the Federal Circuit Court of Appeals in Washington, D.C. Two judges upheld the Cleveland judge's decision without one word of a finding of fact and conclusions of law. Plaintiff is now before this

honorable Court seeking justice.

MEMORANDA IN SUPPORT OF LAW AND FACTS

Plaintiff Morris S. Glover, herein has been denied due process at every step of the proceedings. Furthermore, he has been denied the benefit of being first with the idea of the Nose Bridge and the right to retain his patent for it. The Federal Court for Northern District of Cleveland, Ohio ignored all evidence he presented when the Defendants presented no evidence to support how they came up with the Breathe Right Nasal Dilator, which was a copy of Plaintiff's "Nose Bridge" with minor design adjustments rewritten to get a patent for Bruce Johnson, who with Dan Cohen, obtained Plaintiff's idea from AIM.

The Plaintiff already had patents for his device. Johnson's product was marketed with patent pending. The travesty of the Cleveland Court's decision is that they did not recognize or honor Plaintiff's rights under patent, but claimed that the devices were dissimilar. While making this claim they ruled to invalidate the Plaintiff's patents. The Court in essence stole property that the Plaintiff had filed and paid for.

Bruce Johnson was given a patent after the Plaintiff's patents were made invalid and after Defendants were granted a summary judgment. Plaintiff had been denied justice three times. (Introduction: Patents and the Federal Circuit: In order even to qualify for the "unobviousness" inquiry, an invention or discovery must meet certain threshold criteria.) Paramount among the

patentability requirements is that which is sought to be patented must be new. It has often been said that the person seeking a patent must be the "first and original" inventor. This is true to a certain extent. Certainly the invention must be original; under 102(f) one cannot knowingly patent the invention of another. In re Schoenwald, 964 F.2d 1122,22 USPQ2d 1671 (Fed.Cir.1992). How can a court invalidate a patent that was the first to be placed over the nose by the United States Patent Office? It is not essential to identity of design that the appearance should be the same to the eye of an expert. If in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same; if the resemblance is such as to deceive such an observer, and sufficient to induce him to purchase one, supposing it to be the other, the one first patented is infringed by the other. Gorham v. White, 81 U.S. 511, *20 LEd.731 (1871). The Primary Examiner Kimberly L Asher, Glenn K. Dawson and Attorney, Agent, or Firm - Kinney & Lange helped Bruce C. Johnson get a patent. Does this not show partiality and perhaps even conspiracy and some criminal action even by the Court when it invalidated Plaintiffs patents and granted the Defendants motions for summary judgment. (See Exhibit H.)

The question is when the Court made the Plaintiff's patents invalid, did it not step outside of its jurisdiction? The fact of the matter is the Plaintiffs "Nose Bridge" was the first and original device patented. It was the first such device to be placed on the nose. Plaintiff's patents were purchased from and granted by and in accordance with the Federal regulations of the U.S. Patent Office. How could a

Cleveland Court nullify or claim to have jurisdiction over this Federal entity. "The law provides that once State or Federal jurisdiction has been challenged, it must be proven." Maine v. Thiboutot, 100 S.Ct 2502 (1980). "Jurisdiction can be challenged at anytime." Basso v. Utah Power & Light Co., 495 F.2nd 906 at 910. "The United States District Courts are not Courts of general jurisdiction. They have no jurisdiction except as prescribed by Congress pursuant to Article III of the Constitution." Graves v. Snead, 541 F.2d 159 (6th Cir. 1976).

Statements of Counsel in their brief or argument are not sufficient basis for a summary judgment. Trinsey v. Pagliaro, D.C. Pa 1964, 229 F. Supp 647. The Plaintiff was denied his day in court, Case No. 98-CV-0150 to prove his case of infringement on his design and utility patent before the Court and possibly- a jury of his peers (unbiased panel of potential purchasers of said devices.) A judgment of the Court without the party or giving him an opportunity to be heard is not a judicial determination of his rights under law. Saboriego V. Maverick, 124 U.S. 261 31 L Ed 430, 8 S.Ct. 461, and is not entitled to respect in any other tribunal. A void judgment is not entitled to the respect accorded a valid adjudication, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding force or efficacy for any purpose or at any place...It is not entitled to enforcement...All proceedings founded on the void judgment are themselves regarded as invalid." 30A Am Jur. Judgments 44, 45.

It is a fundamental doctrine of law that a party to be affected by a personal judgment must have his day in court, and an opportunity to be heard. Renaud v. Abbott, 16 U.S. 277, 29 LEd 629, 6 S Ct. 1194.

The Plaintiff has been denied due process of law, a fair hearing and a judicial proceeding that is conducted in such a manner as to conform to fundamental concepts of justice and equality.

During a fair hearing, authority is exercised according to the principle of "Due process of law." Fair hearing means that the individual will have an opportunity to present evidence to support his or her case and to discover what evidence exists against him or her.

Engier, Supra Note 1, at 2069-70 ("The [evidentiary and procedural] rules of the game was crafted by judges and lawyers. Litigants not only have a right to appear without lawyers, but in tremendous numbers of cases everyday across the country, are forced to appear in court without counsel through no choice of their own. The lawyers and judges who establish the rules of the game have no right to make it impossible or difficult for unrepresented litigants to handle their own cases without forfeiting important rights for reasons unrelated to the merits of the case." Litigant's Struggle, Supra Note 1, at 36-42.

This is a David and Goliath case. Can a lay inventor who is a sole proprietor, who does all the right things, secures a patent to protect his product, his idea, prevail against big business. While the

Courts take measures to assist the Pro Se litigant, should not there have been measures to make sure that the rights of the sole proprietor are protected. Apparently, that was not of concern in this case as ruling was made on the basis of a summary judgment. [The] "Court errs if the Court dismisses Pro Se litigant without instructions of how pleadings are deficient and how to repair pleadings." Plaskey v. CIA, 953 F. 2nd 25.

In granting the Defendants motions for a summary judgment, the Court functioned as a clairvoyant as to how a jury would decide the case, a denial of Plaintiff's right to a trial by a jury of his peers. (See Amendment VII to the Constitution.)

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by a jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States than according to the rules of the common law. The Court went so far as to say that Plaintiff's patents 456 and 924 were invalid without stating a reason. This showed blatant prejudice.

Fact of the matter is that none of the Defendants had a patent of any kind to show the Court. The Court showed absolute bias and prejudice toward the Plaintiff by ignoring all of his exhibits and ruling by summary judgment.

Clear pore strip, invention, and no showing of a serial number to see if a patent application was filed prior to 1991. The Plaintiff presents all the necessary documents to the court including his patents. The court made his patents invalid on

recommendation of the defendants' motion for summary judgment. (See Exhibit H.) Plaintiff had demanded a jury trial.

Plaintiff's attorney filed an appeal in the Sixth Circuit Court of Appeals. The case was transferred to the Federal Circuit Court of Appeals in Washington, D.C.. Two judges upheld the Cleveland judge's decision without one word of a finding of fact and conclusion of law. Plaintiff is now before this honorable court seeking justice.

PRAYS

Plaintiff herein prays that this honorable Court grant action to declare the Summary Judgment a void judgment ruling and to reinstate Plaintiffs patents so that Plaintiff can prove that he is the original owner of the "Nose Bridge" idea and that Bruce C. Johnson and others infringed upon his idea. Plaintiff also asks for a jury trial to allow him to present evidence supporting his claim to the rights of patent he duly purchased.

Respectfully submitted,

s/ 6-24-19
Morris S. Glover, Pro Se
6361 Stonehaven Ln.
Bedford Hts., Ohio 44146

CERTIFICATE OF SERVICE

A copy of this Complaint is to be served upon all Defendants, by certified mail, on this date of June __, 2019.

s/ 10-8-19
Morris S. Glover, Pro. Se
6361 Stonehaven Ln.
Bedford Hts., Ohio 44146

US005533499A

United States Patent (19) Johnson

(11) Patent Number: 5,533,499 (45) Date of Patent: Jul. 9, 1996

(54) NASAL DILATOR (75) Inventor: Bruce C. Johnson, St. Paul, Minn. (73) Assignee: Creative Integration & Design, Inc., St. Paul, Minn.

(21) Appl. No.: 183,916 (22) Filed: Jan. 19, 1994

Related U.S. Application Data

(63) Continuation of Ser. No. 44,545, Apr. 16, 1993, abandoned, which is a continuation of Ser. No. 084,638, May 15, 1992, abandoned, which is a continuation of Ser. No. 713,204, Jan. 10, 1991, abandoned.

(51) Int. Cl. A61F 5/08; A61M 29/00; A61M 15/08; A62B 7/00

(52) U.S. Cl. 128/200.24; 606/199; 606/204.45 (58) Field of Search 128/204.12, 207.16, 128/248, 851, v.12, DIG. 26; 606/191, 195, 199, 2, 1, 198; 602/5, 6, 12, 14, 16, 17, 46, 47, 61, 74

References Cited

Table of U.S. Patent Documents with columns for patent number, date, inventor, and classification.

Table of Foreign Patent Documents with columns for document number, date, country, and classification.

OTHER PUBLICATIONS

Co/No Article "Nasal Splint", p. 12, Oct. 10, 1972. Primary Examiner—Kimberly L. Asher. Attorney Agent or Firm—Klaney & Lange

(57) ABSTRACT

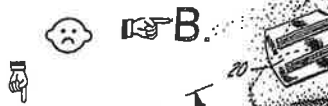
A nasal dilator that prevents the outer wall tissue of the nasal passages of the nose from drawing in during breathing comprises a truss member. The truss member includes a flexible strip of material having a first end region, a second end region and an intermediate segment. The first and second end regions are adapted to engage the outer wall tissue of first and second nasal passages of the nose. The intermediate segment is configured to traverse a portion of a nose located between the first and second nasal passages. The truss member further includes first and second resilient bands secured to the strip of material adjacent opposite edges of the intermediate segment. The resiliency of the first and second resilient bands acts to stabilize the outer wall tissue and thereby prevents the outer wall tissue of the first and second nasal passages from drawing in during breathing.

31 Claims, 3 Drawing Sheets

1. Why isn't Bracket [58] of 351,924 10/1994 (Glover) not shown on the References Cited of Johnson patent document? and also why isn't Bracket [58] of 5,465,456 11/1995 (Glover) not shown on Johnson patent document of the References Cited about a flexible bend strip for the nose bridge area.

2. To make it look like Johnson was the first and sole inventor. That's why they made my patents invalid. And also to make it look like the patent office made a mistake issuing my patents to me. So they can steal my invention. That's what AIM and CNS Inc. did at that day and time. And that was not right at all for them to do that to me. Morris S. Glover inventor Pro se

U.S. No date of conception from Bruce C. Johnson, or from Danie Cohen of CNS Inc. to be providing evidence by patent infringement law, about the Breathe Right flexible bend strip. For the nose bridge area.



COPY

JOHNSON FIRST ORIGINAL UNITED STATES PATENT NUMBER: 5,533,499 DATE OF PATENT: JUL 9 1996 ASSISTANT EXAMINER: L. Asher DOCUMENT 1. Morris Glover No 21-1606 v. Daniel Cohen, CNS, Inc., Bruce C. Johnson, Suzanne Kameesse, Lowell French, and Creative Integration

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Morris S. Glover,) JUDGE PAUL R. MATIA
)
Plaintiff,) Case No. 1:95CV2227
)
v.) **DECLARATION OF**
) **BRUCE C. JOHNSON**
CNS, Inc.)
)
Defendant.)

I, Bruce C. Johnson declare as follows:

1. I am the primary inventor of the Breathe Right® device which is manufactured and sold by CNS, Inc. I applied for patents on the device beginning in 1991. I presented a prototype of the device to CNS in October of 1991. I transferred my rights in the device to Creative Integration & Design, Inc., which in turn granted CNS an exclusive license for the Breathe Right® device in January of 1992. CNS began marketing the Breathe Right® nasal dilator in October of 1993.

2. The Breathe Right® device is worn between the bridge of the nose and folds down the sides of the nose above the nasal crease. A strong medical grade adhesive holds it in place as two plastic strips, which are imbedded in the adhesive pad, pull outward. This gently opens the nasal passages mechanically without any medications.

3. The Breathe Right® device improves nasal breathing by reducing nasal airflow resistance. The

use of the Breathe Right® nasal dilator is to provide symptomatic relief from nasal congestion and obstruction accompanying such conditions as colds, allergies, sinus problems and deviated nasal septums.

4. I have never met Morris S. Glover. I have spoken to Mr. Glover by telephone, but that occurred at Mr. Glover's initiation and long after the Breathe Right® device had been fully developed, marketed and offered for sale. Mr. Glover's calls to me have been in connection with his accusations that the Breathe Right® device somehow infringes his patents. Mr. Glover had nothing whatsoever to do with the design, invention or any other developmental aspect of the Breathe Right ® device.

5. I have never seen Mr. Glover's invention. Sometime in 1995 - after Mr. Glover began calling me and asserting that the Breathe Right® device infringes his patent - I saw Mr. Glover's design patent. That is the only document that I have ever seen relating to Mr. Glover's invention.

6. I am not familiar with an entity or organization by the name of American Idea Management or AIM. To my knowledge, I have never spoken with *or* otherwise communicated with anyone affiliated with that organization.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 20 day of February, 1996.

By: s/ _____
Bruce C. Johnson

CERTIFICATE OF SERVICE

The foregoing Declaration of Bruce C. Johnson was served via regular U.S. mail upon Plaintiff, Morris S. Glover, 6033 Bear Creek Drive, No. 104, Bedford Heights, Ohio, 44146, on the 20th day of February 1996.

s/ _____
Daniel P. Mascaco
One of the Attorneys CNS, Inc.

UNITED STATES DISTRICT COURT NORTHERN
DISTRICT OF OHIO EASTERN DIVISION

Morris S. Glover,) JUDGE PAUL R. MATIA
))
) Plaintiff,) Case No. 1:95CV2227
))
) v.) **DECLARATION OF**
) **DAVID A. ALLGEYER**
CNS, Inc.))
))
) Defendant.)

I, David A. Allgeyer, declare as follows:

1. I am a partner in the Lindquist & Venum law firm, one of the firms representing defendant CNS, Inc. ("CNS") in this matter.

2. Attached as Exhibit A to this Declaration is a true and accurate copy of Design Patent No. 351,924. This Design Patent was issued to Morris S. Glover on November 24, 1994 for the design of his facial cleanser.

3. Attached as Exhibit B to this Declaration is a true and accurate copy of Patent No. 5,466,456, which is a utility patent and was issued to Morris Glover on November 14, 1995 concerning his facial cleanser.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12th of January, 1996.

By: s/ _____
David A. Allgeyer

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MORRIS S. GLOVER,)
 Plaintiff) Case No. 1:95CV 2227

vs.) JUDGE PAUL R. MATIA

CNS, INC.,) **AFFIDAVIT OF**
 Defendant) **MORRIS S. GLOVER**

State of Ohio)
) SS
Cuyahoga County)

Being first duly sworn and cautioned, Affiant
Morris S. Glover, deposes and states as follows:

1. I am the Plaintiff in the above-captioned
action. I am 37 years old and make this Affidavit
based upon my first-hand knowledge of the facts set
forth herein.

2. For many years I have suffered from
sinus problems and excess oil in the pores of my
nose. In June of 1987, I came up with an idea for a
multi-facial cleanser to clear the oils from the skin
of my nose and help open the nasal passages by
adding medication to the device.

3. One night, I saw a commercial on Channel
43 for American Idea Management (AIM), a company
that said it helped inventors obtain patents on their
inventions and find buyers for them. I filled out an

application with AIM and sent them drawings and other materials.

4. After working with AIM for a couple of years I discovered that all the company really did was file a disclosure document with the U.S. Patent Office in 1988. A copy of this document is attached hereto as Exhibit A. Eventually, AIM stopped talking to me and I filed suit against AIM in Cuyahoga County Common Pleas Court, Case No. CV 193555. This case was settled.

5. I then renewed the disclosure document with the Patent Office. A true and accurate copy of this is attached hereto as Exhibit B. I then retained a patent attorney, who pursued the patent on my behalf.

6. On November 27, 1991 applications were filed for design and utility patents as well as a trademark. On October 25, 1994, I received a design patent on my invention. A true and accurate copy is attached as Ex.C. On November 14, 1995, I was awarded a utility patent by the Patent Office. A true and accurate copy of this patent is attached as Ex. D.

7. In November of 1994, I was watching a football game and saw something similar to my invention being worn by Herschel Walker of the Philadelphia Eagles. I then saw the device being worn and talked about at the Super Bowl, on the radio and TV and in the newspapers.

8. I then contacted an attorney who sent a letter to the company manufacturing and marketing the device advising them that it infringed on my

invention. The company, CNS, Inc., refused to discuss a resolution of the matter.

9. I went to the store and bought the Breathe Right device in January of 1995. I then took it apart to compare it to my invention. Attached as Exhibit E is a breakdown of the Breathe Right device.

10. Exhibit F-1 through 5, which is a copy of a piece of demonstrative evidence, depicts the modifications to my device needed to yield the Breathe Right. The only difference between the two is that Defendant added an adhesive strip and cut my one piece of material in half.

11. The purpose of my invention is not limited to simply cleaning the nose. I intended for different solutions to be used in conjunction with the device. This is how it is used for clearing the sinuses. I add Vick's Vapo Rub to the pad to help clear my sinuses.

12. My device has a flexible plastic strip for the nose area and a pad is attached to the second surface. The plastic strip is bent in the middle and a person using the device can either leave it sitting on the nose or it can be pulled along their nose thereby scraping away oils, dirt and the like. The pad can also be impregnated with any type of material. My device can also be made with a wide variety of materials.

13. Breathe Right is made of two plastic pieces of material sandwiched between an adhesive strip and a second material which then bends over the nose.

14. Attached hereto as Exhibit G, is a

November 9, 1995, article from the USA Today that says in the near future, Breathe Right will begin test marketing its product with a patch that will allow medication to be applied to it and absorbed through the skin. This is exactly what my device does.

15. I cannot adequately respond to Defendant's Motion though without being able to obtain information from them. I need to depose the inventor and find out when he came up with his idea, why, how, see if he has any connection to AIM (which never returned all of my documents to me), see the patent documents for Breathe Right. In short, at this stage of this lawsuit I need more information to properly respond to a Motion that will dispose of my claims forever.

FURTHER AFFIANT SAYETH NAUGHT.

s/

Morris S. Glover

SWORN TO AND SUBSCRIBED in my presence this 14th day of February, 1996.

s/

Notary Public
Steven B. Chesler
Attorney at Law
Notary Public,
No Expiration Date

UNITED STATES DISTRICT COURT NORTHERN
DISTRICT OF OHIO EASTERN DIVISION

Morris S. Glover,) JUDGE PAUL R. MATIA
))
 Plaintiff,) Case No. 1:95CV2227
))
 v.) **DECLARATION OF**
) **DANIEL E. COHEN**
CNS, Inc.))
))
 Defendant.)

I, Daniel E. Cohen, declare as follows:

1. I am Chairman of the Board, Chief Executive Officer and Treasurer of CNS, Inc. ("CNS").

2. CNS is a Delaware corporation headquartered in Bloomington, Minnesota.

3. CNS manufactures and markets the Breathe Right® nasal dilator. The Breathe Right® device is a nonmedicinal, disposable device that improves nasal breathing by reducing nasal airflow resistance. The Breathe Right® device was invented by Mr. Bruce Johnson. Mr. Johnson applied for patents on the device beginning in 1991. In October of 1991, Mr. Johnson presented a prototype of the Breathe Right® device to CNS.

4. In January of 1992, CNS received an exclusive license for the Breathe Right® device. In October of 1993, we received FDA approval to market the Breathe Right® device. CNS began marketing the Breathe Right® nasal dilator in October of 1993.

5. Our Breathe Right® device is worn between the bridge of the nose and folds down the sides of the nose above the nasal crease. A strong medical grade adhesive holds it in place as two plastic strips, which are imbedded in the adhesive pad, pull outward. This gently opens the nasal passages mechanically without any medications. A sample Breathe Right® device is attached as Exhibit A to this Declaration. A copy of the package in which the Breathe Right® device is sold, which shows the Breathe Right® device being worn, is attached as Exhibit B to this Declaration. The construction of the Breathe Right® nasal dilator, including the two plastic strips which are imbedded in the adhesive pad, is depicted in the diagram attached as Exhibit C to this Declaration.

6. The Breathe Right® device improves nasal breathing by reducing nasal airflow resistance. The use of the Breathe Right® nasal dilator is to provide symptomatic relief from nasal congestion and obstruction accompanying such conditions as colds, allergies, sinus problems and deviated nasal septums.

7. CNS has achieved widespread success with the Breathe Right® device. The product has become popular with numerous professional and collegiate athletes, particularly players in the National Football League, and has received significant press coverage as a result.

8. The Breathe Right® device is not a facial cleanser nor could it be used as one. Rather, it is a nasal dilator with strong, medical grade adhesive that sticks to the nose. The Breathe Right® device is

not merely an elongated strip but, rather, is more in the form of a butterfly shape. The Breathe Right® device is not fanned of materials suitable for scraping one's skin. The Breathe Right® device has no gripping means at the ends in the form of indentations. The Breathe Right® device does not have any type of absorbent pad impregnated with a topically effective agent.

9. Morris S. Glover at no time has had anything whatsoever to do with CNS or with our Breathe Right® device.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12 day of January, 1996.

By: s/ _____
Daniel E. Cohen

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
BOSTON REGIONAL OFFICE

Civil Action No. 2:19-00734 WSH

March 8, 1995

Morris Glover
6033 Bear Creek Drive, Apt. 104
Bedford Height, Ohio 44146

Dear Mr. Glover:

We regret the delay in responding to your question and any inconvenience it may have caused. American Idea Management went out of business in 1989, when the two partners, Suzanne Kameese and Anita French each established their own companies, IMPAC and TLCI. We are enclosing a copy of Complaint and Consent Decree for your records.

We hope you find this information useful and if we can be of further assistance, please do not hesitate to call.

Sincerely,

s/
Mary G. Haley
Contact Representative

Enclosures

FEDERAL TRADE COMMISSION

vs.

American Idea Management Corporation,
Technology Licensing Consultants Incorporated, and
Idea Management and Patent Assistance Corporation

Claims Administration Center
P.O. Box 8040
San Rafael, CA 94912-8040
415-461-0410

March 9, 1992

To: Service Agreement Customers of American Idea
Management Corporation ("AIM") Technology
Licensing Consultants Incorporation ("TLCI") Idea
Management and Patent Assistance Corporation
("IMPAC")

In September 1991, AIM, TLCI and IMPAC, and
Anita French, Lowell French and Suzanne Kameese,
who are owners and/or officers of these corporations,
entered into a settlement of Federal Trade
Commission ("FTC") charges of unfair or deceptive
trade practices in the sale of invention promotion
services. Although the defendants did not admit any
wrongdoing, they agreed, among other things, to pay
\$570,000, plus interest, over a three-year period into
a consumer redress fund to be administered by the
FTC. The defendants also agreed that the money in
this fund would be used to make partial refunds to
consumers of service agreement fees that they paid to
these companies. The money in this fund will not by
used to make partial refunds of amounts paid for
research reports.

As a service agreement customer of these companies, you are entitled to claim from this consumer redress fund a partial refund of the service agreement fees that you paid these companies. Since we do not know how many service agreement customers will actually claim a refund, we cannot predict how much your refund will be. However, assuming that most who are eligible claim a refund, your refund is unlikely to be more than a couple hundred dollars.

Because the defendants are paying into this fund over a three year period, you will receive your refund in two installments. The first check that you will receive will be a distribution of the money currently in the fund. We hope to issue these checks by this summer. You will be sent a final check for the remainder of your refund in late 1994, after all of the required payments have been made by the defendants.

To claim your refund, you must fill out the information required on the reverse of this letter and return it to us in the enclosed return envelope postmarked by no later than May 11, 1992.

Sincerely,

s/
Phoebe D. Morse
Regional Director
Federal Trade Commission
Boston Regional Office

RANKIN, HILL, LEWIS & CLARK

ATTORNEYS AT LAW
600 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OHIO 44115-1405

COPY

CARL A. RANKIN
STEPHEN A. HILL
LEONARD L. LEWIS
KENNETH A. CLARK
WAYNE D. PORTER, JR.

(216) 566-9700
FAX (216) 566-9711

PATENT, TRADEMARK,
COPYRIGHT AND
RELATED CAUSE

January 17, 1995

VIA CERTIFIED MAIL

CNS, Inc.
Chanbassen, Minnesota 55317

Re: U.S. Des. No. 351,924
Inventor: Morris S. Glover
Our File: 20468-2

Gentlemen:

This firm represents Morris S. Glover, inventor and owner of the referenced design patent. I am enclosing a copy of the patent for your reference.

It has come to Mr. Glover's attention that you are selling a nasal dilator under the trademark BREATHE RIGHT. BREATHE RIGHT nasal dilators have an ornamental appearance that is quite similar to that of Mr. Glover's patented design.

Mr. Glover is concerned that your manufacture and sale of BREATHE RIGHT nasal dilators constitutes an infringement of his design patent. Mr. Glover would be willing to consider the possibility of a licensing arrangement under his patent.

I look forward to hearing from you after you have had an opportunity to review the enclosed patent.

Very truly yours,

Wayne D. Porter, Jr.
Wayne D. Porter, Jr.

WDP/dlh

Enc.

This letter was mailed on January 17, 1995

Re: U.S. Des. No. 351,924
Inventor: Morris S. Glover
Our File: 20468-2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

CIVIL ACTION NO. ____

v.

AMERICAN IDEA MANAGEMENT CORPORATION, 91-12353K
a corporation,

IDEA MANAGEMENT AND PATENT
ASSISTANCE CORPORATION,
a corporation, and

SUZANNE KAMEESE,
individually and as an officer
of the corporations,

Defendants.

**COMPLAINT FOR INJUNCTION
AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission
("FTC" or "Commission"), by its undersigned
attorneys, alleges:

1. Plaintiff brings this action under Section
13(b) of the Federal Trade Commission Act ("FTC
Act"), 15 U.S.C. § 53(b), to secure preliminary and
permanent injunctive relief and other equitable relief
against defendants for unfair or deceptive acts

or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

2. Subject matter jurisdiction is based upon 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b).

THE PARTIES

4. Plaintiff, Federal Trade Commission, is an independent agency of the United States Government created by statute, 15 U.S.C. §§ 41 *et seq.* and charged, *inter alia*, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission is authorized to initiate proceedings in the federal district courts to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b).

5. Defendant, American Idea Management Corporation ("AIM"), is a Massachusetts corporation with its principal place of business located at 2 Main Street, Stoneham, MA 02180. AIM was engaged in the sale of invention promotion services to individual inventors located throughout the United States, from 1984 to September 1, 1989. AIM is presently not actively engaged in business. At all times relevant to this complaint, AIM resided and transacted business in the District of Massachusetts.

6. Defendant, Idea Management and Patent Assistance Corporation ("IMPAC"), is a Massachusetts corporation with its principal office or place of business located at 2 Main Street, Stoneham, MA 02180. on or about September 1, 1989, IMPAC acquired the assets, business and goodwill, and assumed all the liabilities and obligations of AIM's former Stoneham, MA office. Since September 1, 1989, IMPAC has been engaged in the sale of invention promotion services to individual inventors located throughout the United States, and, as a successor corporation to AIM and/or as a corporation engaged in a common enterprise with AIM, has substantially continued AIM's former Stoneham, MA business operations, using many of the same managers, employees, and methods of operation that were formerly used by AIM. IMPAC resides and transacts business in the District of Massachusetts.

7. Defendant, Suzanne Kameese, is vice president, clerk and a director of AIM, and president, treasurer and a director of IMPAC. Kameese was a co-owner of AIM, and currently holds one hundred per cent of the shares authorized and issued by IMPAC. Individually, or in concert with others, she formulated, directed, controlled, and participated in the acts and practices of AIM and IMPAC, including the acts and practices alleged herein. She resides and transacts business in the District of Massachusetts.

DEFENDANTS' COURSE OF TRADE

8. Beginning on or about July 1, 1984, and continuing thereafter to the present, defendants have sold research, marketing, licensing and other invention promotion services primarily to individual

inventors who desire to commercialize their ideas or products for financial gain. Defendants have conducted and are conducting their invention promotion business in three, distinct stages. First, defendants solicit an individual inventor to disclose his or her idea or product to defendants through the offer of a free, "initial review" of the idea or product by defendants' research department. Unless the initial review results in the rejection of the idea or product pursuant to defendants' internal, "disclosure rejection guidelines," at the second stage, defendants offer to prepare a written "Research Report" concerning the idea or product. The cost of the Research Report has ranged from \$450 to \$595 and, if the inventor so desires, may include a patent novelty search and a written opinion of patentability prepared by a registered patent attorney. If the Research Report results in a favorable conclusion regarding the idea or product, in the third and final stage of the process, defendants offer to provide certain marketing and licensing services to the inventor under the terms of a written "service Agreement." The cost of the Service Agreement has ranged from \$3,500 to \$9,750, depending upon the percentage of the potential royalty payments to be retained by the defendants if a license agreement is negotiated, and whether a patent application is to be filed.

9. In the course of defendants' sale of invention promotion services, defendants have advertised and promoted, and are advertising and promoting these services by, among other things, placing advertisements in newspapers and magazines with substantial interstate circulations and on radio and television; transmitting correspondence and contracts through the United States mail; and

through the use of telephone sales presentations.

10. Defendants' course of trade is in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' VIOLATIONS OF SECTION 5 OF
THE FTC ACT

11. Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1), provides that "unfair or deceptive acts or practices in or affecting commerce are hereby declared unlawful."

12. As set forth herein, in connection with the sale of research, marketing, licensing and other invention promotion services, defendants have engaged in, and are engaging in numerous violations of Section 5(a) of the FTC Act.

13. In numerous instances, defendants have misrepresented, or are misrepresenting, directly or by implication, that defendants' "initial review" of clients' ideas or inventions, and defendants' Research Report service constitute honest, objective and competent evaluations or appraisals of the merit or marketability of clients' ideas or inventions. In fact, defendants did not, or do not honestly, objectively and competently appraise or evaluate the merit or marketability of clients' ideas or inventions.

14. In numerous instances, defendants have falsely represented, or are falsely representing, directly or by implication, that they would or will perform substantial services to develop or refine ideas or inventions. In fact, in most instances,

defendants did not, or do not perform substantial services to refine or develop clients' ideas or inventions.

15. In numerous instances, defendants have misrepresented, or are misrepresenting, directly or by implication, the scope, nature or quality of the services defendants would or will perform to introduce or promote ideas or inventions to industry by, among other things:

(a) making the misrepresentations contained in Paragraph 13, above;

(b) misrepresenting, directly or by implication, that consumers must act quickly to obtain an "initial review" of their ideas or inventions because defendants conduct "initial reviews" only at regularly scheduled staff review meetings, the dates of which are established in advance;

(c) misrepresenting, directly or by implication, that defendants' Research Report service is needed by clients to make intelligent decisions whether to enter into contracts with defendants for defendants' marketing and licensing services, and is also needed by defendants to determine whether to offer those services to clients, and to make full and complete presentations of clients' ideas to industry;

(d) misrepresenting, directly or by implication, that many professionals are involved in the preparation of defendants' Research Reports, and that such reports require three to eight weeks to prepare;

(e) misrepresenting, directly or by implication, that ideas or inventions which cannot be patented can still be successfully marketed or licensed for financial gain because there is no correlation between patentability and marketability;

(f) misrepresenting, directly or by implication, that the processes used by defendants to search for manufacturers or potential licensees will identify those manufacturers or potential licensees who are most likely to be interested in bringing to market or otherwise commercializing clients' ideas;

(g) misrepresenting, directly or by implication, that defendants will promote clients' **ideas** to all manufacturers or potential licensees who are identified in the search processes used by defendants,

(h) misrepresenting, directly or by implication, that defendants' marketing and licensing services prevent, in the defendants' words, the "hit and miss scenario most first-time inventors or even the most experienced inventor goes through";

(i) misrepresenting, directly or by implication, that the New Product Prospectuses used by defendants to promote, market or license clients' ideas contain information which manufacturers or potential licensees consider valuable and/or necessary to their determination whether to bring to market or otherwise commercialize the idea;

(j) misrepresenting, directly or by implication, that defendants, in the course and conduct of their promotional, marketing or licensing services, actively pursue the outright sale of clients' ideas to manufacturers or other business entities;

(k) misrepresenting, directly or by implication, the value to, or the financial gain that may be realized by, clients from the inclusion of their idea in certain new product data bases or newsletters; and

(l) misrepresenting, directly or by implication, that defendants' promotional, marketing or licensing services have resulted in financial gain

for defendants' clients.

16. In numerous instances, defendants have falsely represented, or are falsely representing, directly or by implication, that they had, or have, special access to manufacturers, or that they were, or are, retained by manufacturers to locate new product ideas. In fact, defendants did not, or do not, have special access to manufacturers, and defendants were not, and are not, retained by manufacturers to locate new product ideas.

17. In numerous instances, defendants have misrepresented, or are misrepresenting, directly or by implication, their background, qualifications, experience, and expertise as sellers or providers of services to introduce or promote ideas or inventions to industry by, among other things:

(a) representing, directly or by implication, that defendants' promotional, marketing or licensing services have resulted in financial gain for defendants' clients, when, in truth and in fact, none of defendants' clients has earned an amount of money greater than they paid defendants for such services; and

(b) making the misrepresentations set forth in Paragraphs 13, 14, 15, and 16, above.

18. The false representations set forth in Paragraphs 13 through 17 above constitute unfair or deceptive acts or practices prohibited by Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

19. Consumers have suffered, and are

suffering, substantial injury as a result of defendants' violations of Section 5(a) of the FTC Act, as set forth in paragraphs 13 through 17 above, including but not limited to the payment of monies for the purchase of invention promotion services they might not otherwise have purchased.

THIS COURT'S POWER TO GRANT RELIEF

20. Section 13(b) of the FTC Act, 15 U.S.C. § SJ(b), empowers the Court to grant injunctive and other equitable relief to prevent and remedy violations of the FTC Act. The Court may, in the exercise of its equitable jurisdiction, order the rescission of contracts, restitution or redress to consumers and other relief to remedy the defendants' violations.

PRAYER FOR RELIEF

WHEREFORE, plaintiff requests that this Court, as authorized by 15 U.S.C. § 53(b), and pursuant to its inherent equitable powers:

- (a) Preliminarily enjoin defendants from further violations of Section 5 of the FTC Act as alleged in this complaint, and enter such ancillary equitable relief as may be necessary to preserve the possibility of effective final relief to consumers injured by defendants' unfair or deceptive acts or practices;
- (b) Permanently enjoin defendants from violating Section 5(a) of the FTC Act as alleged herein in connection with the