

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

WAGMAN METAL PRODUCTS, INC.	:	
	:	
Plaintiff,	:	CIVIL ACTION NO.
	:	_____
v.	:	
	:	
CONCRIA OY,	:	
	:	
Defendant.	:	
	:	

COMPLAINT

Plaintiff, Wagman Metal Products, Inc. (“Wagman”), by and through its undersigned counsel for its Complaint against Defendant Concria Oy (“Concria”), hereby alleges as follows:

NATURE OF CLAIMS

1. Wagman brings this action for patent infringement against Defendant for making, using, offering to sell, selling and/or importing a trowel blade for power trowels that incorporates patented technology owned by Wagman.

2. By this Complaint, Wagman asserts U.S. Patent No. 7,059,801 (“the ‘801 patent”) against Defendant to prevent Defendant’s infringing conduct.

THE PARTIES

3. Wagman is a corporation organized under the laws of the Commonwealth of Pennsylvania, having its principal place of business at 400

South Albemarle Street, York, Pennsylvania. Wagman is a pioneer in developing and manufacturing concrete finishing methods, systems, and devices.

4. Concria Oy is a Finnish company organized under the laws of Finland, having its principal place of business at Vehmaantie 12, FI-33470 Ylöjärvi, Finland.

5. Concria does not have any place of business in the United States.

6. Concria operates and maintains a website, <https://concria.com/>, a Facebook page at <https://www.facebook.com/pg/Concria/posts/>, and an August newsletter that is available via the internet at <https://mailchi.mp/concria/newsletter-august-8671081>, which promote and advertise its products, including its slide blades product. Concria also has personnel that visit customers and prospective customers in the U.S. and provides demonstrations in the U.S. on how to purchase, install, and use Concria's slide blades product, which infringes the '801 patent.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b).

9. For instance, venue is proper because of the “long-established rule that suits against aliens are wholly outside the operation of all the federal venue laws, general and special.” *In re HTC Corp.*, 889 F.3d 1349, 1354 (Fed. Cir. 2018).

The “venue laws (as opposed to requirements of personal jurisdiction) do not restrict the location of suits against alien defendants.” *Id.* at 1357.

10. Concria has engaged in business in this District, has advertised its infringing products and services in this District, has offered such infringing products and services for sale in this District and throughout the United States, has imported infringing products into the United States, and has harmed Plaintiff in this judicial district.

11. This Court has personal jurisdiction over Concria because Concria has established minimum contacts with the forum such that the exercise of personal jurisdiction over Concria will not offend the traditional notions of fair play and substantial justice.

12. For example, Concria has imported its infringing slide blades product into the U.S. and had those products transported to its customer, Ram Tool Construction Supply Co. knowing this company will offer to sell these products in Pennsylvania, in this District, and throughout the United States.

13. In addition, this Court has personal jurisdiction over Concria because Concria has knowingly and actively engaged in acts that have infringed and will infringe and/or contribute, induce, aid and/or abet the direct infringement of claims of the ‘801 patent in the Middle District of Pennsylvania and throughout the United States.

FACTUAL BACKGROUND

Wagman Technology

14. Since 1963, Wagman has been a leading supplier of power trowel replacement blades and floating pans in the concrete industry. Wagman has been a pioneer of use of the concrete power trowel for alternative uses, including floor clean up.

15. The '801 patent, entitled "METAL PLATE REINFORCED PLASTIC TROWEL BLADE FOR POWER TROWELING," was duly and legally issued by the U.S. Patent and Trademark Office ("USPTO") on June 13, 2006. A copy of the '801 patent is attached as Exhibit A.

16. Wagman is the assignee of, and owns all right, title and interest in, the '801 patent. Attached hereto as Exhibit B is a copy of the assignment for the '801 patent as executed on December 15, 2004 and was recorded at reel 015595 and frame 0216 on January 15, 2005.

Wagman's Plastic Trowel

17. Wagman, using the technology of the '801 patent, has developed its Poly Blades™ products for power troweling. The Wagman Poly Blades™ products are for power troweling and are designed for leveling concrete by use of a power troweling device that avoids undesired burnish marks that can discolor concrete.

18. Information about Wagman's Poly Blades™ products is included on its website at <http://www.wagmanmetal.com/category/285/poly-pro-patent-7059801>.

19. Wagman practices the claimed invention of the '801 patent by making and selling the Wagman Poly Blades™ products.

20. Wagman marks its Wagman Poly Blades™ products that are covered by the '801 patent with the '801 patent to give public notice that the '801 patent covers those products.

21. The Wagman Poly Blades™ products permit operators of power trowels to repurpose existing equipment to accomplish different stages of a concrete finishing job without substantial investment in a new tool.



22. For example, a concrete finisher may use a power trowel to level a concrete installation, then use the Wagman Poly Blades™ to finish the leveled concrete, then switch brushes on the Wagman system to scrub in a penetrating sealer to the concrete. This can avoid the need to procure, maintain, and operate separate equipment for each of those purposes and can avoid an operator having to hand finish concrete.

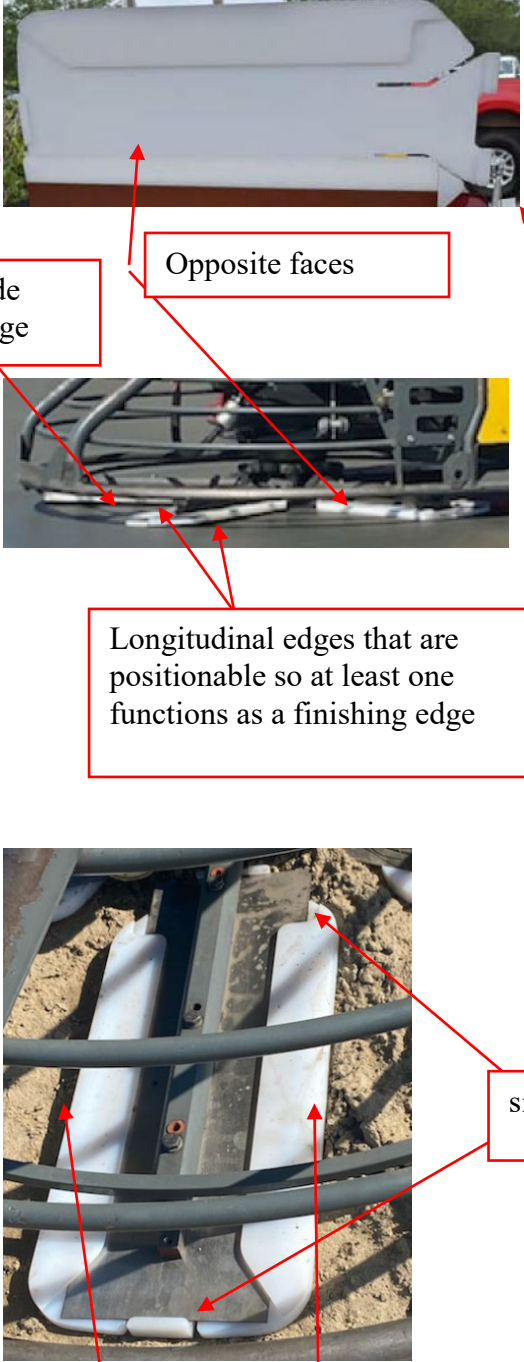
23. Wagman makes, sells and offers to sell its products in the Middle District of Pennsylvania and throughout the United States.


Concra And Its Infringing Activities


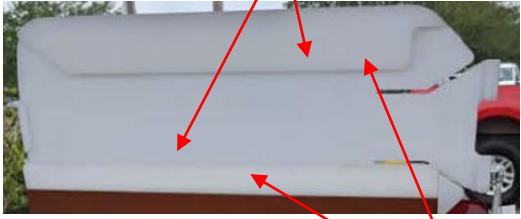
24. Defendant Concra is a provider of concrete finishing products, including specialty slide blades products. Concra offers to sell, sells, transports, and/or imports its slide blades products in this District and throughout the United States.


25. Concra’s slide blades products contain each and every feature of claims 1 of the ‘801 patent. Below is a table comparing a Concra slide blades product to claim 1 of the ‘801 patent:

Claim 1 of U.S. Pat. No. 7,059,801	Concra slide blades product
<p>1. A trowel blade for power trowels comprising</p>	 <p>Trowel blade</p> 


<p>Claim 1 of U.S. Pat. No. 7,059,801</p>	<p>Concra slide blades product</p>
<p>a generally rectangular, elongate plastic trowel blade having two opposite faces, two longitudinally extending, opposite edges and two transversely extending side edges interconnecting the longitudinal edges, at least one of said longitudinal edges being a finishing edge,</p>	 <p>side edge</p> <p>Opposite faces</p> <p>side edge</p> <p>Longitudinal edges that are positionable so at least one functions as a finishing edge</p> <p>side edges</p> <p>Longitudinal edges that are positionable so at least one functions as a finishing edge</p>


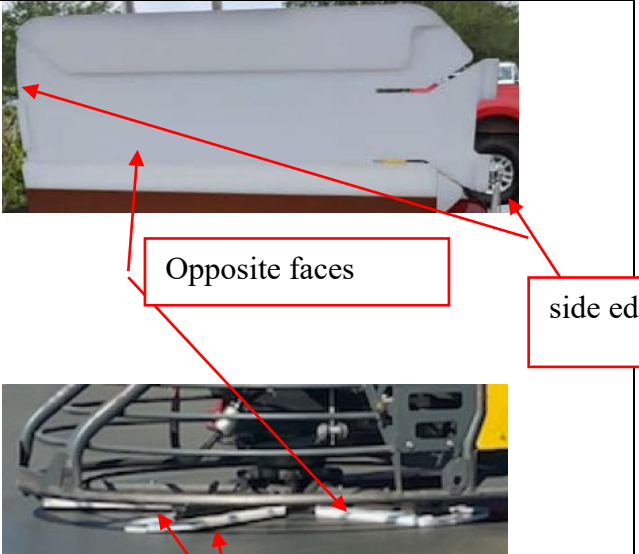
Claim 1 of U.S. Pat. No. 7,059,801	Concra slide blades product
<p>a metal plate affixed to and overlying at least a portion of one face of said trowel blade and</p>	 <p data-bbox="971 884 1294 989">Metal plate affixed to trowel blade</p>

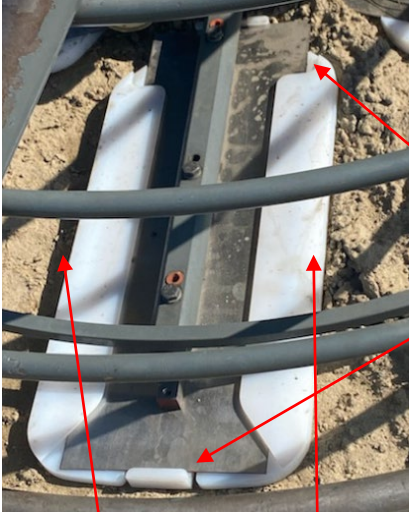

Claim 1 of U.S. Pat. No. 7,059,801	Concra slide blades product
<p>an elongate mounting means on said metal plate arranged generally parallel to said at least one finishing edge for mounting said trowel blade directly to said power trowel,</p>	 <p>First elongate means on said metal plate parallel to at least one finishing edge for mounting trowel blade directly to the power trowel</p> <p>Mounts blade directly to the power trowel</p> <p>Additional, second elongate mounting means on the metal plate (<i>see e.g.</i> Col. 5, lines 50-53, explaining “the mounting means need not be a mounting bar, but can be any well known mounting means, such as a channel.”)</p>  <p>Channels parallel to longitudinal edges</p>


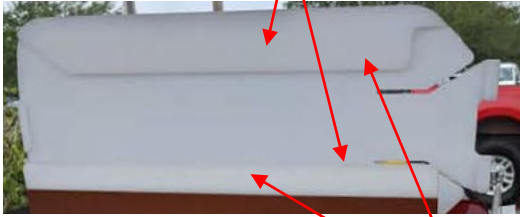
Claim 1 of U.S. Pat. No. 7,059,801	Concra slide blades product
<p>said metal plate overlying from 50% to 100% of the length of said plastic blade and from 33% to 100% of the width of said plastic blade between the longitudinal centerline of said mounting means and each longitudinal edge of said blade.</p>	 <div data-bbox="880 808 1291 997" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Metal plate overlays 50%-100% of length of plastic blade and 33%-100% of its width.</p> </div>


26. Concra’s products contain each and every feature of claims 13 of the ‘801 patent. Below is a table comparing a Concra slide blades product to claim 13 of the ‘801 patent:

Claim 13 of U.S. Pat. No. 7,059,801	Concra product
<p>13. In combination with a power trowel having a rotor assembly including a plurality of rotor arms extending radially outwardly from a central hub,</p>	 <div data-bbox="808 1816 1334 1953" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Power trowel with rotor assembly and rotor arms extending from central hub</p> </div>

Claim 13 of U.S. Pat. No. 7,059,801	Concra product
<p>a plurality of trowel blades mounted on said plurality of rotor arms,</p>	 <div data-bbox="797 506 1325 636" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Trowel blades mounted on rotor arms</p> </div>
<p>each said trowel blade comprising a generally rectangular, elongate plastic trowel blade having two opposite faces, two longitudinally extending, opposite edges and two transversely extending side edges interconnecting the longitudinal edges, at least one of said longitudinal edges being a finishing edge,</p>	 <div data-bbox="911 982 1232 1052" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Opposite faces</p> </div> <div data-bbox="1312 1024 1500 1108" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>side edges</p> </div> <div data-bbox="872 1356 1365 1524" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Longitudinal edges that are positionable so at least one functions as a finishing edge</p> </div>

Claim 13 of U.S. Pat. No. 7,059,801	Concra product
	 <p data-bbox="1273 499 1458 590">side edges</p> <p data-bbox="831 810 1321 978">Longitudinal edges that are positionable so at least one functions as a finishing edge</p>
<p data-bbox="185 1094 753 1213">a metal plate affixed to and overlying at least a portion of one face of said trowel blade</p>	 <p data-bbox="899 1661 1224 1766">Metal plate affixed to trowel blade</p>

Claim 13 of U.S. Pat. No. 7,059,801	Concra product
<p>and an elongate mounting means on said metal plate arranged generally parallel to said at least one finishing edge for mounting said trowel blade directly to said rotor arms,</p> <div data-bbox="393 541 727 827" style="border: 1px solid red; padding: 5px; margin: 10px 0;"><p>First elongate means on said metal plate parallel to at least one finishing edge for mounting trowel blade directly to the power trowel</p></div>	 <div data-bbox="1247 583 1468 800" style="border: 1px solid red; padding: 5px; margin: 10px 0;"><p>Mounts blade directly to the power trowel</p></div> <p>Additional, second elongate mounting means on the metal plate (<i>see e.g.</i> Col. 5, lines 50-53, explaining “the mounting means need not be a mounting bar, but can be any well known mounting means, such as a channel.”)</p>  <div data-bbox="943 1493 1352 1604" style="border: 1px solid red; padding: 5px; margin: 10px 0;"><p>Channels parallel to longitudinal edges</p></div>

Claim 13 of U.S. Pat. No. 7,059,801	Concra product
<p>said metal plate overlying from 50% to 100% of the length of said plastic blade and from 33% to 100% of the width of said plastic blade between the longitudinal centerline of said mounting means and each longitudinal edge of said blade.</p>	 <div data-bbox="857 806 1268 993" style="border: 1px solid red; padding: 5px; margin-top: 10px;"> <p>Metal plate overlays 50%-100% of length of plastic blade and 33%-100% of its width.</p> </div>

27. The above tables are non-limiting examples that illustrate how Concra's slide blades products infringe claims of the '801 patent. Concra may also offer other products that can infringe claims of the '801 patent.

28. At least as early as April 30, 2021, Concra knew of the '801 patent and knew its slide blades products infringed at least claims 1 and 13 of the '801 patent. Attached hereto as Exhibit C is a copy of a letter provided to Concra on April 30, 2021.

29. Concria sells its products to customers in the U.S. and has personnel come to the U.S. to demonstrate how to install and use its slide blades products. Concria personnel travel to the U.S. to provide these services with the specific intent of infringing the '801 patent. Concria personnel have traveled to the U.S. to provide these services to promote its infringing slide blades products in the U.S. since April 30, 2021.

30. One such demonstration and promotion occurred in the U.S. in the August-September 2021 time period. In the demonstration and promotion, Concria personnel offered its slide blades product, installed them on a power troweling device for performing buffing operations with the slide blades product installed on a power troweling device (pictures from this activity are included in the above claim charts). This activity directly infringed at least claims 1 and 13 of the '801 patent and was done to induce infringement and contribute to infringement of at least claims 1 and 13 of the '801 patent by Concria's customers' use of the Concria slide blades products. This activity was engaged in by Concria with the specific intent to infringe the '801 patent and have its customers infringe the '801 patent with full knowledge that such actions infringed the '801 patent.

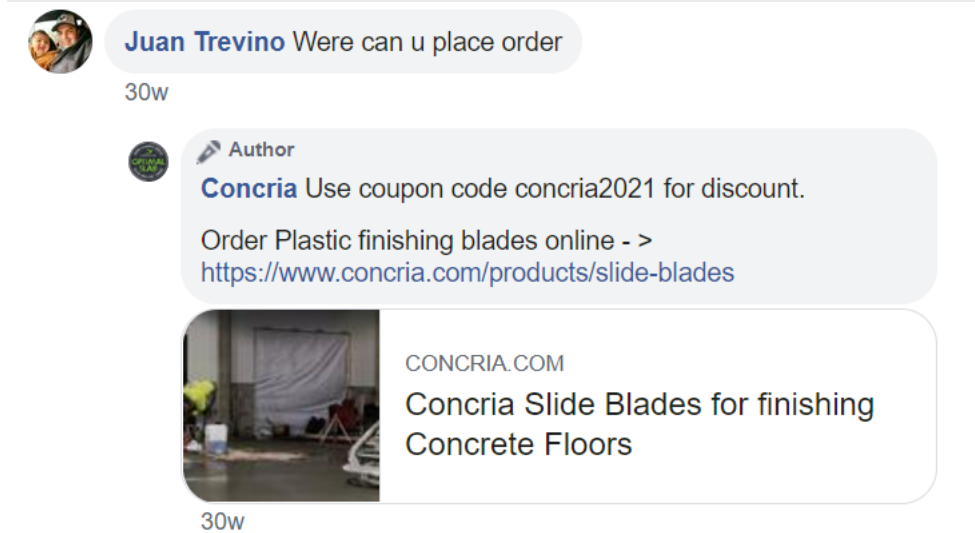
31. In addition to in-person demonstrations and instructions, Concria also provides other types of instructions and services to help its customers infringe the

‘801 patent. For example, Concria provides the instructions via video on its website (available at <https://concria.com/products/slide-blades/>) and Facebook page (<https://www.facebook.com/pg/Concria/posts/>) (e.g., the Sept. 3, 2021 post, June 3, 2021 post including instructional video, April 17, 2021 post, March 1, 2021 post offering slide blades products for sale at its online store to U.S. customers, and the Feb. 1, 2021 post offering products for sale in U.S. and providing instructional video, which are directed to U.S. customers throughout the U.S. These instructions teach Concria customers how to install and use the Concria slide blades products to infringe the ‘801 patent and are provided with the specific intent to infringe the ‘801 patent and facilitate Concria’s U.S. customers’ infringement of the ‘801 patent.

32. In its February 1, 2021 Facebook post (<https://www.facebook.com/pg/Concria/posts/>), Concria provides the following promotion to a U.S. customer who works in New York, Jeff Wager, as follows:



33. In response to a query from another prospective U.S. customer, Concria provided the following instructions to the U.S. customer Juan Trevino as follows:



34. In its April 2021 post, Concria promoted a display and promotion of its slide blades products in Orlando, Florida. This promotion involved providing instructions to customers and potential customers on how to install and use Concria's infringing slide blades products. Concria personnel helped facilitate this promotional and instructional activity.

35. In its August Newsletter (available at <https://mailchi.mp/concria/newsletter-august-8671081> and promoted on its Facebook page), Concria highlights its customer, Lithko Contracting's use of Concria's infringing sliding blades products as follows:

Testimonial

"Our place finish team loved the Concria plastic blades. They seem to be a great time saver and will make finishing safer; our guys won't have to work under suspended machines to switch out blades."

- Project Manager Brandon Tusky, Lithko

36. Lithko Contracting has operations in Allentown, Pennsylvania and uses Concria's products in Pennsylvania and in the Middle District of Pennsylvania.

37. Concria also offers customer service to help its customers install and use the Concria slide blades to infringe claims of the '801 patent. Concria provides these instructions and this customer service with knowledge of their infringing conduct and that these acts facilitate infringement of the '801 patent. Concria provides these instructions and services knowing that its customers' use of the Concria slide blades products infringes the '801 patent.

38. Concria directly and/or through intermediaries (including distributors, retailers and others), uses, ships, distributes, offers for sale, sells or advertises its slide blades products and services related to those products within the United States and in the Middle District of Pennsylvania.

39. Concria has purposely and voluntarily placed and used infringing products and/or services using the claimed inventions of the '801 patent into the

stream of commerce with the expectation that they will be purchased by consumers in the Middle District of Pennsylvania as well as other parts of the United States.

40. Concria's products and/or services have been made, used, sold and/or offered for sale in the Middle District of Pennsylvania and other parts of the United States.

41. Concria committed and continues to commit acts of patent infringement within the United States and in the Middle District of Pennsylvania by making, using, offering to sell, selling and/or importing its sliding blades products and services related thereto.

42. Concria's conduct has been willful in infringing Wagman's '801 patent.

43. Wagman has been, and will continue to be, irreparably harmed by Concria's infringement of the '801 patent.

COUNT I: INFRINGEMENT OF THE '801 PATENT

44. Wagman restates and realleges the foregoing allegations as if fully stated herein.

45. Concria has infringed and continues to infringe at least claims 1-8, 11, 13-20 and 23 of the '801 patent in violation of 35 U.S.C. § 271(a).

46. Concria has indirectly infringed and continues to indirectly infringe at least claims 1-8, 11, 13-20 and 23 of the '801 patent in violation of 35 U.S.C. § 271(b) and (c), by actively inducing such infringement with knowledge of the '801 patent and by contributing to the infringement of such patent. Concria has taken active steps to instruct others in the U.S. (*e.g.*, their customers and prospective customers) how to fabricate, install, use, arrange, and/or maintain Concria slide blades products in infringement of the '801 Patent.

47. Concria's slide blades products and power trowels having those slide blades products installed thereon are not a staple article of commerce suitable for substantial noninfringing use.

48. Wagman has been, and continues to be, damaged and irreparably harmed by Concria's infringement, which will continue unless the Court enjoins that infringement.

49. Wagman under 35 U.S.C. § 284, is entitled to recover damages adequate to compensate for Concria's infringement.

50. The infringement of the '801 patent by Concria has been, and continues to be, deliberate, willful, and knowing.

51. The Court should declare this an exceptional case under 35 § U.S.C. 285, entitling Wagman to recover treble damages and attorney's fees.

WHEREFORE, Plaintiff requests that the Court grant the relief requested in the Prayer for Relief below.

DEMAND FOR JURY TRIAL

88. Wagman demands a trial by jury under Federal Rule of Civil Procedure 39 for all issues triable by jury.

PRAAYER FOR RELIEF

Wagman prays for judgment in its favor and against Concria as follows:

(a) That Concria has infringed, contributed to and/or induced the infringement of one or more claims of the ‘801 patent;

(b) That Wagman be awarded damages for infringement of the ‘801 patent;

(c) That Concria’s infringement of the ‘801 patent has been willful;

(d) That this case be declared an exceptional case under 35 U.S.C. § 285;

(e) That Wagman’s damages be trebled pursuant to 35 U.S.C. § 284;

(f) That Wagman be awarded its attorney’s fees and costs pursuant to 35 U.S.C. § 285;

(g) That this Court permanently enjoin Concria, its officers, directors, principals, agents, servants, employees, successors, assigns, affiliates, and all that are in active concert or participation with Concria, or any of them, from further infringement of the ‘801 patent and that Concria be permanently enjoined from

infringing the '801 patent and from making, using, selling, offering to sell, or distributing Concria's slide blades products and other infringing products;

(h) That Wagman is entitled to all forms of exemplary and punitive damages based on Concria's willful, intentional and malicious conduct;

(i) That Wagman be awarded pre- and post-judgment interest on all damages;

(j) That Wagman be awarded all its costs and expenses in this action;
and,

(k) Such further and other relief as the Court may deem just and proper.

Respectfully submitted,

BUCHANAN INGERSOLL &
ROONEY PC

By: /s/ Anthony (T.J.) Andrisano
Anthony (T.J.) Andrisano, Esq.
(PA. I.D. No. 201231)
409 North Second Street, Suite 500
Harrisburg, PA 17101
T: 717 237 4968
F: 717 233 0852
anthony.andrisano@bipc.com

Ralph G. Fischer, Esq.
(PA I.D. No. 200793)
(*pro hac vice* admission pending)
Duane A. Stewart III
(PA I.D. No. 86169)
(*pro hac vice* admission pending)

The Union Trust Building
501 Grant Street
Pittsburgh, PA 15219
T: 412 562 1622
F: 412 562 1041
ralph.fischer@bipc.com
duane.stewart@bipc.com

Dated: January 13, 2022

*Attorneys for Wagman Metal
Products, Inc.*