

1 Randall T. Garteiser (CA State Bar No. 231821)
 rgarteiser@ghiplaw.com
 2 Christopher A. Honea (CA State Bar No. 232473)
 chonea@ghiplaw.com
 3 GARTEISER HONEA—IP TRIAL BOUTIQUE
 4 795 Folsom St., Floor 1, San Francisco, CA 94107
 5 119 W Ferguson, Tyler, TX 75702
 Telephone: (888) 908-4400
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7 *Attorneys for Plaintiff*

8
 9 **IN THE UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA**

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 11 **BARRIER GUARD**
 12 **TECHNOLOGIES, LLC**
 Plaintiff,
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 14 v.
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 16 **KARAGOZIAN & CASE, INC.**
 Defendant.
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Case No. 2:24-cv-4358

Jury Trial Demanded

18 **COMPLAINT FOR PATENT INFRINGEMENT**

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 20 Barrier Guard Technologies, LLC (“Plaintiff” and/or “BGT”) files this
 21 complaint against Karagozian & Case, Inc. (“Defendant” and/or “K&C”) for
 22 infringement of U.S. Patent No. 7,699,558 (“the ’558 Patent”) and alleges as
 23 follows:

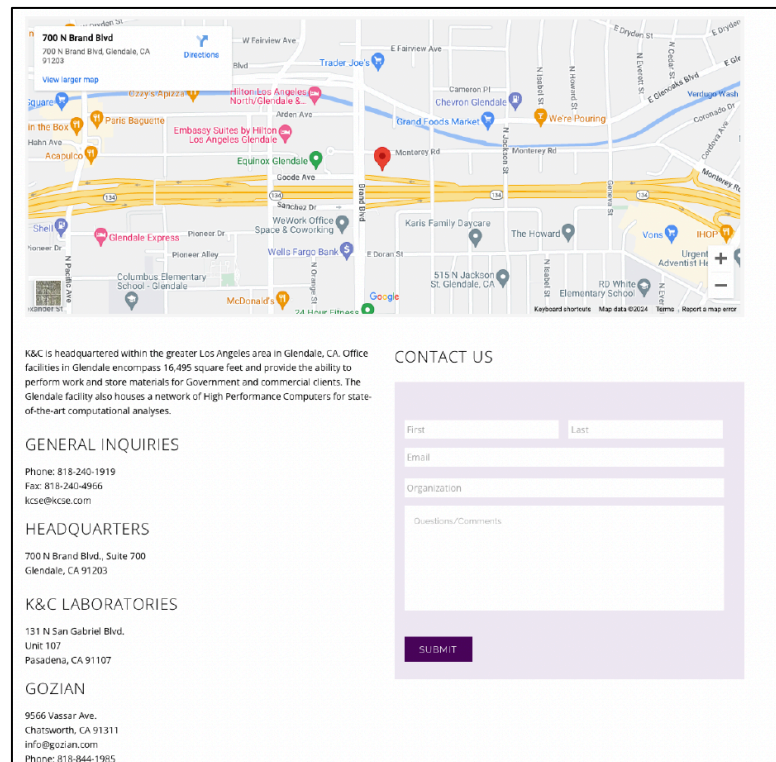
24 **PARTIES**

- 25 1. Plaintiff is a Wyoming company having its principal place of business in
 26 Cheyenne, Wyoming.
- 27 2. Upon information and belief, Karagozian & Case, Inc. is a corporation
 28 organized and existing under the laws of the State of California and has a principal place

1 customers, who are residents of the State of California and the Central District of
2 California, who each use and have used Defendant’s products and services in the State
3 of California and in the Central District of California.
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5 8. On information and belief, Defendant maintains physical brick-and-
6 mortar business locations in the State and within this District, retains employees
7 specifically in this District for the purpose of servicing customers in this District, and
8 generates substantial revenues from its business activities in this District
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10 9. Venue is proper in this district as to Defendant pursuant to at least 28
11 U.S.C. §§ 1391(c)(2) and 1400(b). As noted above, Defendant maintains a regular and
12 established business presence in this District. See Figure 1 below.
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Figure 1
(source: <https://www.kcse.com/contact/>)

PATENT-IN-SUIT

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10. On April 20, 2010, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ’558 Patent, entitled “Anti-Ram System and Method of Installation.” The ’558 Patent is attached as Exhibit A.

11. Plaintiff is the sole and exclusive owner, by assignment, of the ’558 Patent.

12. Plaintiff possesses all rights of recovery under the ’558 Patent, including the exclusive right to recover for past, present and future infringement.

13. The ’558 Patent contains thirty-five claims including three independent claims (claims 1, 18 and 20) and thirty-two dependent claims.

14. The priority date of the ’558 Patent is at least as early as July 26, 2004. As of the priority date, the inventions as claimed were novel, non-obvious, unconventional, and non-routine.

15. Plaintiff alleges infringement on the part of Defendants of the ’558 Patent.

16. The ’558 Patent teaches an anti-ram system and method of construction having a shallow mounted base pad from which extend a plurality of bollards. Very little or only shallow excavation is required for the base of the bollard system. *See* ’558 Patent, Abstract.

17. The ’558 Patent was examined by Primary United States Patent Examiner Raymond W. Addie. During the examination of the ’558 Patent, the United States Patent Examiner searched for prior art in US Classifications 404/6-11.

18. After conducting a search for prior art during the examination of the ’558

1 Patent, the United States Patent Examiner identified and cited 19 U.S. patents, 10
2 published U.S. patent applications, 11 international patent publications and 1 published
3 article.

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5 19. After giving full proper credit to the prior art and having conducted a
6 thorough search for all relevant art and having fully considered the most relevant art
7 known at the time, the United States Patent Examiner allowed all of the claims of the
8 '558 Patent to issue. In so doing, it is presumed that Examiner Addie used his
9 knowledge of the art when examining the claims. *K/S Himpp v. Hear-Wear Techs.,*
10 *LLC*, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Addie
11 had experience in the field of the invention, and that the Examiner properly acted in
12 accordance with a person of ordinary skill. *In re Sang Su Lee*, 277 F.3d 1338, 1345
13 (Fed. Cir. 2002). In view of the foregoing, the claims of the '558 Patent are novel and
14 non-obvious, including over all non-cited art which is merely cumulative with the
15 referenced and cited prior art. Likewise, the claims of the '558 Patent are novel and
16 non-obvious, including over all non-cited contemporaneous state of the art systems and
17 methods, all of which would have been known to a person of ordinary skill in the art,
18 and which were therefore presumptively also known and considered by Examiner
19 Addie.
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25 20. In view of the foregoing, the claims of the '558 Patent are novel and non-
26 obvious, including over all non-cited art which is merely cumulative with the
27 referenced and cited prior art. Likewise, the claims of the '558 Patent are novel and
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1 non-obvious, including over all non-cited contemporaneous state of the art systems and
2 methods, all of which would have been known to a person of ordinary skill in the art,
3 and which were therefore presumptively also known and considered by Examiner
4 Addie.

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6 21. The claims of the '558 Patent were all properly issued, and are valid and
7 enforceable for the respective terms of their statutory life through expiration, and are
8 enforceable for purposes of seeking damages for past infringement even post-
9 expiration. *See, e.g., Genetics Institute, LLC v. Novartis Vaccines and Diagnostics,*
10 *Inc.*, 655 F.3d 1291, 1299 (Fed. Cir. 2011) (“[A]n expired patent is not viewed as
11 having ‘never existed.’ Much to the contrary, a patent does have value beyond its
12 expiration date. For example, an expired patent may form the basis of an action for
13 past damages subject to the six-year limitation under 35 U.S.C. § 286”) (internal
14 citations omitted).

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18 22. The nominal expiration date for the claims of the '558 Patent is no earlier
19 than September 2, 2025.

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21 **ACCUSED INSTRUMENTALITIES**

22 23. On information and belief, Defendant sells, advertises, offers for sale,
23 uses, or otherwise provides exemplary products, including at least the Shallow Buried
24 Bollard System that requires very little or no excavation for the base of the Bollard
25 system. The foregoing is referred to as the “Accused Instrumentalities.”
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COUNT I
(INFRINGEMENT OF UNITED STATES PATENT NO. 7,699,558)

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3 24. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 23, the
4 same as if set forth herein.

5 25. This cause of action arises under the patent laws of the United States and,
6 in particular under 35 U.S.C. §§ 271, *et seq.*

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8 26. Defendant has knowledge of its infringement of the '558 Patent, at least
9 as of the service of the present complaint.

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11 27. The '558 Patent is valid, enforceable, and was duly issued in full
12 compliance with Title 35 of the United States Code.

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14 28. Upon information and belief, Defendant has infringed and continues to
15 infringe one or more claims, including at least Claim 1 of the '558 Patent by
16 manufacturing, using, importing, selling, offering for sale, and/or providing (as
17 identified in the Claim Chart attached hereto as Exhibit B) the Accused
18 Instrumentalities which infringe at least Claim 1 of the '558 Patent. Defendant has
19 infringed and continues to infringe the '558 patent either directly or through acts of
20 contributory infringement or inducement in violation of 35 U.S.C. § 271.

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23 29. Defendant also has and continues to directly infringe, literally or under the
24 doctrine of equivalents, at least Claim 1 of the '558 Patent, by having its employees
25 internally test and use the exemplary Accused Instrumentalities.
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1 30. The service of this Complaint, in conjunction with the attached claim chart
2 and references cited, constitutes actual knowledge of infringement as alleged here.

3 31. Despite such actual knowledge, Defendant continues to make, use, test,
4 sell, offer for sale, market, and/or import into the United States, products that infringe
5 the '558 Patent. On information and belief, Defendant has also continued to sell the
6 exemplary Accused Instrumentalities and distribute product literature and website
7 materials inducing end users and others to use its products in the customary and
8 intended manner that infringes the '558 Patent. *See* Exhibit B (extensively referencing
9 these materials to demonstrate how they direct end users to commit patent
10 infringement).

11 32. At least since being served by this Complaint and corresponding claim
12 chart, Defendant has actively, knowingly, and intentionally continued to induce
13 infringement of the '558 Patent, literally or by the doctrine of equivalents, by selling
14 exemplary Accused Instrumentalities to their customers for use in end-user products in
15 a manner that infringes one or more claims of the '558 Patent.

16 33. Exhibit B includes at least one chart comparing the exemplary '558 Patent
17 Claims to the exemplary Accused Instrumentalities. As set forth in this chart, the
18 exemplary Accused Instrumentalities practice the technology claimed by the '558
19 Patent. Accordingly, the exemplary Accused Instrumentalities incorporated in this
20 chart satisfy all elements of at least Claim 1 of the '558 Patent.

21 34. Plaintiff therefore incorporates by reference in its allegations herein the
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1 claim chart of Exhibit B.

2 35. Plaintiff is entitled to recover damages adequate to compensate for
3 Defendant's infringement.

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5 36. Defendant's actions complained of herein will continue unless Defendant
6 is enjoined by this court.

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8 37. Defendant's actions complained of herein are causing irreparable harm
9 and monetary damage to Plaintiff and will continue to do so unless and until Defendant
10 is enjoined and restrained by this Court.

11 38. Plaintiff is in compliance with 35 U.S.C. § 287.

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13 **DEMAND FOR JURY TRIAL**

14 39. Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a
15 trial by jury of any issues so triable by right.

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17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff asks the Court to:

19 (a) Enter judgment for Plaintiff on this Complaint on all causes of action
20 asserted herein;

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22 (b) Enter an Order enjoining Defendant, its agents, officers, servants,
23 employees, attorneys, and all persons in active concert or participation with Defendant
24 who receive notice of the order from further infringement of United States Patent No.
25 7,699,558 (or, in the alternative, awarding Plaintiff running royalties from the time of
26 judgment going forward);
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1 (c) Award Plaintiff damages resulting from Defendant’s infringement in
2 accordance with 35 U.S.C. § 284;

3 (d) Award Plaintiff pre-judgment and post-judgment interest and costs; and
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5 (e) Award Plaintiff such further relief to which the Court finds Plaintiff
6 entitled under law or equity.
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9 Dated: May 24, 2024

Respectfully served,
GARTEISER HONEA, PLLC

11 */s/ Randall Garteiser*
12 _____
13 Randall Garteiser
14 CA State Bar No. 231821
15 rgarteiser@ghiplaw.com
16 Christopher A. Honea
17 CA State Bar No. 232473
18 chonea@ghiplaw.com
19 **GARTEISER HONEA, PLLC**
20 119 W. Ferguson Street
21 Tyler, Texas 75702
22 Telephone: (903) 705-7420

23 René A. Vazquez (*PHV anticipated*)
24 Virginia Bar No. 41988
25 rvazquez@sinergialaw.com
26 **SINERGIA TECHNOLOGY**
27 **LAW GROUP, PLLC**
28 18296 St. Georges Ct.
Leesburg, Virginia 20176
Telephone: (703) 89-2244

Attorneys for Plaintiff