Case 8:24-cv-01172-DFM Document 1 Filed 05/31/24 Page 1 of 10 Page ID #:1			
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7	Attorneys for Plaintiff		
8	IN THE UNITED STATES DI	στρίατ απιρτ	
9	IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA		
10			
11	BARRIER GUARD		
12	TECHNOLOGIES, LLC		
13	Plaintiff,	Case No. 8:24-cv-1172	
14		Jury Trial Demanded	
15	v.		
16	1-800-BOLLARDS, INC.		
17	Defendant.		
18	COMPLAINT FOR PATENT INF	RINGFMENT	
19			
20	Barrier Guard Technologies, LLC ("Plaint	iff" and/or "BGT") files this	
21	complaint against 1-800-Bollards, Inc. ("Defendant") for infringement of U.S.		
22	Patent No. 8,215,865 ("the '865 Patent") and alleges as follows:		
23	<u>PARTIES</u>		
24	1. Plaintiff is a Wyoming company havi	ng its principal place of business in	
25	Cheyenne, Wyoming.		
26	2. Upon information and belief, 1-80	0-Bollards, Inc. is a corporation	
27	organized and exiting under the laws of the State of California and has a principal place		
28	of business at 10 Hughes, Suite A105, Irvine California 92618.		

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3. On information and belief, 1-800-Bollards, Inc. may be served through its
 registered agent in the State of California: Jodi Seidenberg, 22581 Charwood Cir., Lake
 Forest, California 92630.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. §271 et seq. Plaintiff is seeking damages, as well as attorney fees and costs.

9 5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal
 10 Question) and 1338(a) (Patents).

6. This Court has personal jurisdiction over Defendant. Defendant has
 continuous and systematic business contacts with the State. Defendant transacts
 business within this District. Further, this Court has personal jurisdiction over
 Defendant based on its commission of one or more acts of infringement of Patents in
 this District and elsewhere in the State.

18 More specifically, Defendant, directly and/or through intermediaries, 7. 19 ships, distributes, uses, offers for sale, sell, and/or advertises products and services in 20 21 the United States, the State of California, and the Central District of California 22 including but not limited to the Products as detailed below. Upon information and 23 belief, Defendant has committed patent infringement in the State of California and in 24 25 the Central District of California. Defendant solicits and has solicited customers in the 26 State of California and in the Central District of California. Defendant has paying 27 customers, who are residents of the State of California and the Central District of 28

California, who each use and have used Defendant's products and services in the State
 of California and in the Central District of California.

3 8. On information and belief, Defendant maintains physical brick-and-4 mortar business locations in the State and within this District, retains employees 5 specifically in this District for the purpose of servicing customers in this District, and 6 7 generates substantial revenues from its business activities in this District 8 9. Venue is proper in this district as to Defendant pursuant to at least 28 9 10 U.S.C. §§ 1391(c)(2) and 1400(b). As noted above, Defendant maintains a regular and 11 established business presence in this District. See Figure 1 below. 12 13 1-800-BOLLARDS 866-875-9965 14 CONTACT INFOMATION 15 Corporate Office / Sales Office: 16 10 Hughes, Suite A105 17 Irvine, CA 92618-1911 18 Tel: (866)-875-9965 info@1800bollards.com 19 20 Figure 1 21 (source: https://www.1800bollards.com/contact/) 22 PATENT-IN-SUIT 23 10. On July 10, 2012, the United States Patent and Trademark Office 24 25 ("USPTO") duly and legally issued the '865 Patent, entitled "Anti-Ram System and 26 Method of Installation." The '865 Patent is attached as Exhibit A. 27 Plaintiff is the sole and exclusive owner, by assignment, of the '865 Patent. 28 11.

12.	Plaintiff possesses all rights of recovery under the '865 Patent, including	
the exclusive right to recover for past, present and future infringement.		
13.	The '865 Patent contains thirty-five claims including three independent	
claims (claims 1, 16 and 33) and thirty-two dependent claims.		
14.	The priority date of the '865 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 '865 Patent.	
16.	The '865 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 '865		
Patent, Abstract.		
17.	The '865 Patent was examined by Primary United States Patent Examiner	
Raymond W. Addie. During the examination of the '865 Patent, the United States		
Patent Examiner searched for prior art in the following US Classifications: 404/6 and		
256/13.1.		
18.	After conducting a search for prior art during the examination of the '865	
Patent, the United States Patent Examiner identified and cited 25 U.S. patents, 12		
published U.S. patent applications, 12 international patent publications and 2 published		
articles.		
19.	After giving full proper credit to the prior art and having conducted a	
	the exclusiv 13. claims (clai 14. of the priori and non-rou 15. 16. having a sh little or only Patent, Abs 17. Raymond V Patent Exan 256/13.1. 18. Patent, the published U articles.	

thorough search for all relevant art and having fully considered the most relevant art 1 known at the time, the United States Patent Examiner allowed all of the claims of the 2 3 '865 Patent to issue. In so doing, it is presumed that Examiner Addie used his 4 knowledge of the art when examining the claims. K/S Himpp v. Hear-Wear Techs., 5 LLC, 751 F.3d 1362, 1369 (Fed. Cir. 2014). It is further presumed that Examiner Addie 6 7 had experience in the field of the invention, and that the Examiner properly acted in 8 accordance with a person of ordinary skill. In re Sang Su Lee, 277 F.3d 1338, 1345 9 10 (Fed. Cir. 2002). In view of the foregoing, the claims of the '865 Patent are novel and 11 non-obvious, including over all non-cited art which is merely cumulative with the 12 referenced and cited prior art. Likewise, the claims of the '865 Patent are novel and 13 14 non-obvious, including over all non-cited contemporaneous state of the art systems and 15 methods, all of which would have been known to a person of ordinary skill in the art, 16 and which were therefore presumptively also known and considered by Examiner 17 18 Addie.

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20. In view of the foregoing, the claims of the '865 Patent are novel and non-20 obvious, including over all non-cited art which is merely cumulative with the 21 22 referenced and cited prior art. Likewise, the claims of the '865 Patent are novel and 23 non-obvious, including over all non-cited contemporaneous state of the art systems and 24 methods, all of which would have been known to a person of ordinary skill in the art, 25 26 and which were therefore presumptively also known and considered by Examiner 27 Addie. 28

1	21. The claims of the '865 Patent were all properly issued, and are valid and		
2	enforceable for the respective terms of their statutory life through expiration, and are		
3	enforceable for purposes of seeking damages for past infringement even post-		
4	expiration. See, e.g., Genetics Institute, LLC v. Novartis Vaccines and Diagnostics,		
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7	Inc., 655 F.3d 1291, 1299 (Fed. Cir. 2011) ("[A]n expired patent is not viewed as		
8	having 'never existed.' Much to the contrary, a patent does have value beyond its		
9	expiration date. For example, an expired patent may form the basis of an action for		
10	past damages subject to the six-year limitation under 35 U.S.C. § 286") (internal		
11	citations omitted).		
12	22. The nominal expiration date for the claims of the '865 Patent is no earlier		
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14 15	than July 26, 2025.		
16	ACCUSED INSTRUMENTALITIES		
17	23. On information and belief, Defendant sells, advertises, offers for sale,		
18	uses, or otherwise provides exemplary products, including at least the High Security		
19	Fixed Deep Mount M30 that includes a bollard. The foregoing is referred to as the		
20	"Accused Instrumentalities."		
21 22			
22	<u>COUNT I</u> (INFRINGEMENT OF UNITED STATES PATENT NO. 8,215,865)		
24	24. Plaintiff refers to and incorporates the allegations in Paragraphs 1 - 23, the		
25			
26	same as if set forth herein.		
27	25. This cause of action arises under the patent laws of the United States and,		
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	v		

in particular under 35 U.S.C. §§ 271, et seq.

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- 2 26. Defendant has knowledge of its infringement of the '865 Patent, at least
  3 as of the service of the present complaint.
- 5 27. The '865 Patent is valid, enforceable, and was duly issued in full
   6 compliance with Title 35 of the United States Code.
- 7 28. Upon information and belief, Defendant has infringed and continues to 8 infringe one or more claims, including at least Claim 1 of the '865 Patent by 9 10 manufacturing, using, importing, selling, offering for sale, and/or providing (as 11 identified in the Claim Chart attached hereto as Exhibit B) the Accused 12 Instrumentalities which infringe at least Claim 1 of the '865 Patent. Defendant has 13 14 infringed and continues to infringe the '865 patent either directly or through acts of 15 contributory infringement or inducement in violation of 35 U.S.C. § 271. 16
- 29. Defendant also has and continues to directly infringe, literally or under the
   doctrine of equivalents, at least Claim 1 of the '865 Patent, by having its employees
   internally test and use the exemplary Accused Instrumentalities.
- 30. The service of this Complaint, in conjunction with the attached claim chart
   and references cited, constitutes actual knowledge of infringement as alleged here.
- 31. Despite such actual knowledge, Defendant continues to make, use, test,
   sell, offer for sale, market, and/or import into the United States, products that infringe
   the '865 Patent. On information and belief, Defendant has also continued to sell the
   exemplary Accused Instrumentalities and distribute product literature and website

materials inducing end users and others to use its products in the customary and intended manner that infringes the '865 Patent. *See* Exhibit B (extensively referencing these materials to demonstrate how they direct end users to commit patent infringement).

- At least since being served by this Complaint and corresponding claim
   chart, Defendant has actively, knowingly, and intentionally continued to induce
   infringement of the '865 Patent, literally or by the doctrine of equivalents, by selling
   exemplary Accused Instrumentalities to their customers for use in end-user products in
   a manner that infringes one or more claims of the '865 Patent.
- 33. Exhibit B includes at least one chart comparing the exemplary '865 Patent
   Claims to the exemplary Accused Instrumentalities. As set forth in this chart, the
   exemplary Accused Instrumentalities practice the technology claimed by the '865
   Patent. Accordingly, the exemplary Accused Instrumentalities incorporated in this
   chart satisfy all elements of at least Claim 1 of the '865 Patent.

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- <sup>19</sup> 34. Plaintiff therefore incorporates by reference in its allegations herein the
   <sup>20</sup> claim chart of Exhibit B.
- <sup>22</sup> 35. Plaintiff is entitled to recover damages adequate to compensate for
   <sup>23</sup> Defendant's infringement.
- 36. Defendant's actions complained of herein will continue unless Defendant
   is enjoined by this court.
  - 37. Defendant's actions complained of herein are causing irreparable harm

and monetary damage to Plaintiff and will continue to do so unless and until Defendant 1 is enjoined and restrained by this Court. 2 3 38. Plaintiff is in compliance with 35 U.S.C. § 287. 4 **DEMAND FOR JURY TRIAL** 5 Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a 6 39. 7 trial by jury of any issues so triable by right. 8 **PRAYER FOR RELIEF** 9 10 WHEREFORE, Plaintiff asks the Court to: 11 Enter judgment for Plaintiff on this Complaint on all causes of action (a) 12 asserted herein; 13 14 (b) Enter an Order enjoining Defendant, its agents, officers, servants, 15 employees, attorneys, and all persons in active concert or participation with Defendant 16 who receive notice of the order from further infringement of United States Patent No. 17 18 8,215,865 (or, in the alternative, awarding Plaintiff running royalties from the time of 19 judgment going forward); 20 Award Plaintiff damages resulting from Defendant's infringement in (c) 21 22 accordance with 35 U.S.C. § 284; 23 Award Plaintiff pre-judgment and post-judgment interest and costs; and (d) 24 Award Plaintiff such further relief to which the Court finds Plaintiff (e) 25 26 entitled under law or equity. 27 28

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2	Dated: May 31, 2024	Respectfully served,
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