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Attorneys for Plaintiff EYE SAFETY SYSTEMS, INC.

**UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF IDAHO**

| | |
|---|---|
| EYE SAFETY SYSTEMS, INC., a Delaware corporation,<br><br>Plaintiff,<br><br>v.<br><br>REVISION MILITARY LTD., a Delaware corporation.<br><br>Defendant.<br><br>AND RELATED COUNTERCLAIM | Case No. 11cv636-REB<br><br>**EYE SAFETY SYSTEMS, INC.'S ANSWER TO REVISION MILITARY LTD.'S COUNTERCLAIM**<br><br>**DEMAND FOR JURY TRIAL** |

Plaintiff and Counterdefendant Eye Safety Systems, Inc. ("ESS") hereby replies to Defendant and Counterclaimant Revision Military Ltd.'s ("Revision") Counterclaim as follows:

## I. JURISDICTION AND VENUE[1]

1. ESS admits the allegations of Paragraph 1 of the Counterclaim.

2. ESS admits the allegations of Paragraph 2 of the Counterclaim.

3. ESS admits the allegations of Paragraph 3 of the Counterclaim.

4. ESS admits the allegations of Paragraph 4 of the Counterclaim.

5. ESS admits the allegations of Paragraph 5 of the Counterclaim.

## II. PARTIES

6. ESS lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 of the Counterclaim, and therefore denies those allegations.

7. ESS admits the allegations of Paragraph 7 of the Counterclaim.

## III. FIRST COUNTERCLAIM FOR DECLARATORY JUDGMENT OF NON-INFRINGEMENT AND INVALIDITY OF THE D378 PATENT

8. ESS incorporates by reference its responses to Paragraphs 1 through 7 of the Counterclaim.

9. ESS denies the allegations of Paragraph 9 of the Counterclaim.

10. ESS denies the allegations of Paragraph 10 of the Counterclaim.

11. ESS denies the allegations of Paragraph 11 of the Counterclaim.

12. ESS denies the allegations of Paragraph 12 of the Counterclaim.

[1] To facilitate the Court's comparison of the allegations in the Counterclaim and ESS' responses thereto, ESS has incorporated the headings that appear in the Counterclaim. ESS does not necessarily agree with the characterization in such headings and does not waive any right to object to such characterizations or their implications.

13. ESS denies the allegations of Paragraph 13 of the Counterclaim.

**FIRST AFFIRMATIVE DEFENSE**

1. Defendant's alleged counterclaim fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

2. Defendant's alleged counterclaim is barred by the doctrine of unclean hands.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff and Counterdefendant ESS prays for judgment on Defendant's Counterclaim as follows:

A. That the Court enter judgment against Defendant on its Counterclaim;

B. That Defendant take nothing by way of its Counterclaim;

C. That the Counterclaim be dismissed with prejudice;

D. That the Court declare that the D378 patent is valid, enforceable, and infringed by Defendant;

E. That ESS have such other and further relief as this Court may deem just.

Respectfully submitted,

Dated: March 9, 2012

By: /s/ Ali S. Razai

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 9th day of March, 2012, I caused to be filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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