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Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

CATERPILLAR INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:05-cvp01394-MMM-JAG
	)	
ENTEC ENGINE CORPORATION,	)	
A corporation; and	)	
CLYDE C. BRYANT, an individual	)	
	)	
Defendants.	)	

STIPULATION OF DISMISSAL

Caterpillar Inc., Entec Engine Corporation, and Clyde C. Bryant hereby stipulate to the dismissal of the above-styled action pursuant to Federal Rule of Civil Procedure 41(a)(1) in connection with the filing in this Court of the Covenant Not to Sue from Entec Engine Corporation and Clyde C. Bryant (attached hereto as Exhibit A) in replacement of the earlier filed Covenant Not to Sue. Caterpillar Inc. states that it is entering this stipulation because of a lack of an actual controversy as required by Article III based on the attached statement of nonliability.

Respectfully submitted, this 22nd day of February, 2006.

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Counsel Entec Engine Corporation And Clyde C. Bryant

COVENANT NOT TO SUE

Entec Engine Corporation ("Entec") and Clyde C. Bryant ("Bryant") hereby grant to Caterpillar Inc. ("Caterpillar"), this Covenant Not to Sue for

(1) any cause of action – based on misappropriation of trade secret, confidential, or proprietary information or based on state law (statutory or common) – for conduct of Caterpillar or any agents, employees, affiliates and subsidiaries of Caterpillar at any time through the date of filing of this Covenant Not to Sue (the "Covenant Filing Date") in Civil Action No. 1:05-cv-01394-MMM-JAG in the United States District Court for the Central District of Illinois, Peoria Division (the "Declaratory Judgment Action"). Entec and Bryant further will not sue Caterpillar under any cause of action – based on misappropriation of trade secret, confidential or proprietary information or based on state law (statutory or common) - for any use, after the Covenant Filing Date, of trade secret, confidential or proprietary information acquired by Caterpillar prior to the Covenant Filing Date. This paragraph does not cover any causes of action asserted under federal substantive or remedial law other than those, if any should exist, based on misappropriation of trade secret, confidential, or proprietary information; and

(2) any cause of action for infringement of any kind (whether direct infringement, contributory infringement or inducement of infringement) of any claim of U.S. Patent No. 6,279,550 (the '550 patent) or any claim of U.S. Patent No. 6,951,211 (the '211 patent) by any engine, or product containing an engine, currently or formerly made, used, offered for sale, sold, repaired, or remanufactured by or on behalf of Caterpillar, or any method performed on or by any engine, or product containing an engine, made, used, offered for sale, sold, repaired, or remanufactured by or on behalf of Caterpillar, within the United States or imported into the United States, through the Covenant Filing Date; and

(3) any cause of action for infringement of any kind (whether direct infringement, contributory infringement or inducement of infringement) of any claim of the '550 patent or any claim of the '211 patent (a) by any engine (or product containing an engine) made, used, offered for sale, sold, repaired, or remanufactured by or on behalf of Caterpillar within the United States, or imported into the United States, on or after the Covenant Filing Date that is or contains an engine which is the same as an engine made, used, offered for sale, sold, repaired, or remanufactured by or on behalf of Caterpillar before the Covenant Filing date, or (b) by any method that is the same as any method performed on or by an engine made, used, offered for sale, sold, repaired, or remanufactured by or on behalf of Caterpillar before the Covenant Filing Date.

The covenants in above paragraphs (1), (2), and (3) shall extend to any purchasers, sellers, users, repairers, importers and remanufacturers of the products and methods subject to the covenants of Paragraphs (2) and (3).

This Covenant Not to Sue does not preclude suit for infringement (whether direct infringement, contributory infringement or inducement of infringement) of any patent claims that may be granted to Entec or Bryant after the Covenant Filing Date in any patent other than the '550 patent or the '211 patent, even if those other patents are related to or claim a priority date based on the applications for the '550 patent or the '211 patent. Entec and Bryant represent that the inventions claimed in Caterpillar U.S. Patent Nos. 6,688,280 and 6,651,618, which are the subject of reexaminations in the United States Patent and Trademark Office, are different from the inventions claimed in the'550 patent and in the '211 patent. This Covenant does not preclude Entec or Bryant from using any facts of which they are now aware or which they hereafter learn in support of any causes of action not covered by this Covenant, should such causes of action exist or come into existence hereafter.

This Covenant is not an admission by Entec or Bryant as to the propriety of any conduct of Caterpillar or of the lack of liability of Caterpillar for any of its conduct. This Covenant is limited to the specific terms contained herein.

The individual signing this Covenant Not to Sue on behalf of Entec Engine Corporation represents and warrants that he is a duly authorized representative of Entec Engine Corporation, with full power and authority to execute this document on its behalf and to bind Entec Engine Corporation hereto.

This 22nd day of February, 2006.

ENTEC ENGINE CORPORATION

By: /s/ Lanny R. Clark

Print Name: Lanny R. Clark

Title: Vice Chairman & CFO

CLYDE C. BRYANT

/s/ Clyde C. Bryant
Individually