

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**SCANTRON ROBOTICS, INC.**

**Plaintiff,**

v.

**CIVIL ACTION NO. \_\_\_\_\_**

**SCANTRON ROBOTICS USA, INC.,  
THOMAS WETTACH, and  
JOSEPH LEIST  
in their individual capacity**

**JURY TRIAL DEMANDED**

**Defendants.**

**VERIFIED COMPLAINT**

Plaintiff Scantron Robotics, Inc. (hereinafter referred to as “Scantron Robotics”), by counsel, and for its Complaint against Scantron Robotics USA, Inc. (hereinafter referred to as “Scantron USA”), Thomas Wettach and Joseph Leist in their individual capacity, (hereinafter referred to collectively as “Defendants”), alleges upon knowledge with respect to itself and its own acts, and upon information and belief with respect to all other matters, as follows:

**PARTIES**

1. Plaintiff Scantron Robotics is a Canadian corporation with a principal place of business at Box 334, Craven, Saskatchewan, Canada S0G0W0. The owner and operator of Scantron Robotics is Trevor Klock. Scantron Robotics provides robotics cleaning services for reservoirs and water tanks.

2. Defendant Scantron USA is a Nevada corporation with its principal place of business at 4207 Havencrest Drive, Gibsonia PA, 15044. Scantron USA provides underwater robotic tank cleaning and inspection services.

3. Defendant Thomas Wettach is an individual residing at 152 Kenyon Road, Pittsburgh, PA 15205. Wettach is president of Scantron USA.

4. Defendant Joseph Leist is an individual residing at 109 Forliview Road, Glenshaw, PA 15116. Leist is director of Scantron USA.

### **NATURE OF ACTION**

5. This is an action for the recovery of intellectual property rights wrongfully taken and used by the Defendants and for economic and punitive damages against the Defendants for willful and intentional behavior harming Scantron Robotics. These actions consist of actions for cancelation of U.S. trademark registrations, unfair competition, false and fraudulent trademark registrations, and cybersquatting arising under the trademark laws of the United States, 15 U.S.C. § 1051 *et seq.* Additionally, this complaint also brings claims for theft of trade secrets and for unlawful access and interception of stored electronic communications.

### **JURISDICTION AND VENUE**

6. Subject matter jurisdiction over this action is conferred upon this Court: (i) pursuant to 28 U.S.C. §§ 1331, 1338, and 15 U.S.C. §§ 1064, 1119, 1120, 1125(a) and 1125(d), because, the suit concerns rights under the Lanham Act; (ii) pursuant to 28 U.S.C. §1331 and 18 U.S.C. §§1030(g), 2520, and 2707, and (iii) pursuant to 28 U.C.S. §1332 because the parties are of diverse citizenship, Canada, Nevada, and Pennsylvania, and the amount in controversy exceeds \$75,000.

7. This Court has personal jurisdiction over Defendants, and venue is properly laid in the Western District of Pennsylvania, pursuant to 28 U.S.C. § 1391, in that Scantron USA is transacting business within this District; has substantial contacts with and/or may be found in this District; and/or because a substantial portion of the events at issue have arisen and continue to occur in this Judicial District, and Wettach and Leist reside in this District.

## **BACKGROUND OF DISPUTE**

### **Priority of Trademark Usage**

8. Trevor Klock, the owner and operator of Scantron Robotics, is a certified underwater welder and worked with his family's underwater dredging business prior to the creation of Scantron Robotics Inc. Beginning at least as early as February of 2001, Klock began using the mark SCANTRON in connection with his then robotic surveying, mapping and underwater diving business. The company was called Scantron Surveying & Mapping and it conducted business in Saskatchewan, Canada as well as throughout the United States, including Minnesota, Wisconsin, North Dakota, Arkansas, California, Ohio and Pennsylvania.

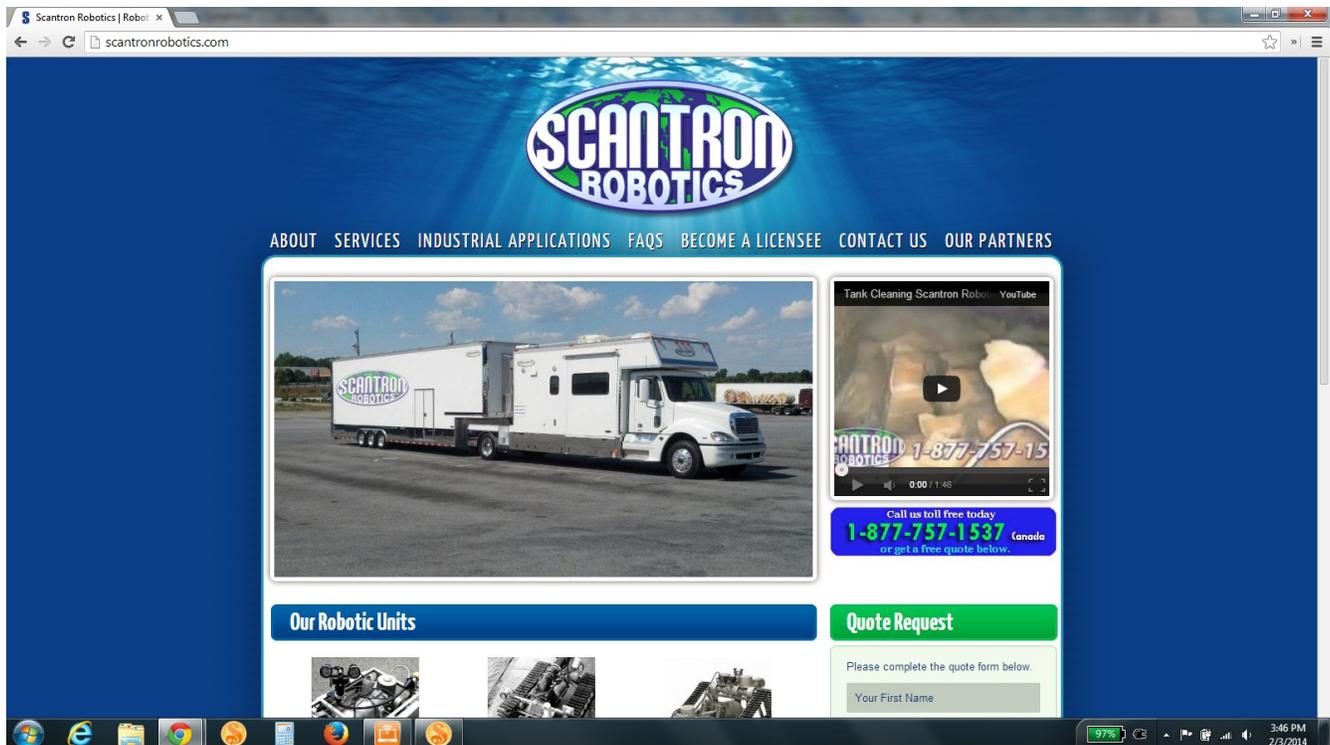
9. Beginning at least as early as June of 2005, Klock used the mark SCANTRON ROBOTICS in a successor business that provided robotic cleaning of water tanks and other such underwater containers as well as underwater inspection and potable water tank repair services. Scantron Robotics conducted business throughout Canada and the United States, including Pennsylvania.

10. Klock developed the oval "Geosphere" logo for Scantron Robotics at least as early as June 2005 in connection with the robotic cleaning and water tank repair business. The Geosphere logo was first used with the former company Scantron Surveying & Mapping and was

used with Scantron Robotics from the inception of the business. The Geosphere logo is depicted below.



11. On May 16, 2006, Klock registered the domain <scantronrobotics.com> with the registrar ENOM, INC. This website has continuously been the official website of Scantron Robotics since its registration. In the Summer of 2007, Klock hired web-developer SquareFlo to build the presently existing website as seen below.



### **Creation of Scantron USA**

12. Klock's business associate, Russell Goeller, first became acquainted with Thomas C. Wettach, Esq. in 2007. Wettach was at the time a director at Cohen & Grigsby, P.C., and had been practicing law for over forty years in the areas of intellectual property protection, patent, copyright and trademark law. Wettach has been recognized in the past as one of the top lawyers in Pennsylvania in the field of intellectual property.

13. On information and belief, Wettach followed the development of Scantron Robotics' growth in the United States and beginning in the Spring of 2009, Klock and Goeller discussed with Wettach plans to grow Scantron Robotics and the need for capital investment to purchase robotic equipment. Wettach expressed his desire to invest capital with Klock to purchase robotic equipment, in exchange for an interest in the business. Klock, Goeller and Wettach were to each hold a one-third (1/3) interest in the joint venture of purchasing and using the robotic equipment. Klock understood the joint venture to be a sister business of Scantron Robotics.

14. On information and belief, there exists no writing documenting the proposal for Klock to hold a one-third (1/3) interest in any business formed with Wettach and for him to have the authority over the business as president and CEO.

15. Unknown to Klock until October of 2013, Wettach formed Scantron Robotics USA, Inc., as a Nevada corporation on June 17, 2009, listing Wettach as president. On information and belief, Klock has never been listed as a shareholder of Scantron Robotics USA, Inc., despite representations that he would be, based upon discussions with Wettach. Scantron USA was not created as a subsidiary, parent or child corporation of Scantron Robotics.

16. At all times from 2009 through October of 2013, Klock believed that a portion of work he performed in the United States was on behalf of the sister businesses/joint venture that he was an owner and officer of. Klock believed that Wettach was engaged as the attorney for both Scantron Robotics and the joint venture between Klock, Goeller and Wettach, and he allowed Wettach to draft contracts and perform the required legal services that Klock expected of an attorney representing both Scantron Robotics and the joint venture.

### **Trademark Registrations**

17. Unknown to Klock or Goeller until October of 2013, on November 10, 2010, Wettach filed for U.S. trademark registrations under section 1(a) of the Lanham Act for the mark SCANTRON ROBOTICS and the Geosphere design mark on behalf of Scantron USA. Wettach listed Scantron USA as the owner of the marks and listed the marks' first use in commerce as at least as early as 2009. Wettach listed that the marks were used in connection with “cleaning services, namely, cleaning of storage tanks, reservoirs, cooling towers and industrial water systems; dredging services” and “inspections of storage tanks, reservoirs, cooling towers and industrial water systems.” Wettach listed himself as the attorney of record for Scantron USA on the application.

18. The specimen of use included in the trademark applications was a screen-shot of Scantron Robotics' website <[scantronrobotics.com](http://scantronrobotics.com)>, as seen below.



19. On April 19, 2011 the mark SCANTRON ROBOTICS and design mark SCANTRON ROBOTICS were published for opposition and on July 5, 2011 both marks were registered on the Principal Register as registration numbers 3,989,418 and 3,989,419, respectively.

20. Klock was unaware that Wettach had filed for trademark registrations on behalf of Scantron USA and was not made aware of this fact until October of 2013 by Wettach. On

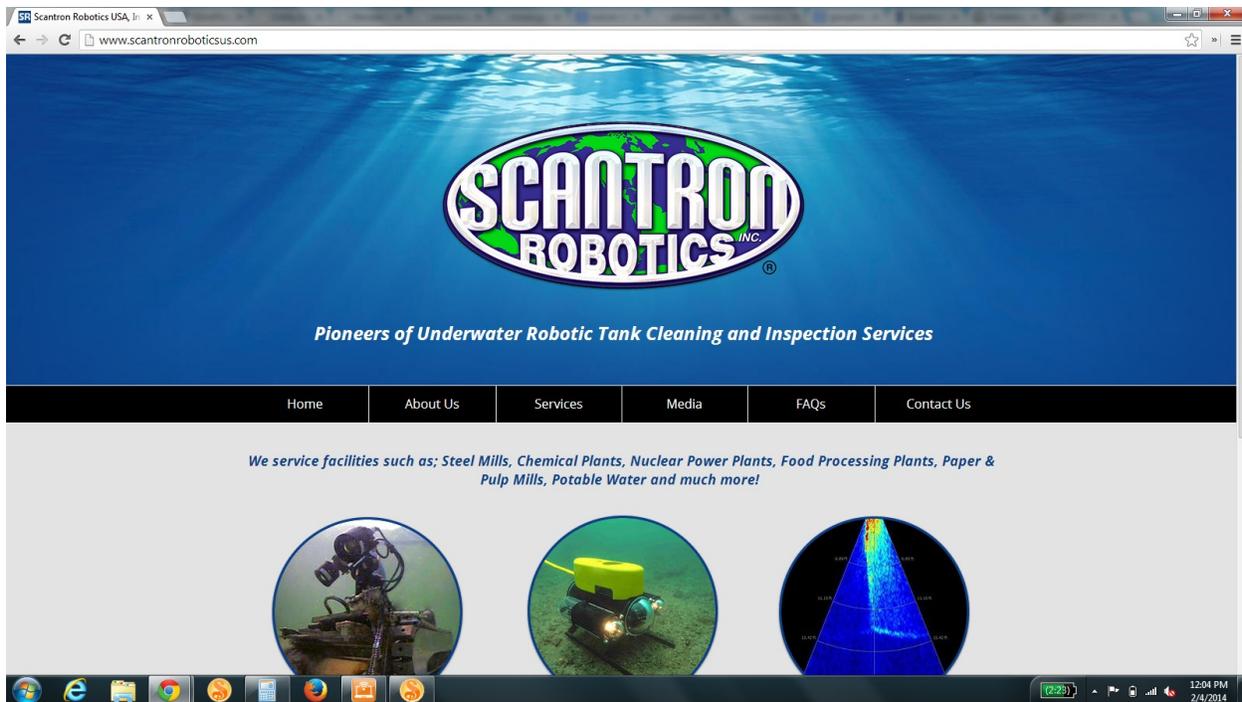
information and belief, neither Klock nor Goeller ever gave Wettach instructions to file for U.S. trademark registrations.

21. In October of 2013, Goeller was locked out of Scantron USA's offices and email accounts. Wettach informed Klock that Goeller was being removed Scantron USA. Klock questioned Wettach's authority to remove Goeller and Wettach informed Klock that Klock had no ownership or officer authority with Scantron USA. The removal of Goeller from Scantron USA has be the basis of the lawsuit styled *Russell Goeller v. Thomas Wettach and Joseph Leist*, GD-13-021716 in the Court of Common Pleas of Allegheny County.

22. In December of 2013, Klock informed Wettach that Scantron Robotics was the owner of the trademarks and that Scantron USA had no rights to operate without Klock or Goeller in control of the business. Wettach informed Klock that Klock was powerless to stop him and that any legal actions brought would be a mere distraction. At this time, Scantron USA continues to use the marks.

#### **Scantron USA Website**

23. On November 22, 2013, Joseph Leist registered the domain <scantronroboticsus.com> with the registrar GoDaddy. Leist registered <scantronroboticsus.com> using the proxy services of Domains By Proxy, LLC, so to hide the identity of the registrant. Presently, the whois listing of <scantronroboticsus.com> shows Domains By Proxy as the registrant. Below is a screen capture of the <scantronroboticsus.com> website as of February 4, 2014.



24. After contacting Domains By Proxy, explaining that the domain <scantronroboticsus.com> as well as the content found within the website violates trademark and other intellectual property rights of Scantron Robotics, Domains By Proxy turned over the contact information of the registrant. Domains By Proxy revealed Leist as the registrant of <scantronroboticsus.com>.

25. On information and belief, Leist registered <scantronroboticsus.com> on behalf of Scantron USA.

### **Customer Contact Information and Website Breach**

26. The <scantronrobotics.com> website has a functionality that allows customers to send messages through the web interface that are to be received by Klock and Goeller in their Scantron Robotics email accounts.

27. In May of 2012, the web-hosting service, Squareflo was attacked by computer hackers and the website <scantronrobotics.com> was disabled. During this time, Leist, as an employee of Scantron USA, volunteered to rebuild the website while Squareflo's database was down. Leist was given permission by Klock and Goeller to rebuild the website and Leist was successful in pulling data off Squareflo's system and rebuilding Scantron Robotics' website. From May 2012 through October 2013, Leist retained administrator access to <scantronrobotics.com> and Scantron Robotics' email system.

28. On information and belief, beginning at least as early as June of 2012, Leist altered the settings of the website message function so that any messages sent through the website would be deleted from Klock and Goeller's Scantron Robotics email account and rerouted to Leist's private email account [cadillacjoe24@gmail.com](mailto:cadillacjoe24@gmail.com). The last web-submitted email that Klock received was dated June 19, 2012.

29. In October of 2013, Klock discovered that there were web-submitted emails involving Canadian business leads that were not being stored on Scantron Robotics' designated email folders. Klock questioned Leist, who quickly produced two web submissions from Canadian contacts. These web submissions were dated July and August of 2012. On information and belief, one of the submissions, from Chemical Mines, dated July 31, 2012, concerned seeking services from Scantron Robotics and represents lost work due to Leist's interference.

30. On information and belief, Leist deleted all emails involving business leads from Klock, Goeller and Scantron Robotics' email accounts and forwarded these emails to Leist's private email account.

31. In October of 2013, Klock attempted to use administrator access to the website on <scantronrobotics.com>, but found that passwords had been changed by Leist. Klock requested the passwords from Leist, and Leist refused stating that the website was now his. Klock then contacted Squareflo, who continues to host <scantronrobotics.com>, and was informed that the messaging system had been rerouted to a personal email address of Leist and was setup to delete any emails sent to Klock or Scantron Robotics. Squareflo was then able to reset the passwords and give Klock administrator access to the website. Leist thereafter contacted the Squareflo to attempt to regain control of the email and website by insisting he was the owner of the domain, despite the fact that Klock is listed as owner with the registrar. Leist was refused access by Squareflo despite his claims and threats made to Squareflo.

32. On information and belief, from November through December 2013, Leist repeatedly broke into <scantronrobotics.com>'s administrator access by hacking the password. After repeated password changes by Klock and Squareflo, it was believed that Leist had utilized add on functions of his web-browser to reset the <scantronrobotics.com> website remotely, thereby allowing him to defeat password changes. Eventually, in December of 2013, Squareflo was successful in implementing a system that would not allow for remote resetting of the administrator passwords.

**COUNT I**  
**CANCELATION OF U.S. TRADEMARK REGISTRATION NOS.**  
**3,989,419 AND 3,989,418 UNDER SECTION 14 OF THE LANHAM ACT**  
**(15 U.S.C. §1064)**

33. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 32 of this Complaint.

34. The continued registration of the trademarks are likely to cause damage to Scantron Robotics, in that continued harm will come to Scantron Robotics' goodwill, the

registrations provide a false legal presumption that Scantron USA owns the trademarks found in the registration, and the registrations are an impediment to Scantron Robotics' ability to register its trademarks on the U.S. Principle Register, which Scantron Robotics has a *bona fide* intent to do.

35. There exist valid grounds why the registration should not continue to be registered, namely, this action is being brought less than five years from the date of the registrations and the registrations create a likelihood of confusion with Scantron Robotics' mark, and the registrations were obtained fraudulently under the Lanham Act.

36. A likelihood of confusion exists between the registrations and Scantron Robotics' marks as the marks in question are identical, with identical goods and services and there are instances of actual confusion reported to Klock by his customers.

37. The registrations were obtained by fraud in that Wettach was never granted authority to register the marks, and Wettach had actual knowledge at least since 2007 that the marks were owned and continued to be owned and used by Scantron Robotics throughout the United States.

38. Pursuant to 15 U.S.C. §§1064 and 1119, Scantron Robotics is entitled have this Court enter an order directing the Director of the United States Patent and Trademark Office to remove registrations nos. 3,989,419 and 3,989,418 from the Principal Register and otherwise make appropriate rectification to the Principle Registry.

**COUNT II**  
**UNFAIR COMPETITION**  
**UNDER SECTION 43(a) OF THE LANHAM ACT**  
**AGAINST SCANTRON USA, THOMAS WETTACH AND JOSEPH LEIST**  
**(15 U.S.C. §1125(a))**

39. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 38 of this Complaint.

40. Since at least July 17, 2009, Scantron USA has used the mark SCANTRON ROBOTICS. Since at least November 22, 2013, Defendants have used the marks SCANTRON ROBOTICS and the Geosphere mark on the <scantronroboticsus.com> domain.

41. The use of these marks by Defendants have been in interstate commerce.

42. The use of the marks by Defendants has been in connection with underwater robotic cleaning and repair services.

43. The use of the marks by Defendants is likely to cause confusion, mistake or deception as to the affiliation, connection or association of the Defendants with Scantron Robotics.

44. The use of the marks by Defendants is likely to cause confusion, mistake or deception as to the origin, sponsorship or approval of Defendants' services, or commercial activities by Scantron Robotics.

45. Scantron Robotics has been and is likely to continue to be damaged by these acts.

46. Pursuant to 15 U.S.C. §§1116 and 1117, Scantron Robotics is entitled to an injunction against Scantron USA and Leist for all use of the marks and to recover Defendants' profits, any damages sustained by Scantron Robotics, and the costs of this action. The intentional and willful nature of Defendants' conduct in this case also render this an "exceptional case," entitling Scantron Robotics to enhanced damages and an award of attorneys fees.

**COUNT III**  
**FALSE OR FRAUDULENT REGISTRATION**  
**UNDER SECTION 38 OF THE LANHAM ACT**  
**AGAINST SCANTRON USA AND THOMAS WETTACH**  
**(15 U.S.C. §1120)**

47. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 46 of this Complaint.

48. Wettach's verified statement in the trademark applications that Scantron USA was the owner of the SCANTRON ROBOTICS mark and the Geosphere mark is a false representation regarding a material fact.

49. Wettach had actual knowledge that his statement was false based upon his personal dealings with Klock and Goeller. Wettach has reason to know that the owner of the marks was Scantron Robotics and that Scantron Robotics had used the marks in interstate commerce within the United States prior to 2009.

50. There existed an intent to deceive the United States Patent and Trademark Office by Wettach based upon that he lacked permission to register the trademarks from either Klock or Goeller, his years of experience practicing intellectual property law negating the assumption of mistake, actual knowledge of the true owner of the marks, and a pattern of behavior involving Wettach's role as president of Scantron USA where he denied Klock promised ownership and authority and orchestrated Goeller's removal and freeze-out.

51. The USPTO reasonably relied upon the misrepresentation, in that without a sworn statement of ownership, the applications could not be registered.

52. Scantron Robotics has suffered damages as a result of the registration in that Scantron USA has become the presumed legal owner of the marks, the registrations represent an impediment to U.S. registration by Scantron Robotics, as well as damage to goodwill, actual and

a continued likelihood of confusion, and accumulations of costs and fees associated with the fraudulent registrations.

**COUNT IV**  
**CYBERSQUATTING IN VIOLATION OF**  
**THE ANTICYBERSQUATTING CONSUMER PROTECTION ACT**  
**AGAINST SCANTRON USA AND JOSEPH LEIST**  
**(15 U.S.C. §1125(d))**

53. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 52 of this Complaint.

54. Scantron Robotics is the owner and continues to use the mark SCANTRON ROBOTICS.

55. On information and belief, Leist and Scantron USA have a bad faith intent to profit off of the mark SCANTRON ROBOTICS as evidenced by the use of Domains by Proxy to hide the true registrant of <scantronroboticsus.com>, as well as the continued trademark infringement and unfair competition in the use of Scantron Robotics' marks as described throughout this complaint.

56. On information and belief, Leist registered <scantronroboticsus.com> on November 22, 2013 on behalf of Scantron USA, and Scantron USA continues to presently use the domain.

57. The domain <scantronroboticsus.com> is nearly identical and confusingly similar to the mark SCANTRON ROBOTICS.

58. The mark SCANTRON ROBOTICS was distinctive at the time of registration of the domain, in that the mark is of a level of distinctiveness entitled to trademark protection, namely it is suggestive of the services it represents and has been used for longer than five years in the market place.

59. Pursuant to 15 U.S.C. §1125(d) Scantron Robotics is entitled to have this Court order the forfeiture, cancellation, or the transfer the domain <scantronroboticsus.com> to Scantron Robotics.

60. Pursuant to 15 U.S.C. §1117 Scantron Robotics is entitled to Defendant's profits, any damages sustained by Scantron Robotics, the costs of this action or in the alternative statutory damages of not less than \$1,000 and not more than \$100,000 per domain. Additionally based upon 15 U.S.C. §1117(e) as well as that this is an "exceptional case", Scantron Robotics is entitled to an award of reasonable attorneys fees.

**COUNT V**  
**COMMON LAW UNFAIR COMPETITION**  
**AGAINST SCANTRON USA, THOMAS WETTACH AND JOSEPH LEIST**

61. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 60 of this Complaint.

62. Scantron USA by use of its company name, website, email address, marketing and solicitation have sought to pass itself off as providing the same goods and services as that of Scantron Robotics.

63. This passing off exists by virtue of a substantial similarity between the marks owned by Scantron Robotics and those used by Scantron USA.

64. The use of Scantron Robotics' marks by Scantron USA leads to confusion on the part of potential customers.

65. Scantron has been and is likely to continue to be damaged by Scantron USA's use of the marks owned by Scantron Robotics, including but not limited to loss of business, damage to goodwill and other consequences of unfair competition.

66. Wettach and Leist's actions as described throughout this complaint constitute contributory infringement of Scantron Robotics' trademark rights.

**COUNT VI**  
**COMMON LAW TRADEMARK INFRINGEMENT**  
**AGAINST SCANTRON USA, THOMAS WETTACH AND JOSEPH LEIST**

67. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 66 of this Complaint.

68. Scantron USA has used the mark SCANTRON ROBOTICS and the Geosphere mark in connection with the same services that Scantron Robotics performs.

69. Scantron USA's use of the marks have and are likely to continue to cause confusion, mistake or deception as to the origin, sponsorship or approval of Scantron USA's services by Scantron Robotics.

70. Scantron has been and is likely to continue to be damaged by Scantron USA's use of the marks owned by Scantron Robotics, including but not limited to loss of business, damage to goodwill and other consequences of unfair competition.

71. Wettach and Leist's actions as described throughout this complaint constitute contributory infringement of Scantron Robotics' trademark rights.

**COUNT VII**  
**THEFT OF TRADE SECRETS**  
**UNDER THE PENNSYLVANIA UNIFORM TRADE SECRETS ACT**  
**AGAINST SCANTRON USA AND JOSEPH LEIST**  
**(12 PA. C.S. §5301 et. seq.)**

72. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 71 of this Complaint.

73. Leist acquired the trade secrets, the customer lead emails, of Scantron Robotics where Leist knew that his acquisition of the trade secret was by improper means, namely he

exceeded his authority in being given administrative access to the Scantron Robotics email system and his repeated hacking of the <scantronrobotics.com> website.

74. On information and belief Scantron USA used the trade secrets of Scantron Robotics without its express or implied consent.

75. Scantron USA knew or had reason to know that the trade secrets of Scantron Robotics were acquired by improper means.

76. The subject matter involved qualifies for trade secret protection because the customer email business leads are the type of information that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

77. The customer email business leads were the subject of efforts that are reasonable under the circumstances to maintain its secrecy, namely being kept confidential on a password protected email server.

78. On information and belief, Leist acted on behalf of and for the benefit for Scantron USA in misappropriating Scantron Robotics' trade secrets.

79. Pursuant to 12 PA.C.S.A. §5303, Scantron Robotics is entitled to injunctive relief to stop the use of its customer lead information by Leist and Scantron USA and for the return of the information.

80. Pursuant to 12 PA.C.S.A §§5304 and 5305, Scantron Robotics is entitled to the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation and because willful and malicious misappropriation exists, this is an “exceptional case”, Scantron Robotics is entitled to exemplary damages and reasonable attorney fees, expenses and costs.

**COUNT VIII**  
**INTERCEPTION OF ELECTRONIC COMMUNICATION**  
**UNDER THE WIRETAPPING AND ELECTRONIC SURVEILLANCE CONTROL ACT**  
**AGAINST SCANTRON USA AND JOSEPH LEIST**  
**(18 PA.C.S. §5725)**

81. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 80 of this Complaint.

82. On information and belief, Scantron USA and Leist intentionally intercepted, and endeavored to intercept, the electronic communication of Scantron Robotics by rerouting and deleting the emails of Scantron Robotics.

83. On information and belief, Scantron USA and Leist intentionally disclosed the electronic communication of Scantron Robotics, knowing and having reason to know that the information was obtained through the interception electronic communication.

84. On information and belief, Scantron USA and Leist intentionally used and endeavored to use the contents of electronic communication of Scantron Robotics, knowing and having reason to know, that the information was obtained through the interception of Scantron Robotics' electronic communication.

85. Pursuant to 18 PA. C.S. §5725, Scantron Robotics is entitled an award of actual damages, but not less than liquidated damages computed at the rate of \$100 a day for each day of violation, or \$1,000, whichever is higher, punitive damages and reasonable attorney's fee and other litigation costs reasonably incurred.

**COUNT XI**  
**UNLAWFUL ACCESS TO STORED COMMUNICATIONS**  
**UNDER THE WIRETAPPING AND ELECTRONIC SURVEILLANCE CONTROL ACT**  
**AGAINST SCANTRON USA AND JOSEPH LEIST**  
**(18 PA.C.S. §5774)**

86. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 85 of this Complaint.

87. On information and belief, Leist and Scantron USA obtained, altered and prevented Scantron Robotics authorized access to its electronic communication while it was in electronic storage.

88. On information and belief, Leist and Scantron USA accessed without authorization Scantron Robotics' website and email administrator page by improper means where electronic communication for Scantron Robotics is provided.

89. On information and belief, Leist exceeded the scope of his authorization to access Scantron Robotics website and email administrator page when he rerouted and deleted customer lead emails.

90. Pursuant to 18 Pa.C.S. §5774, Scantron Robotics is entitled to and award of the actual damages suffered by the Scantron Robotics and any profits made by the Scantron USA and Leist as a result of the violation, but at least Scantron Robotics is entitled to recover receive less than the sum of \$1,000 and reasonable attorney fees and other litigation costs reasonably incurred

**COUNT X**  
**VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT**  
**AGAINST SCANTRON USA AND JOSEPH LEIST**  
**(18 U.S.C. §1030(g))**

91. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 90 of this Complaint.

92. On information and belief, Leist and Scantron USA intentionally accessed Scantron Robotics' protected computers without authorization, and as a result of such conduct, recklessly caused damage, namely loss of customer leads and other economic damages.

93. On information and belief, Leist and Scantron USA intentionally accessed Scantron Robotics' protected computers without authorization, and as a result of such conduct, caused damage and loss, namely loss of customer leads and other economic damages.

94. On information and belief, the losses suffered by Scantron Robotics resulting from Leist and Scantron USA's wrongful conduct, during any 1-year period, aggregates in at least \$5,000 in value.

95. Pursuant to 18 U.S.C. §1030(g), Scantron Robotics is entitled to recover of its economic damages resulting from Scantron USA and Leist's violation of the Computer Fraud and Abuse Act.

**COUNT XI**  
**INTERCEPTION OF ELECTRONIC COMMUNICATION**  
**UNDER THE FEDERAL WIRETAP ACT**  
**AGAINST SCANTRON USA AND JOSEPH LEIST**  
**(18 U.S.C. §2520)**

96. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 95 of this Complaint.

97. On information and belief, Leist and Scantron USA intentionally intercepted, endeavored to intercept, and procured each other to intercept and endeavor to intercept the electronic communication of Scantron Robotics, namely its customer leads emails.

98. On information and belief, Leist and Scantron USA intentionally intercepted, used, endeavored to intercept, endeavored to use, and procured each other to intercept, use and

endeavor to intercept and use, the electronic communication of Scantron Robotics, namely its customer leads emails.

99. Pursuant to 18 U.S.C. §2520, Scantron Robotics is entitled to an award of either the sum of the actual damages suffered by Scantron Robotics and any profits made by Scantron USA and Leist as a result of the violation or statutory damages of whichever is the greater of \$100 a day for each day of violation or \$10,000 as well as punitive damages and a reasonable attorney's fee and other litigation costs reasonably incurred.

**COUNT XII**  
**INTERCEPTION OF ELECTRONIC COMMUNICATION**  
**UNDER THE STORED COMMUNICATIONS ACT**  
**AGAINST SCANTRON USA AND JOSEPH LEIST**  
**(18 U.S.C. §2707)**

100. Scantron Robotics repeats and realleges each and every allegation contained in paragraphs 1 through 99 of this Complaint.

101. On information and belief, Leist and Scantron USA intentionally accessed without authorization Scantron Robotics' website and email administrator page by improper means where electronic communication for Scantron Robotics is provided.

102. On information and belief, Leist intentionally exceeded his authorization to access Scantron Robotics' website and email administrator page when he rerouted and deleted customer lead emails.

103. On information and belief, Leist and Scantron USA obtained, altered, and prevented authorized access to Scantron Robotics' electronic communication while it was in electronic storage.

104. Pursuant to 18 U.S.C. §2707, Scantron Robotics is entitled to an award of the actual damages suffered by the Scantron Robotics and any profits made by the Scantron USA

and Leist as a result of the violation, or in the lease no less than the sum of \$1,000, as well as punitive damages due to Scantron USA and Leist's willful and intentional conduct and the costs of the action, together with reasonable attorney fees determined by the court.

### **PRAYER FOR RELIEF**

**WHEREFORE, Scantron Robotic, Inc., prays for judgment as follows:**

- A) an order for cancellation of U.S. trademark registration nos. 3,989,418 and 3,989,419;**
- B) a permanent injunction pursuant to 15 U.S.C. §1116 and the common law, prohibiting Defendants from using Scantron Robotics's marks or the continued use of the name Scantron Robotics USA or Geosphere logo;**
- C) a judgment awarding Defendant's profits, damages and the costs of this action sustained by Scantron Robotics due to Defendants' unfair competition;**
- D) a judgment awarding Scantron Robotics damages resulting from the false and fraudulent trademark registrations;**
- E) an order directed to the registrar of <scantronroboticsus.com> for the forfeiture, cancellation or transfer of the domain to Scantron Robotics;**
- F) a judgment awarding Scantron Robotics damages resulting from the cybersquatting of either Defendant's profits and damages sustained by Scantron Robotics or statutory damages available;**
- G) a judgment awarding Scantron Robotics damages resulting from common law unfair competition and common law trademark infringement;**
- H) a permanent injunction pursuant to 12 PA.C.S.A. §5303 prohibiting Defendants from using Scantron Robotics' trade secrets;**
- I) a judgment awarding Scantron Robotics damages resulting from the misappropriation of trade secrets;**
- J) a judgment awarding Scantron Robotics damages resulting from the interception and unlawful access to Scantron Robotics' electronic communication and stored electronic data;**

- K) an order for an accounting of Defendants' revenue during the applicable time period;**
- L) a finding of willful and intentional violations making this an "exceptional case" eligible for enhanced and punitive damages where authorized;**
- M) an award of reasonable attorneys' fees and costs; and**
- N) any other and further relief this Court may deem just and proper.**

**A JURY TRIAL IS DEMANDED.**

Date: 2/6/2014

/s/ Samuel I. Yamron  
Attorney for Scantron Robotics, Inc.  
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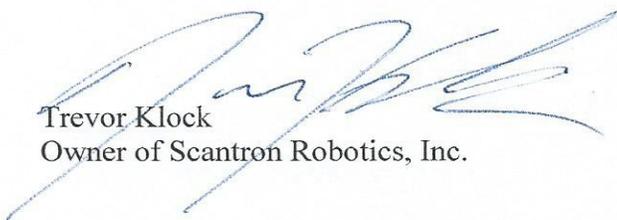
**VERIFICATION STATEMENT**

I, Trevor Klock, being the sole owner and director of Scantron Robotics, Inc. state the following.

1. I have reviewed the complaint.
2. I believe to be true all statements made on the basis of my personal knowledge.
3. I believe to be true all statements made on the basis specified information.

I, Trever Klock, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 5, 2014.

  
Trevor Klock  
Owner of Scantron Robotics, Inc.