

ESTTA Tracking number: **ESTTA1102924**

Filing date: **12/18/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92067794
Party	Defendant The Burton Corporation
Correspondence Address	CATHLEEN E STADECKER DOWNS RACHLIN MARTIN PLLC 199 MAIN STREET PO BOX 190 BURLINGTON, VT 05402-0190 UNITED STATES Primary Email: tmip@drm.com 802-863-2375
Submission	Testimony For Defendant
Filer's Name	Cathleen E. Stadecker
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Signature	/cathleen e stadecker/
Date	12/18/2020
Attachments	Gaisser Declaration - FINAL Redacted.pdf(363867 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Reg. No. 2,207,535 issued on December 1, 1998
and Reg. No. 3,598,502 issued on March 31, 1999

Joshua S. Schoonover,	:	
	:	
Petitioner,	:	Cancellation No. 92067794 (parent)
	:	Cancellation No. 92069499
-against-	:	
	:	
The Burton Corporation	:	
	:	
Registrant.	:	
	:	

TESTIMONY DECLARATION OF ERIC GAISSER

I, Eric Gaiser, declare as follows:

1. My name is Eric Gaiser. I am over the age of 18 and understand the obligations of an oath. I make this Declaration in opposition to the pending Petition to Cancel U.S. Reg. 2,207,535 for the mark FORUM. This Declaration is based upon my personal knowledge.

2. I have been employed by the Burton Corporation (“Burton”) since July 1999. I am currently the Senior Director of Commercialization for Hardgoods, a position I have held since July 2016. Prior to holding my current position, I was Business Unit Director – Boots from February 2002 to July 2016.

3. As Senior Director of Commercialization for Hardgoods, I manage a team responsible for the commercialization, *i.e.* development until production, for boots, boards, and bindings. As Business Unit Director – Boots, I was in charge of all development and commercialization for Burton’s boot lines of products. During that time, I worked on all of the boots for the FORUM brand.

4. I understand that in this proceeding, Petitioner contends that after approximately 2012, Burton intended to cease, and did cease, commercial use of FORUM. Based on my personal knowledge and involvement with the brand since that time, I disagree with this contention. It was never my understanding that Burton intended to cease commercial use of FORUM and I know that such commercial use took place after 2012. In addition to selling FORUM products for several fiscal years after 2012, Burton also evaluated potential opportunities to license FORUM.

5. During the spring of 2016, [REDACTED] approached me to express interest in building FORUM boards to sell through a licensing arrangement with Burton. On April 11, 2016, I requested that representatives of [REDACTED] provide a proposal. Attached hereto as **Exhibit 1** (BUR_00012) is a true and correct copy of my email correspondence with [REDACTED] on April 11, 2016, which I undertook in during the regular course of business using my work email account.

6. I thereafter received an outline of [REDACTED]'s licensing proposal, which I forwarded to my colleague Christopher Cunningham on April 29, 2016. On May 1, 2016, Mr. Cunningham requested that I ask [REDACTED] to provide a business plan for Burton's review. Attached hereto as **Exhibit 2** (BUR_00013-14) is a true and correct copy of my email correspondence with Cunningham on April 29 and May 1, 2016, which we engaged in during the regular course of business using our work email accounts. I thereafter received a business plan, profit and loss statements, and other materials from [REDACTED] for Burton's evaluation, which I provided to Mr. Cunningham.

7. Along with other executives at Burton, I continued to evaluate a potential licensing deal of FORUM with [REDACTED] in the ordinary course of trade and gave it thoughtful consideration.

8. Ultimately, however, Burton opted not to enter into such a licensing deal. On June 21, 2016, Mr. Cunningham informed me of Burton's decision. Attached hereto as **Exhibit 3** (BUR_00032-34) is a true and correct copy of my email correspondence with Mr. Cunningham on June 21, 2016, which we engaged in during the regular course of business using our work email accounts.

9. Furthermore, Burton entered into a deal in 2018 with [REDACTED] [REDACTED] to sell FORUM snowboards on a limited release in the winter of 2019. Attached hereto as **Exhibit 4** (BUR_00039) is a true and correct copy of specifications dated March 1, 2019 depicting the FORUM snowboards ("Destroyer" and "Youngblood") that Burton sold to [REDACTED].

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 17th day of December, 2020.

/s/ Eric Gaisser

Eric Gaisser

EXHIBIT 1

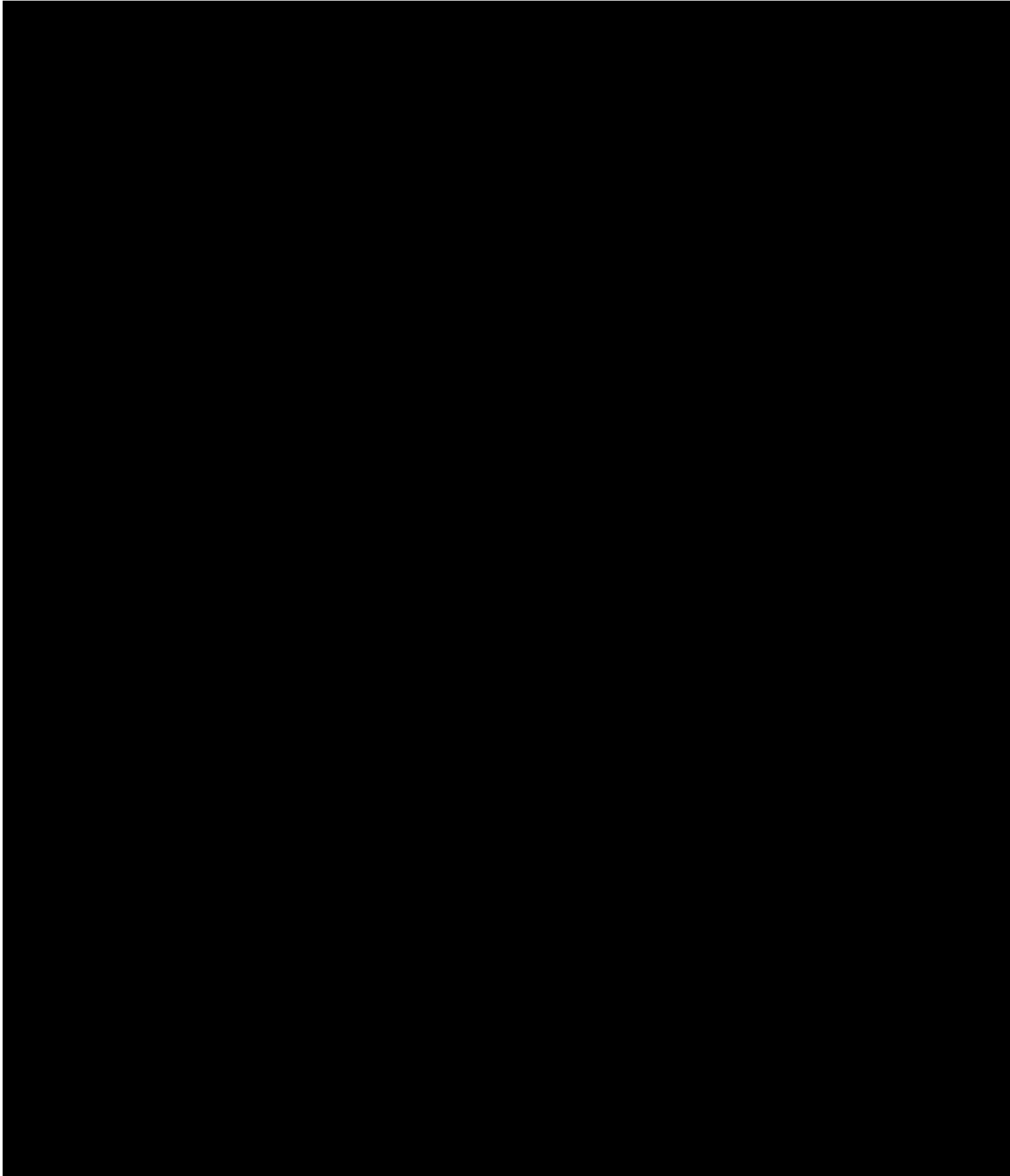


EXHIBIT 2

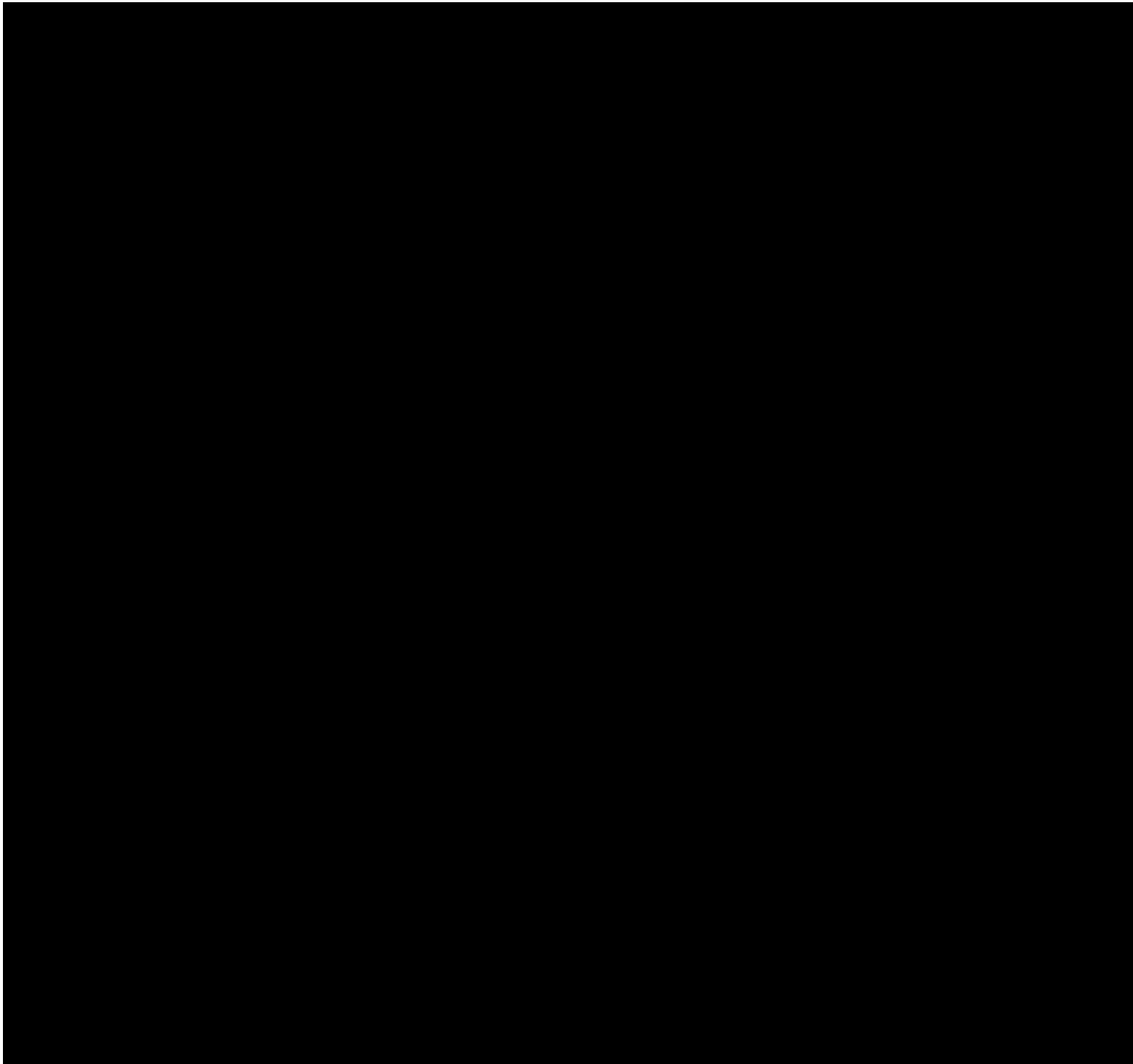
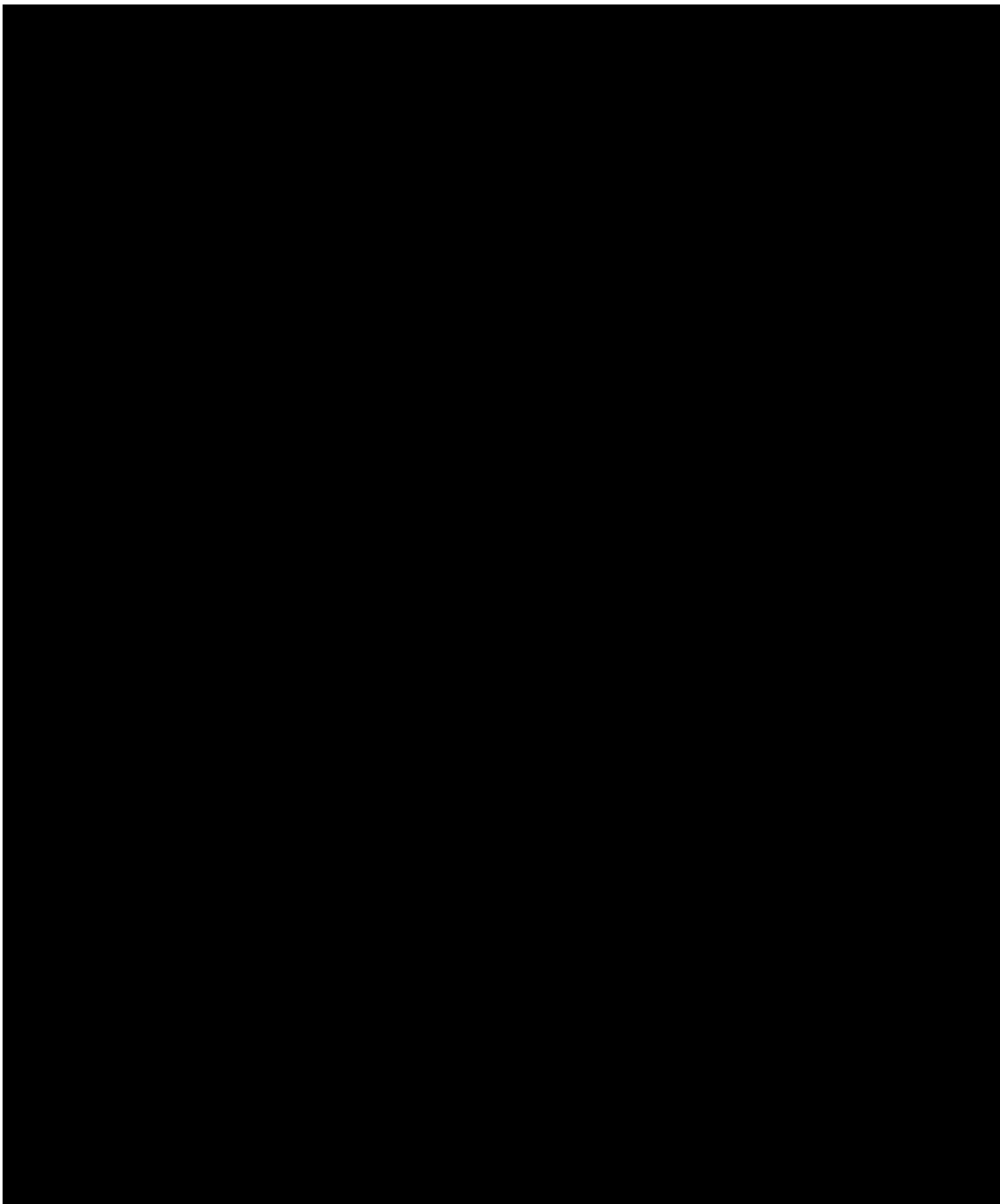


EXHIBIT 3



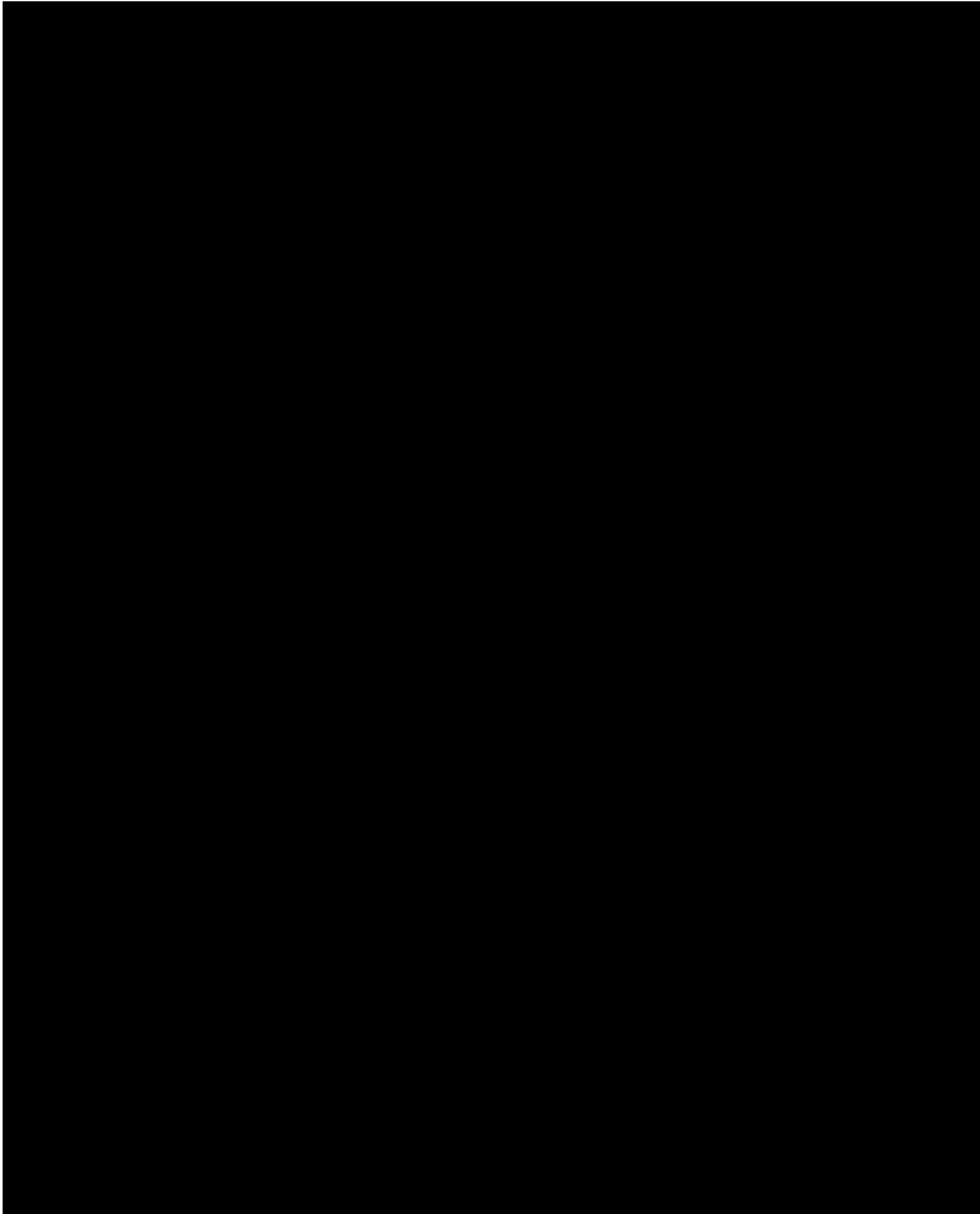


EXHIBIT 4



The Destroyer

Tooling: Destroyer
Cavity: Kirroy Custom
Band: Carbar
Sizes: 54, 56, 58
BOM: Kirroy Custom (Super Fly, Triax, Sintered)



\$270 Whsl
\$449 Retail



The Youngblood

Tooling: Youngblood
Cavity: Descendant
Band: Camber with Grand Pop
Sizes: 55W, 57W, 59W
BOM: Kirroy Process (Superfly, Biax, Sintered)



\$240 Whsl
\$449 Retail



The Recon

Tooling: Amplifier
Cavity: Amplifier
Band: Flat
Sizes: 50, 54, 57
BOM: Ripcord (Fly, Biax, Extruded)



Forum Snowboards
Winter 2019
3.1.2019

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2020, a true and correct copy of the foregoing document entitled **TESTIMONY DECLARATION OF ERIC GAISSER**, was served on Petitioner Joshua S. Schoonover, by emailing said copy to: lawgroup@coastalpatent.com.

/s/ Jennifer Parent
Jennifer Parent