

## Patent Infringement of Magnum Buster Cartridges

It has come to our attention that there are third parties making and/or selling a Boulder Buster booster cartridge that originates from Denel Pty Ltd of South Africa or its licensees or agents. This cartridge technology is owned by Don McCarthy (and its assigns) and was licensed to Denel Pty Ltd to be manufactured under a marketing and cooperation agreement between Don McCarthy (and its assigns) of the United States and Denel Pty Ltd of South Africa for use in the Denel Boulder Buster system. This intellectual property was retained by McCarthy and only available to Denel while the Marketing and Cooperation Agreement was in effect. The referenced Marketing and Cooperation Agreement was terminated by mutual written agreement in 2003 and, as such, this intellectual property fully reverted to Don McCarthy (and its assigns) at that time. Denel Pty Ltd and its licensees or agents no longer retained any user rights to the intellectual property after that separation.

Don McCarthy (and its assigns) is the owner of US Patent Nos. 5,611,605 and 5,803,551, both entitled "Method, Apparatus and Cartridge for Non-Explosive Rock Fragmentation", which are still in force. The patents fully cover our proprietary rock breaking cartridge system sold through two proprietary trade names of Magnum Buster and Robust. The patents can be reviewed on the US Patent and Trade Mark Office web site [www.uspto.gov/main/patents.htm](http://www.uspto.gov/main/patents.htm).

We now have evidence that third parties are making and/or selling the above described booster cartridge for the Boulder Buster System which is in direct violation of our invention. During the period of the Marketing and Cooperation Agreement between McCarthy and Denel, McCarthy had reciprocal rights to the Boulder Buster System in its market territory and as such has intimate knowledge of the design and application of the McCarthy patent as it applied to this booster cartridge.

McCarthy brought this patented technology into the venture with Denel in 1999. This permitted our proprietary cartridge development to be used in the Boulder Buster System while the agreement was in good standing. Previous to the introduction of our technology the Denel cartridge was a modified shot gun shell that was so unsafe that it produced numerous personnel injuries and lawsuits in a number of countries where the Boulder Buster was distributed. Our technology solved that safety and legal and dilemma and since then no injuries have been reported. However, the Marketing and Cooperation Agreement provided for the retention of any intellectual property to remain vested with the original parties to the agreement once the agreement either expired or was terminated. Today the above referenced patents remain solely owned by Don McCarthy (and assigns) and any other party making and/or selling this cartridge technology in the United States is in violation of United States Patent Law.

For background, US patent protection entitles the patent owner to exclude others from making, using and selling (35 U.S.C. 271) infringing products within the United States.

We are providing this letter to make end users aware of this background and patent infringement and respectively request that end-users no longer purchase and/or use any booster cartridges provided by any third party for the existing Boulder Buster systems. McCarthy Industries is the leading technology developer and manufacturer of safe non-explosive rock breaking products in the United States. We manufacture, stock and supply the most price competitive and largest range of propellant based cartridges along with hardware delivery systems in this industry sector. Moreover, McCarthy Industries is 100% manufactured in the United States while the Boulder Buster and its cartridges are manufactured in South Africa and imported through Canada.

As further background, whenever we have encountered these infringers we have asked them to either; review the patent claims which we note are very broad and cover our technology in all of its potential forms; and/or provide us with detailed schematics and samples of their booster cartridge sold for use with the Boulder Buster System so that we may analyze them against our patent claims. Either option is a simple solution on their part and would thoroughly satisfy any latent question they might have regarding the current design breach of their cartridge and definitively determine and settle the ultimate infringement status. We have never had any of them respond to this straight forward qualification process.