

EXHIBIT 1039

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NORTH SAILS GROUP, LLC
Petitioner

v.

TEAM NEW ZEALAND LIMITED
Patent Owner

Case No. PGR2025-00062
Patent No. 12,110,089

**Supplemental Declaration of Daniel G. Neri in Support of Petitioner's
Response To Patent Owner's Request For Discretionary Denial**

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

*Supplemental Declaration of Daniel G. Neri in Support of Petitioner's
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I, Daniel G. Neri, hereby declare that:

1. I am employed by North Sails Group, LLC ("Petitioner") as a consultant on managerial, product and production related topics, having retired from the position of Chief Executive Officer on January 1, 2023. I previously provided a declaration in this proceeding which is Exhibit 1003 to the Petition.

2. Throughout my career I was in regular contact with all of the industry suppliers for sailcloth and precursor materials for composite sail manufacturing. I am considered an expert in the industry on the development paths and uses of those materials to make sails.

3. I have read and understand U.S. Patent No. 12,110,089 to Steven James Collie ("the Collie Patent").

4. My analysis and opinions expressed below are made from the perspective of a POSITA in the field of high-performance sail design at the time of the Collie provisional patent application and the subsequently filed PCT application (PCT/IB2021/061985, filed December 17, 2021) to which the Collie Patent claims priority.

5. Even though the claims of the Collie Patent describe a sail made with panels of cloth, I understand from reading the Collie Patent and my professional interaction with Collie's employer, Team New Zealand, the Patent Owner, that the

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intent of the Collie Patent is to expand the claims to include attributes of composite sail construction such as used by North Sails. Specifically, Patent Owner and Collie are interested in claiming ownership of certain configurations of the 3Di composite sail construction methods pioneered by and exclusively manufactured by North Sails. In this declaration I hope to convey the perspective and expectations of North Sails relative to its agreements to share its proprietary knowledge of 3Di sail construction during the period of collaboration between North Sails, Patent Owner, and all other America's Cup teams participating in the America's Cup events.

6. North Sails has a unique position in the sailing industry with regards to its sail design resources and sail manufacturing processes. These resources and processes have been developed entirely in-house and are unrivaled. It is reasonable to state that the company is as much as 20 years advanced compared to competitors. In the America's Cup, the pinnacle event in sailboat racing, both the challenger and defender have used exclusively North Sails products in every competition dating back to the mid 1990's.

7. Throughout the 30 year period of dominance of the America's Cup, North Sails has granted each America's Cup team access to all of North Sails' sail design software, sailing boat performance analysis software, materials science, manufacturing resources and design and manufacturing staff expertise by means of a

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Supply Contract. It can be said that North Sails' America's Cup customers are given the keys to the kingdom for the period of each America's Cup event. In exchange, the customer teams agree that, at the conclusion of the America's Cup event cycle, their sail design and structural concepts will be shared with all other teams. The terms described above are written in much more detail in each team's Supplier Agreement.

8. As part of the same Supplier Agreement, North Sails allows each team to nominate members of their team to be licensed by North Sails to use the North Design Suite of computer software tools to design sails. North Sails provides each team's representatives with support for learning the use of the software and support understanding the properties of the materials that are critical for extracting meaningful results from the software and acceptable or exceptional results from the North Sails manufacturing processes.

9. The North Sails 3DL sail manufacturing process was invented and fine-tuned by North Sails during the 1990s. The 3DL process is the only sail manufacturing system in the world that utilizes a full scale molding process for sail fabrication.

10. The North Sails 3Di sail manufacturing process was invented by a small company in Switzerland in the early 2000's. The invention was purchased by North Sails in 2007. North Sails staff, under my direction, took the Swiss inventors

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concepts, industrialized the machinery, adapted the 3Di concepts to its 3DL molding processes and then modified the resin systems and fiber combinations to greatly enhance both the performance and the durability of the 3Di product.

11. The purchase contract for the rights to the 3Di invention was largely geared to the success of the product over the first 10 years and resulted in a total payment of approximately \$10 million. The product development budget for the period of 2008-2011 was approximately \$20 million.

12. During the first 3 years of the 3Di development project, North Sails built and ultimately discarded over 700 prototype sails in the effort to understand the effects of combinations of tape construction (fiber type, fiber count, resin type and weight), tape hybridization (combining fibers with differing properties), tape orientation and total tape weights. During this period of development North Sails added the computer program named "Warps" to the design suite. Warps was released to sail designers with a library of standardized 3Di taping layout templates. Along with the standardized templates, North Sails offered a small staff of Warps experts to assist sail designers and licensed users of the North Design Suite when they had ideas for customizing the layouts for a specific sail. These tools and services were made available to Patent Owner and Collie.

13. From time to time, North Sails organized multiple-day, on-sight

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workshops for its most senior sail designers. During the second phase of 3Di sail development, between 2011 and 2018, these workshops focused primarily on discovery of alternative concepts for the tape layouts.

14. In January of 2018, a special workshop was convened for the purpose of expanding the 3Di tape layouts for application to the newly released America's Cup 36 Soft Wing double sided mainsail rule. Stephen Collie was a member of the Patent Owner design staff at that time. Collie had been licensed to access the North Sails Sail Design Suite beginning with a signed confidentiality agreement in 2006, through the Shosholozza America's Cup Team and subsequently through a second signed confidentiality agreement executed by Collie and North Sails on August 18, 2017. Collie was invited to attend the January, 2018 North Sails designers workshop. He was the only participant who was not employed by North Sails. This workshop became known as the America's Cup 36 tape layout workshop.

15. The resulting output from the January, 2018 America's Cup 36 tape layout workshop, in the form of tape layout templates and use guidelines, was shared with all licensed users of the North Sails Sail Design Suite who were also members of an America's Cup team. This included Collie.

16. Subsequent to the release of the America's Cup 36 tape layout guidelines, North Sails released a new family of high elasticity 3Di tapes. The new tape family

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was based around the work done by North Sails' Nevada materials development staff that allowed the introduction of polyester fiber for 3Di tapes. When the development and field testing of the polyester fiber tapes was nearing completion, the expanded catalogue of tape types available to designers was released to all the licensed sail design suite users working for America's Cup teams. This included Collie.

17. North Sails leadership has historically fostered an environment of collaboration with its customers at the highest levels of sailboat racing and specifically the America's Cup. The supplier agreements signed with each customer team at the beginning of the Cup cycle grant the team full access to North Sails's resources and wide freedoms for product creativity. North Sails ensures that each team's sail designs and sail construction ideas will be kept in strict confidence until the end of the Cup cycle. In exchange, the teams agree to disclose their design and construction concepts to the other teams in a collective design debrief format.

18. Even though the principles described in the paragraph above are written into the Sail Supply Agreements signed by the teams (including Patent Owner), North Sails has always relied upon and enjoyed a culture of cooperation and trust with the teams and their members who are licensed to use the North Sails design tools. The design debrief at the end of the Cup cycles serves as a reset event. The company's belief is that this culture of cooperation benefits the sport and all the individuals who

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invest their time and resources in the sport.

19. While there is often a brief period of reluctance to share hard-won sail design lessons during the design debrief, there was never a case of any team reneging on the agreement to share their design information until Team New Zealand refused to participate after the Collie provisional patent application was filed December, 2020. Up until this date, as the manager of the North Sails Design Staff and later as the North Sails CEO, it never occurred to me that a customer would attempt to patent a specific sail design using the software, manufacturing processes, materials, scientific research, and resources provided by North Sails.

20. On March 19, 2019, more than one year before the December 17, 2020 priority date of the Collie Patent, the first sail of the design described in the Collie Patent was sold to Patent Owner (EX1005; EX1036). The Declaration of Per Andersson and Exhibits set forth the details of these sails (EX1005). North Sails was selling similar sails to the other participants in the America's Cup at the same time. Because the materials, design tools and manufacturing guidelines for all of sails had been developed by North Sails, there was a settled expectation that such sales would continue without the encumbrance of a patent issued to one of the America's Cup teams on a sail design created and developed with North Sails' resources.

21. This historical sharing of North Sails' software, technology, and Design

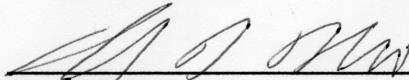
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Staff created a settled expectation by North Sails that no signatory to these agreements would attempt to claim exclusivity to any of the designs that resulted from this cooperation. I note that none of the Collie Patent claims are specifically directed to the 3Di technology, but the Collie Patent does mention 3Di at col. 7, l. 10. As discussed in my prior declaration, the claims and claim limitations, such as an elastic luff, are old in the art and because of this, it is a further settled expectation that no one would attempt to claim exclusivity of these concepts. Because of this settled expectation, Petitioner, North Sails, was willing to spend \$20 million and three years to develop the 3Di technology for a better sail for the America's Cup. North Sails and the other teams in the America's Cup are disappointed by Patent Owner's attempt to claim exclusivity of and profit from this technology.

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DANIEL G. NERI, the undersigned declarant, further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18, United States Code.

Dated: October 17, 2025


Daniel G. Neri