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 12 PC GUARDIAN ANTI-THEFT PRODUCTS, INC. and FELLOWES, INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

16 ACCO BRANDS, INC. d/b/a
 17 KENSINGTON TECHNOLOGY GROUP,

No. 04-03526 SI

18 Plaintiff,

19 v.

20 PC GUARDIAN ANTI-THEFT
 21 PRODUCTS, INC. and FELLOWES, INC.,

22 Defendants.

**STIPULATION AND [PROPOSED]
 ORDER DISMISSING WITH
 PREJUDICE DEFENDANTS'
 AFFIRMATIVE DEFENSES FOR
 FAILURE TO STATE A CLAIM AND
 PATENT MISUSE**

23 Plaintiff ACCO Brands, Inc. d/b/a/ Kensington Technology Group and Defendants PC
 24 Guardian Anti-Theft Products, Inc. and Fellowes, Inc., parties to this legal action, by and through
 25 their attorneys, do hereby stipulate and the Court does hereby order as follows:

- 26 1. Defendants' affirmative defense of failure to state a claim, in Paragraph 11 of
 27 Defendants' Amended Answer, Affirmative Defenses, Counterclaims, and Demand
 28 for Jury Trial, against U.S. Patent No. 6,553,794 is dismissed with prejudice.

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- 2. Defendants’ affirmative defense of patent misuse, in Paragraphs 17 through 19 of Defendants’ Amended Answer, against the ‘794 patent is dismissed with prejudice.
- 3. Each party is to bear its own costs and attorneys fees with respect to these two affirmative defenses and the entry of this Stipulation and Order.

DATED: September 25, 2008

/s/ Brian Smith
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DATED: September 25, 2008

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IT IS SO ORDERED.

DATED: _____



Honorable Susan Illston
United States District Court Judge