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INTERNATIONAL, CORP. and ROBERT MONTGOMERY
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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 IN AND FOR THE COUNTY OF ORANGE

10 CENTRAL DISTRICT

11 NOVA COMMUNICATIONS LTD., a)	CASE NO. 05CC04761
Nevada corporation, and ARTHUR)	
12 ROBINS, an individual,)	DECLARATION OF ROBERT
)	MONTGOMERY IN SUPPORT OF
13 Plaintiffs,)	CROSS-COMPLAINANT’S OPPOSITION
)	TO SPECIAL MOTION TO STRIKE
14 v.)	EVERY CAUSE OF ACTION ALLEGED
)	IN THE CROSS-COMPLAINT,
15 POWERSKI INTERNATIONAL, CORP., a)	PURSUANT TO CODE OF CIVIL
California corporation, ROBERT)	PROCEDURE SECTION 425.16 [ANTI-
16 MONTGOMERY, an individual, and Does)	SLAPP].
1 through 10, inclusive,)	
17)	Date: December 18, 2006
Defendants.)	Time: 10:30 a.m.
18)	Dept.: CX103
19)	

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21 **DECLARATION OF ROBERT MONTGOMERY**

22 I, ROBERT MONTGOMERY, hereby declare as follows:

- 23 1. I am the Chief Executive Officer of Powerski International, Corp. I have personal
24 knowledge of the facts referenced herein.
- 25 2. Powerski International, Corp.’s high-performance motorized surfboard, the
26 “Jetboard,” has received worldwide media coverage, acclaim, and notoriety
27 including, but not limited to, the following video media:
- 28
 - Fox Sports
 - National Broadcasting Company (“NBC”)

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- Cable News Network (“CNN”)
- E! Entertainment Television – “Wild on E!”
- History Channel
- Discovery Channel
- The Science Channel
- The SciFi Channel.
- Universal Studios
- EuroVision with Daniel Pfisterer
- Livin’ Large Show
- Tech TV — “Fresh Gear”
- Turner Broadcasting System (“TBS”) – “Worst Case Scenario”
- Xtreme Life

3. Powerski International, Inc.’s high-performance motorized surfboard, the “Jetboard,” has received worldwide media coverage, acclaim and notoriety including, but not limited to, the following magazine publications:

- Time
- Conde Nast Traveler
- Design News
- Esquire
- Popular Mechanics
- Machine Design
- Popular Science
- Wired
- Surfing Action
- Mens Journal
- Water Sports Magazine
- Boating
- Boating World
- Yates y Villas
- Sea

4. In filing the Cross-Complaint, it is Cross-Plaintiffs’ contention that Nova International, Ltd. delayed entering into any specific agreement regarding the proposed merger between Nova International, Ltd and Powerski International, Corp. until October 10, 2003, when a Memorandum of Understanding was entered into to provide “working capital funding” to PSI in an amount of \$2,000,000 due December 31, 2003.

5. It is Powerski International, Corp.’s belief and position that Nova Communications, Ltd. breached the October 10, 2003 Memorandum of Understanding. The Second Memorandum of Understanding states that Nova Communications, Ltd. provided no less than \$600,000 by February 2, 2004, and the remaining sum of \$1,400,000 of the Funding remains outstanding.

- 1 6. Powerski International, Corp. entered into a second Memorandum of Understanding with a
2 detailed payment plan for Nova Communications, Ltd.’s financing of “working capital
3 funding” due to Nova Communication, Ltd’s previous untimely payments. Without notice
4 and without cause, Nova suddenly ceased payment — again.
- 5 7. Nova Communications, Ltd, Arthur Robins, and other Cross Defendants, including Francis
6 Cagle and Linda Cagle, signed Non-Disclosure, Non-Compete, and/or Non-Circumvention
7 Agreements.
- 8 8. Attached as Exhibit A of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
9 filed herewith, is a true and correct copy of Powerski International, Corp.’s stock offering
10 (40-page Confidential Company Memorandum).
- 11 9. Attached as Exhibit B of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
12 filed herewith, is a true and correct copy of the April 22, 2002, Powerski International,
13 Corp. Purchaser Questionnaire completed by Francis Cagle, and executed by Francis Cagle
14 and Linda Cagle.
- 15 10. Attached as Exhibit C of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
16 filed herewith, is a true and correct copy of the April 22, 2002, Powerski International,
17 Corp. Subscription Agreement executed by Francis Cagle and Linda Cagle, evidencing
18 their purchase of thirty-three thousand, and three-hundred and thirty-three (33,333) shares
19 at \$6.00 per share.
- 20 11. Attached as Exhibit D of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
21 filed herewith, is a true and correct copy of the 9-page April 22, 2002, Powerski
22 Authorized Sales and Service Agreement executed by PSI and Francis Cagle and Linda
23 Cagle, and a 1-page document entitled “Addendum A” evidencing a required additional
24 investment by the Cagles of \$307,000.
- 25 12. Attached as Exhibit E of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
26 filed herewith, is a true and correct copy of the 9-page July 31, 2002, Powerski Distributor
27 Agreement, and a 2-page Distributor Agreement Addendum A also dated July 31, 2002.
- 28 13. Attached as Exhibit F of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently

- 1 filed herewith, is a true and correct copy of printed screen shots of a PowerPoint
2 presentation pertaining to the Francis and Linda Cagle’s visit to Powerski International
3 Corp.. The presentation was prepared for the purpose of litigation.
- 4 14. Attached as Exhibit G of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
5 filed herewith, is a true and correct copy of a November 15, 2002, e-mail from Francis
6 Cagle to James Habig acknowledging PSI’s need for financing as early as November 15,
7 2002.
- 8 15. Attached as Exhibit H of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
9 filed herewith, is a true and correct copy of an e-mail from Francis and Linda Cagle to
10 James Habig acknowledging production status as early as January 22, 2003.
- 11 16. Attached as Exhibit I of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently filed
12 herewith, is a true and correct copy of an e-mail from Francis Cagle to James Habig dated
13 January 24, 2003, wherein the Cagles request two “Beta” boards with the knowledge of
14 PSI’s need for financing and Jetboard production.
- 15 17. Attached as Exhibit J of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
16 filed herewith, is a true and correct copy of a 1-page letter dated March 19, 2004 from
17 James Walker, Sr. to Bob Montgomery with the Re line: “Del Mar Agreement”; attached
18 is a 5-page, interlineated document on Powerski International Corporation letterhead dated
19 March 1, 2004, and addressed to Aarif Jamani and bearing the following “re” line:
20 Agreement in Principle — Purchase of Assets of Powerski International Corporation by a
21 Publicly-Traded Corporation.
- 22 18. Attached as Exhibit K of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
23 filed herewith, is a true and correct copy of a March 31, 2004, e-mail from former Cross-
24 Defendant Art Robins (“Robins”) admitting that PSI had the capabilities to produce
25 Jetboards, stating:
- 26 Local vendors ALREADY FAMILIAR WITH OUR
27 REQUIREMENTS WILL BE FILLING IN DURING THE
28 INTERIM PERIOD SO AS TO AVOID UNDESIRABLE
OPERATION in April and will continue on a 24/7 production
schedule which should result in approximately 1000 boards

1 available monthly. This will occur some time in August.
2 (Emphasis in original.)

3 19. Attached as Exhibit L of Cross-Plaintiffs' Notice of Lodgement, which is concurrently
4 filed herewith, is a true and correct copy of an April 3, 2004, e-mail Robins sent to the
5 Cagles and others disclosing attorney-client-privileged information. Robins knew or
6 should have known that such information was confidential and privileged, as is
7 demonstrated by the content of said e-mail which includes, but is not limited to, the
8 following language:

9 "PLEASE KEEP THIS IN CONFIDENCE [sic] THIS IS ONLY TO KEEP
10 YOU ADVISED AS TO WHAT IS THE LATEST IN THE SAGA."
11 "I sent this to the Hines Group, as a FYI" [sic]

12 20. Attached as Exhibit M of Cross-Plaintiffs' Notice of Lodgement, which is concurrently
13 filed herewith, is a true and correct copy of an April 4, 2004, e-mail from Robins detailing
14 his plans to destroy PSI and Montgomery, which states:

15 This is an FYI, which Francis [Cagle] and I are working on, and I
16 am checking out [Hines Group] to see if they are interested, When it
17 all done this present mess, I plan to merge the various elements into
18 one entity, then we have something to go public on, so please keep
19 this quiet. I also have some electric ATV's to bring into this as
20 well, with a few other products which all fall into this area[.]

21 The reason I share this at this point, because I plan to merge the
22 existing Dealers and distribution together, and that will need some
23 thought on the marketing end, I hate to drop things on people out of
24 the blue, and expect them to start to run with it, Please don't ask
25 now what the entire picture will be yet, I need to plan some
26 manufacturing, costing, and sell the entire Idea, to [HINES], And a
27 few other people, But we still need to focus on "The Bob" (sic)
28 Walker will be on our side by mid week.

29 21. Attached as Exhibit N of Cross-Plaintiffs' Notice of Lodgement, which is concurrently
30 filed herewith, is a true and correct copy of an April 4, 2004, e-mail from Robins
31 discussing Cross-Defendants' plans to convince PSI shareholders to join him in his efforts
32 to take over PSI, stating: "Sir Francis [CAGLE] spoke to Jim [Walker.] It went well. He
33 didn't have a true clue as to what was going on."

34 22. Attached as Exhibit O of Cross-Plaintiffs' Notice of Lodgement, which is concurrently

- 1 filed herewith, is a true and correct copy of an April 13, 2004, e-mail from Robins stating
2 that former PAT X Cross-Defendants wanted a “list of all components that are part of the
3 engine.” But, PSI had already provided all necessary component lists and instructions, and
4 the engine came fully-assembled.
- 5 23. Attached as Exhibit P of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
6 filed herewith, is a true and correct copy of an April 14, 2004, e-mail from former Cross-
7 Defendant James Habig to his attorney, which expressed an urgency to file an SEC
8 complaint based on fraudulent information. In the reply, Habig’s attorney, Mike Corfield,
9 states that Robins’ description of the merger and facts were questionable.
- 10 24. Attached as Exhibit Q of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
11 filed herewith, is a true and correct copy of an April 18, 2004, summary of a meeting
12 between Cross-Defendants, including the Cagles, in which they assign Arthur Robins the
13 task of “psyops” and refer to their activities as an “attack by stealth, shock & awe, carpet
14 bomb” and that it would be a “coordinated effort.”
- 15 25. Attached as Exhibit R of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
16 filed herewith, is a true and correct copy of a May 11, 2004, e-mail from Mike Hainsworth
17 to Francis and Linda Cagle, among others, stating: “I just had a length(sic) conversation
18 with Steve Snow. Paul, Steve led a take over attempt in 1999. He could be a wealth of
19 information for us as would his partner Dave Rueckert.
- 20 26. Attached as Exhibit S of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
21 filed herewith, is a true and correct copy of a May 19, 2004, e-mail from James Habig
22 stating: “A very serious event happened while I was gone. My wife returned the laptop
23 computer to PSI before I was able to swipe it clean and unfortunately many e-mails
24 remained on the computer.”
- 25 27. Attached as Exhibit T of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
26 filed herewith, is a true and correct copy of a May 26, 2004, e-mail from Art Robins to
27 Suzy Legron that includes a Confidential Powerski International, Corp. Business Plan that
28 has been revised to be a Endless Wave International business plan.

- 1 28. Attached as Exhibit U of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
2 filed herewith, is a true and correct copy of a May 26, 2006, e-mail from Art Robins
3 identifying the “key people” in the development of the X-board as including “Francis”
4 [Cagle].
- 5 29. Attached as Exhibit V of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
6 filed herewith, is a true and correct copy of an e-mail dated May 26, 2004, from Art
7 Robins to Suzanne Legron identifying the “Core group” as including “Francis [Cagle]” and
8 stating that he has “*inherited* some problems.” (Emphasis added.)
- 9 30. Attached as Exhibit W of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
10 filed herewith, is a true and correct copy of an e-mail from Art Robins to Francis Cagle
11 and Linda Cagle, among others, specifying the e-mail addresses pertaining to the “X-team”
12 that are to be e-mailed as well, which included “Sir Francis & Lady Linda” and states:
- 13 I need full hull configuration, top, side, bottom. End views, Jet cut out, this will be
14 use two fold, I have my meetings in Miami Monday, Tuesday, and Wednesday
15 with Thursday as a catchup day.
- 16 I come from a sailboat background. . . . I need to understand
17 when I go forth into my next series of meetings with Cagle this week.
- 18 31. Attached as Exhibit X of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
19 filed herewith, is a true and correct copy of a September 27, 2004, press release from Nova
20 Communications entitled “Nova Communications Introduces Jet-Powered Personal
21 Watercraft — X Board.
- 22 32. Attached as Exhibit Y of Cross-Plaintiffs’ Notice of Lodgement, which is concurrently
23 filed herewith, is a true and correct copy of Linda Cagle’s and Francis Cagle’s signed two-
24 page Non-Disclosure / Non-Compete Agreements.
- 25 33. Attached as Exhibit Z of Cross-Plaintiffs’ Notice of Lodgement, which is
26 concurrently filed herewith, is a Attached hereto as Exhibit P is a true and correct
27 copy of a DVD containing video of Arthur Robins announcing the development of
28 the X-Board and describing the business as — at the time — being four years old,
which — at the time — was **less than a year** after Robins had signed on as a

- 1 Powerski International, Corp. distributor.
- 2 34. EXHIBIT AA: A true and correct copy of a 1-page August 14, 2001, document entitled
3 “Statement of Fact” signed by former PSI employee Lewis B. “Skip” Ripley II.
- 4 35. Exhibits addressed to or from Todd Lindquist and Suzanne Lindquist were provided by
5 them to me as a good faith effort to demonstrate that they were no longer involved in the
6 development of a competing product.
- 7 36. Exhibits addressed to or from James Habig were recovered from PSI computers previously
8 used by James Habig, where the files were stored.
- 9 37. As a direct result of Cross-Defendants’ actions, Powerski International, Corp.’s production
10 of the Jetboard was substantially delayed. PSI is *currently*, however, manufacturing and
11 shipping Jetboards to international distributors and dealers, but not domestic dealers.
- 12 38. As a direct result of Cross-Defendants’ actions, Powerski International, Corp. was
13 prohibited from producing and distributing Jetboards to consumers within the United
14 States territories during the two years prior to the heightened 2006 Federal Environmental
15 Protection Agency regulatory requirements that apply to Powerski Jetboard engines
16 became effective. As a direct result, Powerski International, Corp. was prohibited from
17 generating a significant number of sales, which sales would have generated a significant
18 amount of much needed revenue. As a direct result, Powerski must now re-design certain
19 components of the Jetboards’ engine in order to meet the heightened Environmental
20 Protection Act standards, and they must do so using alternative funding. Obtaining this
21 alternative funding has therefore delayed any necessary domestic distribution of the
22 Jetboard, and it will delay PSI’s ability to generate the revenue derived therefrom.
- 23 39. The above-specified exhibits are but a few of the exhibits identified and attached to the
24 First Amended Complaint, which, even at this early stage in the litigation and without
25 having sought any discovery, has been documented thoroughly. As is detailed throughout
26 the Cross-Complaint, Cross-Defendants engaged in a conspiracy to take control of
27 Powerski International, Corp. by removing me from my position as the Chief Executive
28 Officer of Powerski, and then, when their efforts to remove me failed, they subsequently

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engaged in activities designed to stall production and drain Powerski International, Corp.s’ funding through the use of frivolous and baseless lawsuits while simultaneously developing a competing product using Powerski employees, trade secrets, business plans and other proprietary and confidential information obtained and used without the consent of Powerski International, Corp.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 5th day of December, 2006, at San Clemente, California.

Defendant Robert Montgomery on behalf of
himself and Defendant Powerski International,
Corp.

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I, Claudia Ayala, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
6 business address is 180 Ocean Boulevard, Suite 200, Long Beach, CA 90802.

6 On December 5, 2006, I served the foregoing document(s) described as

7 **DECLARATION OF ROBERT MONTGOMERY IN SUPPORT OF DEFENDANTS’**
8 **SPECIAL MOTION TO STRIKE EVERY CAUSE OF ACTION, PURSUANT TO CODE**
9 **OF CIVIL PROCEDURE SECTION 425.16 [ANTI-SLAPP]**

9 on the interested parties in this action by placing

10 the original

11 a true and correct copy

12 thereof enclosed in sealed envelope(s) addressed as follows:

13 William R. Hill
14 DONAHUE GALLAGHER WOODS, LLP
15 Attorney At Law
16 300 Lakeside Drive, Suite 1900
17 Oakland, CA 94612-3570
18 Fax: (510) 832-1486

15 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
16 processing correspondence for mailing. Under the practice it would be deposited with the
17 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
18 California, in the ordinary course of business. I am aware that on motion of the party
19 served, service is presumed invalid if postal cancellation date is more than one day after
20 date of deposit for mailing an affidavit.

21 Executed on December 5, 2006, at Long Beach, California.

22 (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
23 addressee.

24 (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
25 with California Rules of Court, Rule 2003, and no error was reported by the machine.
26 Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a transmission
27 record of the transmission, copies of which is attached to this declaration.

28 Executed on December 5, 2006, at Long Beach, California.

29 X (STATE) I declare under penalty of perjury under the laws of the State of California that
30 the foregoing is true and correct.

31 (FEDERAL) I declare that I am employed in the office of the member of the bar of this of
32 this court at whose direction the service was made.

33 _____
34 CLAUDIA AYALA