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US Patent #5,385,770 & # 7,799,379

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September 14, 2015

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(Please forward copies of this doc and attachments to **all** persons of interest/parties of record prior to the September/October 2015 meeting. Please also make this document part of the public record).

Regards: "11B - 705.1.1.1 Dome size.

Truncated domes in a detectable warning surface shall have a base diameter of 0.9 inch (22.9 mm) minimum and 0.92 inch (23.4 mm) maximum, a top diameter of 0.45 inch (11.4 mm) minimum and 0.47 inch (11.9 mm) maximum, and a height of 0.18 inch (4.6 mm) minimum and 0.22 inch (5.6 mm) maximum 0.2 inch (5.1 mm)"

To all,

I am writing today to (hopefully, and respectfully) assist in the design standard now being proposed (see above) to change the detectable warning (truncated dome) standard from a currently workable one with some latitude, to one that is static and entirely disregards the intention behind not only "Equivalent Facilitation" (which essentially states that if it acts the same, provides a similar function but does either, for lower cost, better results, longer lasting values, ease of installation, new and/or more advantageous results....then it has met the EQ criteria and this new item, whatever it is, can then be substituted for one that is not of the exact design standard as written), but moreover, one that, if adopted in its current form will, without debate, open California up to innumerable, massive, and entirely unnecessary, costs.

Simply, with zero latitude in design standards, the very *second* something happens to an installation that alters its appearance or shape (a bowling ball is dropped on it in Petaluma, snow plows hit the first 2 - 4 rows and shatter them off in Big Bear or, just simple abrasion on any Los Angeles or S.F. corner with barely 6 months of tires rolling over same, polishing them not only smooth but, making them smaller/shorter and no longer round), *it is out of compliance*.

If you thought **Barden v. Sacramento** was expensive, *you ain't seen nothing yet*. This is **much** closer to Kinney v. Yerusalem.

This is a Statewide mandate to spend *tens of millions* of brand new dollars that are simply not in (anyone's) budget.

Gentlemen, this decision to go with a fixed design standard, with no deviation not only limits California to rigid product design, it absolutely eliminates future manufacturers or inventors from coming out with products that can provide the State (with flexibility/"EQ") with more cost effective, productive, functional products and.....it insures that close to 10% of every product installation will be out of compliance, *annually*.

Not likely? I was down in Davis, probably 14 years ago on a Monday morning, about 9:00 a.m. or so, doing some repairs to an installation we'd done just a few months prior. Someone had run a cable/wires through the parking lot and, unfortunately, some of it ran right through our installation. I knew this event was going to occur and I flew down there a week or so after the fact to deal with those aspects affecting our products. The building official came over, noticed me, said thanks and then proceeded to explain; "*we've got this guy down here that runs around complaining about every possible error on any ADA product/installation/mandate, you name it, so....I really appreciate you coming and taking care of this....at least he can't complain about **that** item*".

I asked him what he meant (I'd heard of similar stories from Florida, Manhattan and so on). He went on to explain that in California there was (I presume still is) a code that requires the blue box where the accessible emblem is placed over top of same is a specific size (let's say for the sake of argument it was 36" x 36"...I actually don't recall)...I said "Uh huh?" and he says "see that accessible stall over there?" "Yep"....he says "I have to change that one and another 50 or more around town because they're not 36" x 36"...to which I said "well, those are easily 48" x 48"....what's wrong with that?"

He said "because the code doesn't say "at least as large as but no less than 36" x 36" or, within 10% of 36" x 36", or any other multitude of variations that allowed "better than". And so, this complainant had the run of the valley. By State mandate.

I don't know if the complainant made money off this (the guy in Florida made hundreds of thousands), but he absolutely created nightmares for building officials and city attorneys. Across the entire State.

Gentlemen, that person lives in every city on the planet and, the more that people are "victims", the bigger the population of this type of person, looking for every possible failure of the State, instead of....solutions.

I was originally requested to be on 2 of the original federal ADAAG subcommittees back in 1998, and I voted proudly, with integrity on many of the items we all came to know, and was there on 01/10/2001 when we presented our findings to DOJ. Not one comma was rejected. I voted for changes in phrasing that made competitors products viable, even as phrasing that would have eliminated the very ones that California prefers, existed because it affected wheelchair users and others negatively. Those issues got resolved. Ironically, I could have simply had my way. I was the ONLY industry representative on both panels.

I offered *unbiased* advice from the vantage point of *all* installers **and** manufacturers (no doubt I was chosen for these panels because I actually did *both*...manufacture and install. Everyone else did only one or the other), I *listened* to people who used wheelchairs, canes, had agnosia, foot drag/drop, cerebral palsy, offered advice on how I as a manufacturer would respond to those issues and how others (around the nation, using only the information we would be giving them via our mandates) as installers would either get it right or, in many cases, get it wrong, and we, all together, wrote great verbiage to obviate or improve many of these issues. *As a team*. I'm more than proud to say, we got (most of) it right.

I have spoken in D.C. at the Federal Access Board on this and related subjects twice, a Federal subcommittee on Transportation (MUTCD) once, all 3 of these times at *their* request, because I'm known for covering all sides fairly, and I have been an advocate for safe products for visually and mobility impaired persons for nearly 23 years.

Removing latitude from the detectable warning design standard is not a solution....**it's a brand new problem.**

One with tentacles so vast and so wide, literally *provided* by the State, that will rapidly invade every municipal and State agency (and budget), across California.

Literally, the minute *one single aspect* of an installed detectable warning product falls below the new mandated height in any substantial way (and it would appear that the State is of the opinion that a differential in *height* of **less** than the *width* of this >>> **I, is "substantial"**), **that** product and all (worn or damaged) installations are now, *both*, out of compliance. Here's an interesting note; those little "nibs" on the top of many injection molded detectable warnings, purportedly providing "*slip resistance*" (getting those products to 0.20" in height), wear off to a polished smooth finish in many cases, in fewer than 24 months, and are in many cases in *excess* of 0.004" in height, or *100% more than the currently recommended number to make them fall entirely out of compliance*. Yet they *still* function well, and *entirely* as designed, providing value to the blind and visually impaired community.

This new proposed mandate is simply a mandate to fail.

The products manufactured today, by nearly every measure, are *vastly* superior to those manufactured just 5 years previous but, it is clear with just nominal observation, the problems municipalities have with detectable warnings aren't the size or shape (or height), rather, in many cases, choosing the wrong product for the right need.

Some do far better in cold climates, others, more so in warmer climes. A "**one size fits all**" design standard simply will not work and it *will* cost the State more (millions) annually.

Every possible complainant will be all over this because they have nothing better to do. Every building official will be out there with a micrometer measuring every dome....for a differential that is the equivalent of this document, folded (tightly) 3 times, in an envelope, with a stamp.

If **When** it falls short, that installation will have to come out (even if from use and normal wear), affecting the contractor of course, delaying projects statewide, adding literally *millions* to the costs and affect everyone detrimentally in the community of users who need these systems in place as soon as they can be placed, in areas of clear need.

And when the complainants arrive (and they will...there's no reason to believe they'll act any differently now than as before, only now, handed the very tools needed to do so), the State of California will be on the hook for 100's of millions of dollars of legal issues as well as construction issues, again, making Barden v. Sacramento look like a practice game. Hardly something, if I read the papers correctly, California needs at the moment.

Latitude is needed gentlemen. It's needed in all things. Latitude was given by the feds for these, among many other very valid reasons. We talked about these **very** issues in 1999 - 2001 in San Francisco as well as Philadelphia in subcommittee.

Please reconsider your approach on this design change. Please listen to the manufacturers. Please listen to the echoes of the past (Davis/Barden v./others). This proposed mandate is *by design*, burdened *before* the ink dries, *with every imaginable reason not to do it*. Making this proposed design standard the new State mandate, flies in the face of every logical process available to every one of us, as importantly, it flies in the face of every City, County, State accounting and purchasing department who have to *pay* for it, but **most** importantly, it flies in the face of every one of those whom we were sent here to serve: Visually and mobility impaired.

This new detectable warning design standard is **more** costly, provides *negative* gain, **adds** cost and bureaucracy to nearly every city and municipality in the State and it insures accessibility will **decrease**, not the reverse. *This is a solution for a problem that doesn't exist, for a battle that never began, that can never be won using rigid standards.*

It will however, make **one** group *enormously* happy: Lawyers.

Recommendation: Adopt the federal guidelines *verbatim*, **including** the 24" design standard ("depth"), **along with the latitude and built in flexibility that "Equivalent Facilitation" (EQ) provides, as it was designed to, and does every day, across the entire country, and more so, in this case very well.**

EQ provides "*reasonable latitude*". EQ allows for products that *actually work*, instead of just meet a spec. (And for less \$).

I thank you very much for your time,

Sincerely,

Jon Julnes

President

Vanguard ADA Systems