

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

THE WILLIAM M. YARBROUGH
FOUNDATION and ZANFEL
LABORATORIES, INC.,

Plaintiffs,

v.

GREGORY A. RUBIN and
GARCOA LABORATORIES, INC.,

Defendants.

Case No: 1:11-CV-00907

HON. GORDON J. QUIST
United States District Judge

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 15(a) and as a matter of course, Plaintiffs, THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL LABORATORIES, INC., ("PLAINTIFFS" or "ZANFEL") by and through their undersigned counsel, for their First Amended Complaint against Defendants, GREGORY A. RUBIN and GARCOA LABORATORIES, INC. ("DEFENDANTS" or "GARCOA") state the following. Allegations made on information and belief are premised on the belief that the same are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

NATURE OF THE CASE

1. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. §1, *et seq.* ("Federal Patent Act").

2. This is also an action for copyright infringement under the Federal Copyright Act of 1976, as amended, 17 U.S.C. §101, *et seq.* ("Federal Copyright Act").

3. This is additionally an action for trademark infringement under the Trademark Laws of the United States, 15 U.S.C. §1051, *et seq.* ("The Lanham Act").

4. This is also an action in law and equity for trade dress infringement, false advertising, and false designations of origin and false and misleading descriptions and representations under §43(a) of the Lanham Act.

5. This is further an action for deceptive trade practice in violation of Michigan's Consumer Protection Act.

6. DEFENDANTS, in an improper attempt to unlawfully profit from the success of ZANFEL's market leading poison ivy wash, sell and distribute a plurality of knockoff poison ivy wash products in direct violation of The Federal Patent Act, The Federal Copyright Act, The Lanham Act, and Michigan Law – among others.

7. ZANFEL seeks injunctive and monetary relief to the fullest extent possible under The Federal Patent Act, The Federal Copyright Act, The Lanham Act, and Michigan Law, as well as any such other relief as the equities of the case may require and as this Court may deem just and proper.

PARTIES

8. THE WILLIAM M. YARBROUGH FOUNDATION is an Illinois not-for-profit corporation having a place of business at c/o: Michael J. Legamaro, 203 North LaSalle Street, Suite 1900, Chicago, Illinois 60601.

9. ZANFEL LABORATORIES, INC. is an Illinois corporation having a place of business at 6901 North Knoxville Avenue, Suite 200, Peoria, Illinois 61614.

10. Upon information and belief GREGORY A. RUBIN is an individual with an address at 26135 Mureau Road, Suite 100, Calabasas, California 91302.

11. Upon information and belief GARCOA LABORATORIES, INC. is a corporation organized under the laws of Ohio, having a principal place of business at 26135 Mureau Road, Suite 100, Calabasas, California 91302.

JURISDICTION AND VENUE

12. This Court has original jurisdiction over the subject matter by virtue of at least one of 15 U.S.C. §§1121 and 28 U.S.C. §§1331, 1338(a), and 1338(b).

13. This Court has supplemental jurisdiction over any state law and common law claims under 28 U.S.C. §1367(a).

14. This Court has personal jurisdiction over GREGORY A. RUBIN and venue is proper in this judicial district pursuant to at least one of 28 U.S.C. §§1391(b)(2), 1391(c), 1400(a), and 1400(b). GREGORY A. RUBIN is actively doing business in this judicial district, and/or has committed certain acts of patent infringement, copyright infringement, trademark infringement, trade dress

infringement, false advertising and/or false designations of origin and false descriptions under the Lanham Act, in this judicial district. GREGORY A. RUBIN, *inter alia*, aids and abets GARCOA LABORATORIES, INC.'s sale and distribution of Equate, CVS, and/or Walgreens brand poison ivy wash in the State of Michigan. GREGORY A. RUBIN is subject to the personal jurisdiction of this Court and is amenable to service of process pursuant to the Michigan long-arm statute, MI ST 600.705 (2003), and Fed. R. Civ. P. 4(e). Requiring GREGORY A. RUBIN to respond to this action will not violate due process.

15. This Court has personal jurisdiction over GARCOA LABORATORIES, INC., and venue is proper in this judicial district pursuant to at least one of 28 U.S.C. §§1391(b)(2), 1391(c), 1400(a), and 1400(b). GARCOA LABORATORIES, INC. is actively doing business in this judicial district, and/or has committed certain acts of patent infringement, copyright infringement, trademark infringement, trade dress infringement, false advertising and/or false designations of origin and false descriptions under the Lanham Act, in this judicial district. Among other places, GARCOA LABORATORIES, INC. makes, distributes, offers for sale, and/or sells Equate, CVS, and/or Walgreens brand poison ivy wash in the State of Michigan. GARCOA LABORATORIES, INC. is subject to the personal jurisdiction of this Court and is amenable to service of process pursuant to the Michigan long-arm statute, MI ST 600.705 (2003), and Fed. R. Civ. P. 4(e). Requiring GARCOA LABORATORIES, INC. to respond to this action will not violate due process.

16. Upon information and belief GREGORY A. RUBIN makes certain and/or critical business decisions on behalf of GARCOA LABORATORIES, INC.

17. Upon information and belief GREGORY A. RUBIN is the alter ego and/or partial alter ego of GARCOA LABORATORIES, INC.

BACKGROUND

18. Prior to July 22, 2002, William M. Yarbrough conceived of a method for treating poison ivy with an aqueous topical composition (the "Composition").

19. Mr. Yarbrough formed a business around the manufacture and sale of the Composition. That business, operating under the name ZANFEL, sells the Composition as the market leading wash for treating poison ivy, oak, and sumac.

20. Mr. Yarbrough established THE WILLIAM M. YARBROUGH FOUNDATION, a charitable, not-for-profit foundation directed toward, among other benevolent missions, caring for and feeding orphaned children, as well as homeless and indigent people in the United States. In fact, in the last decade, THE WILLIAM M. YARBROUGH FOUNDATION has donated millions of dollars to provide several hundred thousand meals to children and adults who are tragically underprivileged. THE WILLIAM M. YARBROUGH FOUNDATION also provides clothing, housing, job training, medical and dental care to children and adults in times of need.

21. THE WILLIAM M. YARBROUGH FOUNDATION owns a majority of the intellectual property associated with Zanafel's wash for treating poison ivy, oak, and sumac.

22. In an improper attempt to unlawfully profit from the goodwill of ZANFEL, as well as impede the benevolent missions of THE WILLIAM M. YARBROUGH FOUNDATION, DEFENDANTS have begun selling knockoff versions of Zanafel's market leading poison ivy wash that infringe PLAINTIFFS' intellectual property in direct violation of The Federal Patent Act, The Federal Copyright Act, The Lanham Act, and Michigan Law – among others. (Exhibit A).

23. DEFENDANTS have also recklessly and/or willfully misrepresented the characteristics, ingredients, uses, benefits, and/or quantities of their products in violation of Michigan's Consumer Protection Act.

COUNT I – PATENT INFRINGEMENT OF U.S. PATENT NO. 7,008,963

BY GREGORY A. RUBIN

24. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-23 of this Complaint as if fully set forth herein.

25. Prior to July 22, 2002, William M. Yarbrough conceived of a method for treating poison ivy with an aqueous topical composition (the "Composition").

26. Mr. Yarbrough formed a business around the manufacture and sale of the Composition. That business, operating under the name ZANFEL, sells the Composition as a wash for treating poison ivy, oak, and sumac.

27. On July 22, 2002, Mr. Yarbrough filed a patent application directed to methods for using the Composition in the treatment of urushiol induced contact dermatitis (*e.g.*, poison ivy, oak, and sumac).

28. On March 7, 2006, the United States Patent and Trademark Office

issued U.S. Patent No. 7,008,963 ("the '963 patent"), entitled "Urushiol Induced Contact Dermatitis Solution." (Exhibit B).

29. All rights in the '963 patent have been assigned to THE WILLIAM M. YARBROUGH FOUNDATION. THE WILLIAM M. YARBROUGH FOUNDATION is the sole owner of the '963 patent and has the right to enforce and recover damages for infringement of the '963 patent.

30. ZANFEL is an exclusive licensee of the '963 patent and, as such, also has the right to enforce and recover damages for infringement of the '963 patent.

31. GREGORY A. RUBIN makes or has made, uses, offers to sell and/or sells multiple products indicated for the treatment of poison ivy which infringe upon one or more claims of the '963 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

32. GREGORY A. RUBIN has actively induced and currently actively induces infringement of one or more claims of the '963 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

33. GREGORY A. RUBIN has knowledge of ZANFEL's wash for treating poison ivy, oak, and sumac, as well as the '963 patent pertaining to the same.

34. Upon information and belief GREGORY A. RUBIN has instructed and continues to instruct customers to use his hand scrub to treat poison ivy, oak, and sumac, and thereby directly infringe one or more claims of the '963

patent.

35. Upon information and belief GREGORY A. RUBIN specifically intends for customers to infringe the '963 patent for his economic benefit. GREGORY A. RUBIN's comparison to ZANFEL's wash and instructions regarding use of his hand scrub to treat poison ivy, oak, and sumac demonstrates his specific intent.

36. Infringement of the '963 patent by GREGORY A. RUBIN has caused, and will continue to cause THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL to suffer damages, including, but not limited to, lost sales, lost profits, lost royalties and price erosion in an amount to be determined by the trier of fact.

37. Unless restrained and enjoined by this Court, GREGORY A. RUBIN will continue to infringe the '963 patent, resulting in substantial, continuing and irreparable damages to THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL.

38. The actions of GREGORY A. RUBIN are willful and "exceptional" within the meaning of 35 U.S.C. §285.

COUNT II – PATENT INFRINGEMENT OF U.S. PATENT NO. 7,008,963

BY GARCOA LABORATORIES, INC.

39. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-38 of this Complaint as if fully set forth herein.

40. Prior to July 22, 2002, William M. Yarbrough conceived of a method for treating poison ivy with an aqueous topical composition (the "Composition").

41. Mr. Yarbrough formed a business around the manufacture and sale of the Composition. That business, operating under the name ZANFEL, sells the Composition as a wash for treating poison ivy, oak, and sumac.

42. On July 22, 2002, Mr. Yarbrough filed a patent application directed to methods for using the Composition in the treatment of urushiol induced contact dermatitis (e.g., poison ivy, oak, and sumac).

43. On March 7, 2006, the United States Patent and Trademark Office issued U.S. Patent No. 7,008,963 ("the '963 patent"), entitled "Urushiol Induced Contact Dermatitis Solution."

44. All rights in the '963 patent have been assigned to THE WILLIAM M. YARBROUGH FOUNDATION. THE WILLIAM M. YARBROUGH FOUNDATION is the sole owner of the '963 patent and has the right to enforce and recover damages for infringement of the '963 patent.

45. ZANFEL is an exclusive licensee of the '963 patent and, as such, also has the right to enforce and recover damages for infringement of the '963 patent.

46. GARCOA LABORATORIES, INC. makes or has made, uses, offers to sell and/or sells multiple products indicated for the treatment of poison ivy which infringe upon one or more claims of the '963 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

47. GARCOA LABORATORIES, INC. has actively induced and currently actively induces infringement of one or more claims of the '963 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

48. GARCOA LABORATORIES, INC. has knowledge of ZANFEL's wash for treating poison ivy, oak, and sumac, as well as the '963 patent pertaining to the same.

49. Upon information and belief GARCOA LABORATORIES, INC. has instructed and continues to instruct customers to use its hand scrub to treat poison ivy, oak, and sumac, and thereby directly infringe one or more claims of the '963 patent.

50. Upon information and belief GARCOA LABORATORIES, INC. specifically intends for customers to infringe the '963 patent for its economic benefit. GARCOA LABORATORIES, INC.'s comparison to ZANFEL's wash and instructions regarding use of his hand scrub to treat poison ivy, oak, and sumac demonstrates its specific intent.

51. Infringement of the '963 patent by GARCOA LABORATORIES, INC. has caused, and will continue to cause THE WILLIAM M. YARBROUGH

FOUNDATION and ZANFEL to suffer damages, including, but not limited to, lost sales, lost profits, lost royalties and price erosion in an amount to be determined by the trier of fact.

52. Unless restrained and enjoined by this Court, GARCOA LABORATORIES, INC. will continue to infringe the '963 patent, resulting in substantial, continuing and irreparable damages to THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL.

53. The actions of GARCOA LABORATORIES, INC. are willful and "exceptional" within the meaning of 35 U.S.C. §285.

COUNT III – PATENT INFRINGEMENT OF U.S. PATENT NO. 6,423,746

BY GREGORY A. RUBIN

54. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-53 of this Complaint as if fully set forth herein.

55. Prior to July 22, 2002, William M. Yarbrough conceived of a method for treating poison ivy with an aqueous topical composition (the "Composition").

56. Mr. Yarbrough formed a business around the manufacture and sale of the Composition. That business, operating under the name ZANFEL, sells the Composition as a wash for treating poison ivy, oak, and sumac.

57. On July 3, 1999, Mr. Yarbrough filed a patent application directed to methods for using the Composition in the treatment of urushiol induced contact dermatitis (*e.g.*, poison ivy, oak, and sumac).

58. On July 23, 2002, the United States Patent and Trademark Office

issued U.S. Patent No. 6,423,746 ("the '746 patent"), entitled "Urushiol Induced Contact Dermatitis and Method of Use." (Exhibit C).

59. All rights in the '746 patent have been assigned to THE WILLIAM M. YARBROUGH FOUNDATION. THE WILLIAM M. YARBROUGH FOUNDATION is the sole owner of the '746 patent and has the right to enforce and recover damages for infringement of the '746 patent.

60. ZANFEL is an exclusive licensee of the '746 patent and, as such, also has the right to enforce and recover damages for infringement of the '746 patent.

61. GREGORY A. RUBIN makes or has made, uses, offers to sell and/or sells multiple products indicated for the treatment of poison ivy which infringe upon one or more claims of the '746 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

62. GREGORY A. RUBIN has actively induced and currently actively induces infringement of one or more claims of the '746 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

63. GREGORY A. RUBIN has knowledge of ZANFEL's wash for treating poison ivy, oak, and sumac, as well as the '746 patent pertaining to the same.

64. Upon information and belief GREGORY A. RUBIN has instructed and continue to instruct customers to use his hand scrub to treat poison ivy, oak, and sumac, and thereby directly infringe one or more claims of the '746 patent.

65. Upon information and belief GREGORY A. RUBIN specifically intends for customers to infringe the '746 patent for his economic benefit. GREGORY A. RUBIN's comparison to ZANFEL's wash and instructions regarding use of his hand scrub to treat poison ivy, oak, and sumac demonstrates his specific intent.

66. Infringement of the '746 patent by GREGORY A. RUBIN has caused, and will continue to cause THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL to suffer damages, including, but not limited to, lost sales, lost profits, lost royalties and price erosion in an amount to be determined by the trier of fact.

67. Unless restrained and enjoined by this Court, GREGORY A. RUBIN will continue to infringe the '746 patent, resulting in substantial, continuing and irreparable damages to THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL.

68. The actions of GREGORY A. RUBIN are willful and "exceptional" within the meaning of 35 U.S.C. §285.

COUNT IV – PATENT INFRINGEMENT OF U.S. PATENT NO. 6,423,746

BY GARCOA LABORATORIES, INC.

69. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-68 of this Complaint as if fully set forth herein.

70. Prior to July 22, 2002, William M. Yarbrough conceived of a method for treating poison ivy with an aqueous topical composition (the "Composition").

71. Mr. Yarbrough formed a business around the manufacture and sale of the Composition. That business, operating under the name ZANFEL, sells the Composition as a wash for treating poison ivy, oak, and sumac.

72. On July 3, 1999, Mr. Yarbrough filed a patent application directed to methods for using the Composition in the treatment of urushiol induced contact dermatitis (e.g., poison ivy, oak, and sumac).

73. On July 23, 2002, the United States Patent and Trademark Office issued U.S. Patent No. 6,423,746 ("the '746 patent"), entitled "Urushiol Induced Contact Dermatitis Solution."

74. All rights in the '746 patent have been assigned to THE WILLIAM M. YARBROUGH FOUNDATION. THE WILLIAM M. YARBROUGH FOUNDATION is the sole owner of the '746 patent and has the right to enforce and recover damages for infringement of the '746 patent.

75. ZANFEL is an exclusive licensee of the '746 patent and, as such, also has the right to enforce and recover damages for infringement of the '746 patent.

76. GARCOA LABORATORIES, INC. makes or has made, uses, offers to sell and/or sells multiple products indicated for the treatment of poison ivy which infringe upon one or more claims of the '746 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

77. GARCOA LABORATORIES, INC. has actively induced and currently actively induces infringement of one or more claims of the '746 patent in this judicial district and elsewhere in the United States in violation of 35 U.S.C. §271.

78. GARCOA LABORATORIES, INC. has knowledge of ZANFEL's wash for treating poison ivy, oak, and sumac, as well as the '746 patent pertaining to the same.

79. Upon information and belief GARCOA LABORATORIES, INC. has instructed and continues to instruct customers to use its hand scrub to treat poison ivy, oak, and sumac, and thereby directly infringe one or more claims of the '746 patent.

80. Upon information and belief GARCOA LABORATORIES, INC. specifically intends for customers to infringe the '746 patent for its economic benefit. GARCOA LABORATORIES, INC.'s comparison to ZANFEL's wash and instructions regarding use of his hand scrub to treat poison ivy, oak, and sumac demonstrates its specific intent.

81. Infringement of the '746 patent by GARCOA LABORATORIES, INC. has caused, and will continue to cause THE WILLIAM M. YARBROUGH

FOUNDATION and ZANFEL to suffer damages, including, but not limited to, lost sales, lost profits, lost royalties and price erosion in an amount to be determined by the trier of fact.

82. Unless restrained and enjoined by this Court, GARCOA LABORATORIES, INC. will continue to infringe the '746 patent, resulting in substantial, continuing and irreparable damages to THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL.

83. The actions of GARCOA LABORATORIES, INC. are willful and "exceptional" within the meaning of 35 U.S.C. §285.

COUNT V – COPYRIGHT INFRINGEMENT OF ZANFEL's PACKAGING

BY GREGORY A. RUBIN

84. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-83 of this Complaint as if fully set forth herein.

85. ZANFEL is a business which, among other things, designs distinctive packaging for its product which is used in the treatment of poison ivy, oak, and sumac.

86. ZANFEL's distinctive packages are original works of authorship subject to copyright protection under United States Law.

87. ZANFEL has created and owns several works of authorship in the nature of distinctive packaging and is the owner of all right, title and interest in and copyrights to such works.

88. ZANFEL created an original work of authorship entitled Zanafel

Package I – It Works!, which is copyrightable subject matter under the laws of the United States.

89. ZANFEL complied with all respects of the Federal Copyright Act of 1976, as amended, 17 U.S.C. §101, *et seq.*, and with all other laws governing copyrights. ZANFEL received from the Register of Copyrights a certificate of registration, dated and identified as follows: September 21, 2010, TX 7-321-303, entitled "Zanfel Package I – It Works!." (Exhibit D).

90. ZANFEL is the owner of all right, title, and interest in and copyright to Zanfel Package I – It Works!.

91. Upon information and belief, one or more of ZANFEL's packages were in the possession of GREGORY A. RUBIN prior to and/or during the development of one or more of GREGORY A. RUBIN's knockoff poison ivy washes.

92. At least one of GREGORY A. RUBIN's knockoff poison ivy washes utilize a package which is substantially similar to ZANFEL's package. (Exhibit A).

93. At least one of GREGORY A. RUBIN's knockoff poison ivy washes utilize a package which is strikingly similar to the Zanfel Package I – It Works!. (Exhibit A).

94. GREGORY A. RUBIN's unauthorized copying of ZANFEL's copyrighted packaging for its poison ivy wash constitutes copyright infringement in violation of the Federal Copyright Act.

95. Upon information and belief GREGORY A. RUBIN has knowingly

and willfully copied and continues to copy ZANFEL's copyrighted package.

96. Upon information and belief GREGORY A. RUBIN has sold and continues to sell substantial quantities of products made using ZANFEL's packaging that he copied, and continues to copy from ZANFEL.

97. As a direct and proximate result of GREGORY A. RUBIN's acts of infringement, ZANFEL has suffered and will continue to suffer irreparable injury.

98. GREGORY A. RUBIN's conduct is causing and, unless enjoined and permanently restrained by this Court, will continue to cause ZANFEL great and irreparable injury that cannot be fully compensated or measured in money. ZANFEL has no adequate remedy at law.

99. ZANFEL is entitled to recover all damages suffered as a result of GREGORY A. RUBIN's wrongful acts, including but not limited to profits obtained by GREGORY A. RUBIN as a result of his wrongful acts and the loss of profits sustained by ZANFEL. In the alternative, ZANFEL is entitled to recover statutory damages in an amount to be determined by the Court. ZANFEL is also entitled to recover all reasonable attorney's fees, court costs and interest on said damages from the date of GREGORY A. RUBIN's infringement.

COUNT VI – COPYRIGHT INFRINGEMENT OF ZANFEL's PACKAGING

BY GARCOA LABORATORIES, INC.

100. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-99 of this Complaint as if fully set forth herein.

101. ZANFEL is a business which, among other things, designs distinctive packaging for its product which is used in the treatment of poison ivy, oak, and sumac.

102. ZANFEL's distinctive packages are original works of authorship subject to copyright protection under United States Law.

103. ZANFEL has created and owns several works of authorship in the nature of distinctive packaging and is the owner of all right, title and interest in and copyrights to such works.

104. ZANFEL created an original work of authorship entitled Zanafel Package I – It Works!, which is copyrightable subject matter under the laws of the United States.

105. ZANFEL complied with all respects of the Federal Copyright Act of 1976, as amended, 17 U.S.C. §101, *et seq.*, and with all other laws governing copyrights. ZANFEL received from the Register of Copyrights a certificate of registration, dated and identified as follows: September 21, 2010, TX 7-321-303, entitled "Zanafel Package I – It Works!" (Exhibit D).

106. ZANFEL is the owner of all right, title, and interest in and copyright to Zanafel Package I – It Works!.

107. Upon information and belief, one or more of ZANFEL's packages were in the possession of GARCOA LABORATORIES, INC. prior to and/or during the development of one or more of GARCOA LABORATORIES, INC.'s knockoff poison ivy washes.

108. At least one of GARCOA LABORATORIES, INC.'s knockoff poison ivy washes utilize a package which is substantially similar to ZANFEL's package. (Exhibit A).

109. At least one of GARCOA LABORATORIES, INC.'s knockoff poison ivy washes utilize a package which is strikingly similar to the Zanafel Package I – It Works!. (Exhibit A).

110. GARCOA LABORATORIES, INC.'s unauthorized copying of ZANFEL's copyrighted packaging for its poison ivy wash constitutes copyright infringement in violation of the Federal Copyright Act.

111. Upon information and belief GARCOA LABORATORIES, INC. has knowingly and willfully copied and continues to copy ZANFEL's copyrighted package.

112. Upon information and belief GARCOA LABORATORIES, INC. has sold and continues to sell substantial quantities of products made using ZANFEL's packaging that they copied, and continue to copy from ZANFEL.

113. As a direct and proximate result of GARCOA LABORATORIES, INC.'s acts of infringement, ZANFEL has suffered and will continue to suffer irreparable injury.

114. GARCOA LABORATORIES, INC.'s conduct is causing and, unless enjoined and permanently restrained by this Court, will continue to cause ZANFEL great and irreparable injury that cannot be fully compensated or measured in money. ZANFEL has no adequate remedy at law.

115. ZANFEL is entitled to recover all damages suffered as a result of GARCOA LABORATORIES, INC.'s wrongful acts, including but not limited to profits obtained by GARCOA LABORATORIES, INC. as a result of its wrongful acts and the loss of profits sustained by ZANFEL. In the alternative, ZANFEL is entitled to recover statutory damages in an amount to be determined by the Court. ZANFEL is also entitled to recover all reasonable attorney's fees, court costs and interest on said damages from the date of GARCOA LABORATORIES, INC.'s infringement.

COUNT VII – COPYRIGHT INFRINGEMENT OF ZANFEL's TUBE

BY GREGORY A. RUBIN

116. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-115 of this Complaint as if fully set forth herein.

117. ZANFEL is a business which, among other things, designs distinctive tubes for its product which is used in the treatment of poison ivy, oak, and sumac.

118. ZANFEL's distinctive tubes are original works of authorship subject to copyright protection under United States Law.

119. ZANFEL has created and owns several works of authorship in the nature of distinctive tubes and is the owner of all right, title and interest in and copyrights to such works.

120. ZANFEL created an original work of authorship entitled Zanafel Tube I for Package I – It Works!, which is copyrightable subject matter under the laws of the United States.

121. ZANFEL complied with all respects of the Federal Copyright Act of 1976, as amended, 17 U.S.C. §101, *et seq.*, and with all other laws governing copyrights. ZANFEL received from the Register of Copyrights a certificate of registration, dated and identified as follows: September 22, 2010, TX 7-326-680, entitled "Zanafel Tube I for Package I – It Works!." (Exhibit E).

122. ZANFEL is the owner of all right, title, and interest in and copyright to Zanafel Tube I for Package I – It Works!.

123. Upon information and belief, one or more of ZANFEL's tubes were in the possession of GREGORY A. RUBIN prior to and/or during the development of one or more of GREGORY A. RUBIN's knockoff poison ivy washes.

124. At least one of GREGORY A. RUBIN's knockoff poison ivy washes utilize a tube which is substantially similar to ZANFEL's package. (Exhibit F).

125. At least one of GREGORY A. RUBIN's knockoff poison ivy washes utilize a tube which is strikingly similar to the Zanafel Tube I for Package I – It Works!. (Exhibit F).

126. GREGORY A. RUBIN's unauthorized copying of ZANFEL's copyrighted tubes for its poison ivy wash constitutes copyright infringement in violation of the Federal Copyright Act.

127. Upon information and belief GREGORY A. RUBIN has knowingly and willfully copied and continues to copy ZANFEL's copyrighted tubes.

128. Upon information and belief GREGORY A. RUBIN has sold and continues to sell substantial quantities of products made using ZANFEL's tubes that he copied, and continues to copy from ZANFEL.

129. As a direct and proximate result of GREGORY A. RUBIN's acts of infringement, ZANFEL has suffered and will continue to suffer irreparable injury.

130. GREGORY A. RUBIN's conduct is causing and, unless enjoined and permanently restrained by this Court, will continue to cause ZANFEL great and irreparable injury that cannot be fully compensated or measured in money. ZANFEL has no adequate remedy at law.

131. ZANFEL is entitled to recover all damages suffered as a result of GREGORY A. RUBIN's wrongful acts, including but not limited to profits obtained by GREGORY A. RUBIN as a result of his wrongful acts and the loss of profits sustained by ZANFEL. In the alternative, ZANFEL is entitled to recover statutory damages in an amount to be determined by the Court. ZANFEL is also entitled to recover all reasonable attorney's fees, court costs and interest on said damages from the date of GREGORY A. RUBIN's infringement.

COUNT VIII – COPYRIGHT INFRINGEMENT OF ZANFEL's TUBE

BY GARCOA LABORATORIES, INC.

132. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-131 of this Complaint as if fully set forth herein.

133. ZANFEL is a business which, among other things, designs distinctive tubes for its product which is used in the treatment of poison ivy, oak, and sumac.

134. ZANFEL's distinctive tubes are original works of authorship subject to copyright protection under United States Law.

135. ZANFEL has created and owns several works of authorship in the nature of distinctive tubes and is the owner of all right, title and interest in and copyrights to such works.

136. ZANFEL created an original work of authorship entitled Zanafel Tube I for Package I – It Works!, which is copyrightable subject matter under the laws of the United States.

137. ZANFEL complied with all respects of the Federal Copyright Act of 1976, as amended, 17 U.S.C. §101, *et seq.*, and with all other laws governing copyrights. ZANFEL received from the Register of Copyrights a certificate of registration, dated and identified as follows: September 22, 2010, TX 7-326-680, entitled "Zanafel Tube I for Package I – It Works!." (Exhibit E).

138. ZANFEL is the owner of all right, title, and interest in and copyright to Zanafel Tube I for Package I – It Works!.

139. Upon information and belief, one or more of ZANFEL's tubes were in the possession of GARCOA LABORATORIES, INC. prior to and/or during the development of one or more of GARCOA LABORATORIES, INC.'s knockoff poison ivy washes.

140. At least one of GARCOA LABORATORIES, INC.'s knockoff poison ivy washes utilize a tube which is substantially similar to ZANFEL's package. (Exhibit F).

141. At least one of GARCOA LABORATORIES, INC.'s knockoff poison ivy washes utilize a tube which is strikingly similar to the Zanafel Tube I for Package I – It Works!. (Exhibit F).

142. GARCOA LABORATORIES, INC.'s unauthorized copying of ZANFEL's copyrighted tubes for its poison ivy wash constitutes copyright infringement in violation of the Federal Copyright Act.

143. Upon information and belief GARCOA LABORATORIES, INC. has knowingly and willfully copied and continues to copy ZANFEL's copyrighted tubes.

144. Upon information and belief GARCOA LABORATORIES, INC. has sold and continues to sell substantial quantities of products made using ZANFEL's tubes that they copied, and continue to copy from ZANFEL.

145. As a direct and proximate result of GARCOA LABORATORIES, INC.'s acts of infringement, ZANFEL has suffered and will continue to suffer irreparable injury.

146. GARCOA LABORATORIES, INC.'s conduct is causing and, unless enjoined and permanently restrained by this Court, will continue to cause ZANFEL great and irreparable injury that cannot be fully compensated or measured in money. ZANFEL has no adequate remedy at law.

147. ZANFEL is entitled to recover all damages suffered as a result of GARCOA LABORATORIES, INC.'s wrongful acts, including but not limited to profits obtained by GARCOA LABORATORIES, INC. as a result of its wrongful acts and the loss of profits sustained by ZANFEL. In the alternative, ZANFEL is entitled to recover statutory damages in an amount to be determined by the Court. ZANFEL is also entitled to recover all reasonable attorney's fees, court costs and interest on said damages from the date of GARCOA LABORATORIES, INC.'s infringement.

COUNT IX – TRADEMARK INFRINGEMENT OF U.S. REGISTRATION NO.

2,859,827 BY GREGORY A. RUBIN

148. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-147 of this Complaint as if fully set forth herein.

149. THE WILLIAM M. YARBROUGH FOUNDATION is the owner of United States Trademark Registration No. 2,859,827, registered July 6, 2004, for "ZANFEL" for use in association with topical wash for use in poison ivy, oak and like reactions in Class 005. This registration is now valid, subsisting, uncanceled and unrevoked. (Exhibit G).

150. Continuously since at least as early as April 25, 1999, ZANFEL has

used its mark ZANFEL in connection with and to identify its poison ivy products and to distinguish said products from similar products offered by other companies, by, and without limitation, prominently displaying said mark on its products and advertising and promotional materials distributed throughout the United States. ZANFEL's products sold under the ZANFEL mark and brand name are provided nationwide including in the State of Michigan.

151. In addition, as of the date of the filing of this complaint, ZANFEL is actively engaged in expanding its use of the ZANFEL mark in connection with poison ivy products in interstate commerce throughout the United States including in the State of Michigan.

152. GREGORY A. RUBIN has infringed ZANFEL's mark in interstate commerce by various acts, including, without limitation, the selling, offering for sale, promotion and advertising of poison ivy wash which displays ZANFEL thereon of a type virtually identical to the type of poison ivy wash offered by ZANFEL. (*e.g.*, Exhibits A, F).

153. GREGORY A. RUBIN's use of ZANFEL in connection with poison ivy wash is without permission or authority of ZANFEL and said use is likely to cause confusion, to cause mistake and/or to deceive.

154. GREGORY A. RUBIN's use of ZANFEL on both its package and container (*i.e.*, tube) in connection with poison ivy wash is without permission or authority of ZANFEL and either expressly or impliedly indicates that GREGORY A. RUBIN's poison ivy wash is affiliated with, connected to, associated with,

sponsored by, and/or approved by ZANFEL.

155. GREGORY A. RUBIN's use of ZANFEL in connection with his poison ivy wash has been made notwithstanding ZANFEL's well known and prior established rights in the trademark ZANFEL and with both actual and constructive notice of ZANFEL's federal registration rights under 15 U.S.C. §1072.

156. GREGORY A. RUBIN's infringing activities have caused and, unless enjoined by this Court, will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its federally registered ZANFEL trademark. ZANFEL has no adequate remedy at law.

157. GREGORY A. RUBIN has knowingly and willfully infringed upon ZANFEL's trademark rights.

COUNT X – TRADEMARK INFRINGEMENT OF U.S. REGISTRATION NO.
2,859,827 BY GARCOA LABORATORIES, INC.

158. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-157 of this Complaint as if fully set forth herein.

159. THE WILLIAM M. YARBROUGH FOUNDATION is the owner of United States Trademark Registration No. 2,859,827, registered July 6, 2004, for "ZANFEL" for use in association with topical wash for use in poison ivy, oak and like reactions in Class 005. This registration is now valid, subsisting, uncanceled and unrevoked. (Exhibit G).

160. Continuously since at least as early as April 25, 1999, ZANFEL has used its mark ZANFEL in connection with and to identify its poison ivy products and to distinguish said products from similar products offered by other companies, by, and without limitation, prominently displaying said mark on its products and advertising and promotional materials distributed throughout the United States. ZANFEL's products sold under the ZANFEL mark and brand name are provided nationwide including in the State of Michigan.

161. In addition, as of the date of the filing of this complaint, ZANFEL is actively engaged in expanding its use of the ZANFEL mark in connection with poison ivy products in interstate commerce throughout the United States including in the State of Michigan.

162. GARCOA LABORATORIES, INC. has infringed ZANFEL's mark in interstate commerce by various acts, including, without limitation, the selling, offering for sale, promotion and advertising of poison ivy wash which displays ZANFEL thereon of a type virtually identical to the type of poison ivy wash offered by ZANFEL. (*e.g.*, Exhibits A, F).

163. GARCOA LABORATORIES, INC.'s use of ZANFEL in connection with poison ivy wash is without permission or authority of ZANFEL and said use is likely to cause confusion, to cause mistake and/or to deceive.

164. GARCOA LABORATORIES, INC.'s use of ZANFEL on both its package and container (*i.e.*, tube) in connection with poison ivy wash is without permission or authority of ZANFEL and either expressly or impliedly indicates

that GARCOA LABORATORIES, INC.'s poison ivy wash is affiliated with, connected to, associated with, sponsored by, and/or approved by ZANFEL.

165. GARCOA LABORATORIES, INC.'s use of ZANFEL in connection with its poison ivy wash has been made notwithstanding ZANFEL's well known and prior established rights in the trademark ZANFEL and with both actual and constructive notice of ZANFEL's federal registration rights under 15 U.S.C. §1072.

166. GARCOA LABORATORIES, INC.'s infringing activities have caused and, unless enjoined by this Court, will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its federally registered ZANFEL trademark. ZANFEL has no adequate remedy at law.

167. GARCOA LABORATORIES, INC. has knowingly and willfully infringed upon ZANFEL's trademark rights.

COUNT XI - TRADE DRESS INFRINGEMENT BY GREGORY A. RUBIN

168. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-167 of this Complaint as if fully set forth herein.

169. Continuously since at least as early as 2005, ZANFEL has used distinct color and arrangement to identify its trade dress in connection with and to identify its poison ivy products and to distinguish said products from similar products offered by other companies, by, and without limitation, prominently utilizing said trade dress on its products and advertising and promotional materials distributed throughout the United States. ZANFEL's products sold

utilizing said trade dress are provided nationwide including in the State of Michigan. (e.g., Exhibits A, F).

170. In addition, as of the date of the filing of this complaint, ZANFEL is actively engaged in expanding its use of its trade dress in connection with poison ivy products in interstate commerce throughout the United States including in the State of Michigan.

171. GREGORY A. RUBIN's unauthorized use of ZANFEL's trade dress on the packaging and tubes of his poison ivy wash that is confusingly similar to the trade dress used by ZANFEL on the packaging and containers of its poison ivy wash constitutes trade dress infringement in violation of §43(a) of the Lanham Act, 15 U.S.C. §1125, to the substantial and irreparable injury of the public and of ZANFEL's business reputation and goodwill.

172. Upon information and belief, by such wrongful acts, GREGORY A. RUBIN has and unless restrained by the Court, will continue to cause serious irreparable injury and damage to ZANFEL and to the goodwill associated with its distinctive trade dress, including diversion of customers, lost sales and lost profits.

COUNT XII - TRADE DRESS INFRINGEMENT

BY GARCOA LABORATORIES, INC.

173. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-172 of this Complaint as if fully set forth herein.

174. Continuously since at least as early as 2005, ZANFEL has used

distinct color and arrangement to identify its trade dress in connection with and to identify its poison ivy products and to distinguish said products from similar products offered by other companies, by, and without limitation, prominently utilizing said trade dress on its products and advertising and promotional materials distributed throughout the United States. ZANFEL's products sold utilizing said trade dress are provided nationwide including in the State of Michigan. (*e.g.*, Exhibits A, F).

175. In addition, as of the date of the filing of this complaint, ZANFEL is actively engaged in expanding its use of its trade dress in connection with poison ivy products in interstate commerce throughout the United States including in the State of Michigan.

176. GARCOA LABORATORIES, INC.'s unauthorized use of ZANFEL's trade dress on the packaging and tubes of its poison ivy wash that is confusingly similar to the trade dress used by ZANFEL on the packaging and containers of its poison ivy wash constitutes trade dress infringement in violation of §43(a) of the Lanham Act, 15 U.S.C. §1125, to the substantial and irreparable injury of the public and of ZANFEL's business reputation and goodwill.

177. Upon information and belief, by such wrongful acts, GARCOA LABORATORIES, INC. has and unless restrained by the Court, will continue to cause serious irreparable injury and damage to ZANFEL and to the goodwill associated with its distinctive trade dress, including diversion of customers, lost sales and lost profits.

COUNT XIII - FALSE ADVERTISING BY GREGORY A. RUBIN

178. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-177 of this Complaint as if fully set forth herein.

179. Upon information and belief, GREGORY A. RUBIN has used the designation ZANFEL in connection with poison ivy products in interstate commerce. Said use of the designation ZANFEL is a false designation of origin, a false or misleading description and representation of fact which is likely to cause confusion and to cause mistake, and to deceive as to the affiliation, connection or association of GREGORY A. RUBIN with ZANFEL and as to the origin, sponsorship, or approval of GREGORY A. RUBIN's products and commercial activities by ZANFEL. (*e.g.*, Exhibit A, F).

180. GREGORY A. RUBIN has commenced with a comparative advertising campaign on both its packaging and containers relative to ZANFEL. Said comparative advertising campaign is conducted in such a manner that the purchaser does not have reasonable access to ZANFEL's product for comparison.

181. GREGORY A. RUBIN's wrongful activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

COUNT XIV - FALSE ADVERTISING BY GARCOA LABORATORIES, INC.

182. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-181 of this Complaint as if fully set forth herein.

183. Upon information and belief, GARCOA LABORATORIES, INC. has used the designation ZANFEL in connection with poison ivy products in interstate commerce. Said use of the designation ZANFEL is a false designation of origin, a false or misleading description and representation of fact which is likely to cause confusion and to cause mistake, and to deceive as to the affiliation, connection or association of GARCOA LABORATORIES, INC. with ZANFEL and as to the origin, sponsorship, or approval of GARCOA LABORATORIES, INC.'s products and commercial activities by ZANFEL. (*e.g.*, Exhibit A, F).

184. GARCOA LABORATORIES, INC. has commenced with a comparative advertising campaign on both its packaging and containers relative to ZANFEL. Said comparative advertising campaign is conducted in such a manner that the purchaser does not have reasonable access to ZANFEL's product for comparison.

185. GARCOA LABORATORIES, INC.'s wrongful activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

COUNT XV - FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. § 1125(a)

BY GREGORY A. RUBIN

186. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-185 of this Complaint as if fully set forth herein.

187. Upon information and belief, GREGORY A. RUBIN has used the designation ZANFEL in connection with poison ivy products in interstate commerce. Said use of the designation ZANFEL is a false designation of origin, a false or misleading description and representation of fact which is likely to cause confusion and to cause mistake, and to deceive as to the affiliation, connection or association of GREGORY A. RUBIN with ZANFEL and as to the origin, sponsorship, or approval of GREGORY A. RUBIN's products and commercial activities by ZANFEL.

188. GREGORY A. RUBIN's wrongful activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

COUNT XVI - FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. § 1125(a)

BY GARCOA LABORATORIES, INC.

189. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-188 of this Complaint as if fully set forth herein.

190. Upon information and belief, GARCOA LABORATORIES, INC. has used the designation ZANFEL in connection with poison ivy products in interstate

commerce. Said use of the designation ZANFEL is a false designation of origin, a false or misleading description and representation of fact which is likely to cause confusion and to cause mistake, and to deceive as to the affiliation, connection or association of GARCOA LABORATORIES, INC. with ZANFEL and as to the origin, sponsorship, or approval of GARCOA LABORATORIES, INC.'s products and commercial activities by ZANFEL.

191. GARCOA LABORATORIES, INC.'s wrongful activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

COUNT XVII – COMMON LAW UNFAIR COMPETITION AND TRADEMARK
INFRINGEMENT BY GREGORY A. RUBIN

192. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-191 of this Complaint as if fully set forth herein.

193. GREGORY A. RUBIN's activities as stated herein constitute unfair competition and an infringement of ZANFEL's common law trademark rights in the name ZANFEL within the State of Michigan and in violation of Michigan law.

194. Upon information and belief, GREGORY A. RUBIN's wrongful and infringing activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

COUNT XVIII – COMMON LAW UNFAIR COMPETITION AND TRADEMARK
INFRINGEMENT BY GARCOA LABORATORIES, INC.

195. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-194 of this Complaint as if fully set forth herein.

196. GARCOA LABORATORIES, INC.'s activities as stated herein constitute unfair competition and an infringement of ZANFEL's common law trademark rights in the name ZANFEL within the State of Michigan and in violation of Michigan law.

197. Upon information and belief, GARCOA LABORATORIES, INC.'s wrongful and infringing activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to ZANFEL's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

COUNT XIX – MICHIGAN CONSUMER PROTECTION ACT VIOLATION

BY GREGORY A. RUBIN

198. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-197 of this Complaint as if fully set forth herein.

199. GREGORY A. RUBIN's activities as stated herein constitutes deceptive trade practice in violation of Michigan's Consumers Protection Act.

200. Upon information and belief GREGORY A. RUBIN's knockoff poison ivy wash products misrepresent a characteristic, ingredient, use, benefit, and/or quantity that they do not have.

201. Upon information and belief, GREGORY A. RUBIN's wrongful and infringing activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to Plaintiff's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

COUNT XX – MICHIGAN CONSUMER PROTECTION ACT VIOLATION

BY GARCOA LABORATORIES, INC.

202. PLAINTIFFS repeat and reallege the allegations contained in Paragraphs 1-201 of this Complaint as if fully set forth herein.

203. GARCOA LABORATORIES, INC.'s activities as stated herein constitutes deceptive trade practice in violation of Michigan's Consumers Protection Act.

204. Upon information and belief GARCOA LABORATORIES, INC.'s knockoff poison ivy wash products misrepresent a characteristic, ingredient, use, benefit, and/or quantity that they do not have.

205. Upon information and belief, GARCOA LABORATORIES, INC.'s wrongful and infringing activities have caused, and unless enjoined by this Court will continue to cause, irreparable injury and other damage to Plaintiff's business, reputation and goodwill in its ZANFEL mark. ZANFEL has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL LABORATORIES, INC., respectfully demand judgment against DEFENDANTS as follows:

A. Declaring that DEFENDANTS have infringed the '746 and '963 patents;

B. Declaring that the '746 and '963 patents are valid and enforceable;

C. Pursuant to 35 U.S.C. §283, permanently enjoining and restraining DEFENDANTS and their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, from further acts of infringement of the '746 and '963 patents;

D. Pursuant to 35 U.S.C. §284, awarding to THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL damages, including lost profits, together with prejudgment interest, post judgment interest, and costs, adequate to compensate THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL for DEFENDANTS' acts of infringement of the '746 and '963 patents;

E. Declaring that DEFENDANTS' infringement have been willful and that this is an exceptional case pursuant to 35 U.S.C. §285 and awarding THE WILLIAM M. YARBROUGH FOUNDATION and ZANFEL treble damages and reasonable attorneys' fees against DEFENDANTS for infringement of the '746 and '963 patents;

F. Declaring that DEFENDANTS have infringed one or more

copyrights of PLAINTIFFS;

G. Preliminarily and permanently restrain and enjoin the DEFENDANTS from further infringement of PLAINTIFFS' copyrights;

H. Order the impoundment and destruction of all infringing works;

I. Order the DEFENDANTS to pay damages adequate to compensate PLAINTIFFS for the acts of copyright infringement by DEFENDANTS and DEFENDANTS' profits from their sales of goods in violation of the law as described in this Complaint;

J. Order DEFENDANTS to pay statutory damages, pursuant to 17 U.S.C. §504(c) for willful infringement;

K. Order DEFENDANTS to pay PLAINTIFFS' expenses, interest, and costs including reasonable attorney's fees, pursuant 17 U.S.C. §505;

L. That a permanent injunction issue restraining DEFENDANTS, their agents, servants, employees, successors and assigns and all others in concert and privity with them from using the name ZANEL in connection with the offering of poison ivy wash, from infringement of U.S. Trademark Registration No. 2,859,827, from unfairly competing with PLAINTIFFS, from engaging in unfair and deceptive trade practices and from injuring PLAINTIFFS business reputation, pursuant to Section 34 of the Lanham Act (15 U.S.C. §1116);

M. That DEFENDANTS be required to account to PLAINTIFFS for DEFENDANTS' profits and the actual damages suffered by PLAINTIFFS as a result of DEFENDANTS' acts of infringement, false designation of origin, unfair

competition, and unfair and deceptive trade practices, together with interest, and that PLAINTIFFS recovery be trebled, pursuant to Section 35 of the Lanham Act (15 U.S.C. §1117);

N. That DEFENDANTS be ordered to surrender for destruction all packages, tubes, containers, nameplates, labels, advertisements, and other materials incorporating or reproducing the infringing ZANFEL trademark, pursuant to Section 36 of the Lanham Act (15 U.S.C. §1118);

O. That DEFENDANTS be compelled to pay PLAINTIFFS' attorneys' fees, together with costs of this suit, pursuant to Section 35 of the Lanham Act (15 U.S.C. §1117);

P. Declaring that DEFENDANTS have infringed at least one of the patent(s), trademark(s), and copyright(s) of PLAINTIFFS;

Q. Preliminarily and permanently restrain and enjoin the DEFENDANTS from further infringement of PLAINTIFFS' patents, trademarks, and copyrights;

R. Order the DEFENDANTS to pay damages adequate to compensate PLAINTIFFS for the acts of patent, trademark and/or copyright infringement by DEFENDANTS and DEFENDANTS' profits from its sales of goods in violation of the law as described in this Complaint;

S. Order DEFENDANTS to pay all applicable statutory damages including exceptional and/or treble damages;

T. Order DEFENDANTS to pay PLAINTIFFS expenses, interest, and

costs including reasonable attorney's fees;

U. Order DEFENDANTS to pay PLAINTIFFS for rehabilitative advertising and price point restoration;

V. Order DEFENDANTS to pay PLAINTIFFS for violation of Michigan's Consumer Protection Act; and

W. Awarding PLAINTIFFS such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

PLAINTIFFS respectfully demand a trial by jury on all issues so triable.

Respectfully submitted,

THE WILLIAM M. YARBROUGH
FOUNDATION & ZANFEL
LABORATORIES, INC.

Dated: May 9, 2012

/s/ William L. King III

By: One of the Attorneys for Plaintiffs

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