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RED FOX TRADING, INC.  
8  
9

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12

13 RED FOX TRADING, INC., a California  
14 Corporation d/b/a DR. ION USA,  
15 Plaintiff,  
16 vs.  
17 SUNG WOONG CHOI, an individual d/b/a  
18 Maxion USA; JUAN P KHO, an individual  
19 d/b/a SMART WORLD; HAE CHUNG, an  
20 individual d/b/a J-TOWN; KUN JIN KIM, an  
21 individual d/b/a THE KOREA CENTRAL  
22 DAILY; YOUNG KIM, an individual d/b/a  
23 YOUNG'S GIFTS & COSMETICS; BYUNG  
24 CHO, an individual d/b/a PALACE BEAUTY;  
25 and DOES 1 through 50 inclusive,  
26 Defendants  
27  
28

**Case No.: 2:13-CV-8205**

**COMPLAINT FOR:**

- (1) Federal Patent Infringement;**
- (2) Unfair Competition Cal. Bus. & Prof. Code § 17200, et seq.; and**
- (3) Common Law Unfair Competition**

1 Plaintiff Red Fox Trading, Inc., a California corporation doing business as Dr. Ion USA  
2 ("Plaintiff") for its claim against defendants SUNG WOONG CHOI, a California resident doing  
3 business as Maxion USA; JUAN P KHO, a California resident doing business as SMART  
4 WORLD; CHUNG HAE, a California resident doing business as J-TOWN; KUN JIN KIM a  
5 California resident doing business as THE KOREA CENTRAL DAILY; YOUNG KIM, a  
6 California resident doing business as YOUNG'S GIFTS & COSMETICS; and BYUNG CHO, a  
7 California resident doing business as PALACE BEAUTY (collectively "Defendants")  
8 California resident doing business as PALACE BEAUTY (collectively "Defendants")  
9 respectfully alleges as follows:  
10

11 NATURE OF THE ACTION

12 1. This is an action at law and equity for patent infringement and unfair competition  
13 arising out of Defendants' unauthorized and confusingly similar use of Plaintiff's federally  
14 registered patent.  
15

16 PARTIES

17 2. Plaintiff, Red Fox Trading, Inc. is a California Corporation with its principal place of  
18 business at 3510 West 8<sup>th</sup> Street, Los Angeles, County of Los Angeles, California 90005.  
19

20 3. Plaintiff was at all times mentioned herein and now is engaged in business under the  
21 common name, to wit: Dr. Ion USA.

22 4. Upon information and belief, defendant SUNG WOONG CHOI is a California resident  
23 doing business as Maxion USA with an office and principal place of business at 4060 West  
24 Washington Blvd., Suite A, Los Angeles, County of Los Angeles, California 90018.  
25

26 5. Upon information and belief, defendant JUAN P KHO is a California resident doing  
27 business as SMART WORLD with an office and principal place of business at 833 S. Western  
28 Avenue, Suite 22, Los Angeles, CA 90005

1 6. Upon information and belief, HAE CHUNG is a California resident doing business as J-  
2 TOWN with an office and principal place of business at 851-B S. Western Avenue, Los Angeles,  
3 County of Los Angeles, California 90005.  
4

5 7. Upon information and belief, defendant KUN JIN KIM is a California resident doing  
6 business as THE KOREA CENTRAL DAILY with an office and principal place of business at  
7 690 Wilshire Place, Los Angeles, CA 90005.  
8

9 8. Upon information and belief, defendant YOUNG KIM is a California resident doing  
10 business as YOUNG'S GIFTS & COSMETICS with an office and principal place of business at  
11 1041 S. Western Avenue, Los Angeles, CA 90006.  
12

13 9. Upon information and belief, defendant BYUNG CHO, a California resident doing  
14 business as PALACE BEAUTY with an office and principal place of business at 2748 W.  
15 Olympic Blvd., Los Angeles, CA 90006  
16

17 10. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as  
18 DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names.

19 Plaintiff will seek leave to amend this complaint to allege their true names and capacities when  
20 the names and capacities have been ascertained. Plaintiff is informed and believes and thereupon  
21 alleges that each of the defendants designated as Doe is legally responsible in some manner for  
22 the events and happenings herein referred to.

23 11. Based on information and belief, Plaintiff alleges that at all times herein mentioned, each  
24 of the defendants named herein was the agent, partner, co-conspirator and/or employee or  
25 employer of each of the other defendants and was, at all times herein mentioned, acting within  
26 the course and scope of said agency, partnership, conspiracy and employment.  
27  
28

1 12. Plaintiff is informed and believes. And thereupon alleges, that at all relevant times herein,  
2 Defendants and Does 1 through 50, inclusive, knew or reasonably should have known of the acts  
3 and behavior alleged herein and the damages caused thereby, and by their inaction ratifies and  
4 encouraged such acts and behavior. Plaintiff further alleges that Defendants and Does 1 through  
5 50, inclusive, had a non-delegable duty to prevent or cause such acts and the behavior described  
6 herein, which duty Defendants and Does 1 through 50, inclusive, failed and/or refused to perform.  
7

8 JURISDICTION AND VENUE  
9

10 13. This complaint involves claims for patent infringement arising under the patent laws of  
11 the United States, 35 U.S.C. § 271 et seq. and this Court has jurisdiction over those claims under  
12 28 U.S.C.A. § 1331 and 1338 which directs that District Courts shall have original jurisdiction of  
13 any civil action arising under any act of Congress relating to patents  
14

15 14. This Court has supplemental jurisdiction over the claims in this Complaint arising under  
16 state statutory and common law, pursuant to 28 U.S.C.A. §1367(a), because the state law claims  
17 are so related to the federal claims that they form part of the same case or controversy and derive  
18 from a common nucleus of operative facts.

19 15. This Court has personal jurisdiction over Defendants because Defendants are domiciled  
20 and/or reside in this judicial district.  
21

22 16. Venue is proper in this district pursuant to 28 U.S.C.A. §1391 because the claims asserted  
23 herein arose in this district and Defendants are domicile and/or reside in this judicial district.  
24

25 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION  
26

27 17. On June 25, 2013, the United States Patent and Trademark Office (the “USPTO”) duly  
28 and legally issued United States Design Patent No. US D684,879 S (the “879 Patent”), entitled  
“Wristband.” Plaintiff holds all right, title and interest in and to the 879 Patent. A true and

1 correct copy of the 879 Patent is attached hereto as Exhibit A and incorporated herein by this  
2 reference.

3  
4 18. On information and belief, Defendants had knowledge of the 879 Patent no later than  
5 July 23, 2013 by virtue of a letter sent by Plaintiff's attorney to Defendants.

6 19. Plaintiff is a specialist in negative ion technology, particularly the use of negative ion  
7 technology in jewelry, wristbands, and other clothing accessories. Plaintiff began selling  
8 wristbands, bracelets, and related products in connection with Plaintiff's intellectual property  
9 such as the 879 Patent at least as early as November 2011 (the "Plaintiff's Products"). Plaintiff  
10 spends substantial resources in developing, marketing, and promoting Plaintiff's intellectual  
11 property and Plaintiff's Product.

12  
13 20. As a result of Plaintiff's exclusive and extensive use and promotion of Plaintiff's  
14 intellectual property for years, Plaintiff's intellectual property has acquired enormous value and  
15 recognition. Consumers, potential customers, and other members of the public not only associate  
16 Plaintiff's intellectual property with exceptional materials, style, and workmanship, but also  
17 recognize that merchandise bearing Plaintiff's intellectual property originates exclusively with  
18 Plaintiff. Accordingly, Plaintiff's intellectual property is a symbol of Plaintiff's quality,  
19 reputation, and goodwill, and serves as an instant source identifier for Plaintiff's Products.  
20

21  
22 21. Upon information and belief, defendants Sung Woong Choi dba Maxion USA, Young  
23 Kim dba Young's Gift and Cosmetics, Juan P. Kho dba Smart World, and Byung Cho dba Palace  
24 Beauty are engaged in the manufacturing, importation, wholesale and/or retail sale of the goods  
25 identical with or similar to the Plaintiff's Products, including but not limited to "NIONZ  
26 wristband" (the "Infringing Products").  
27  
28

1 22. Upon information and belief, defendants Hae Chung dba J-Town and Kun Jin Kim dba  
2 The Korea Central Daily are engaged in advertisement and sale of the Infringing Products from  
3 their respective places of business, as well as through The Korea Central Daily's Hot Deal  
4 website.  
5

6 23. In July 2013, Plaintiff discovered that Defendants were advertising, offering for sale, and  
7 selling the Infringing Products, specifically the wristband which looks similar to that of Plaintiff.  
8 A true and correct copy of the advertisement for the infringing wristband is attached hereto as  
9 Exhibit "B" and incorporated herein by this reference. In effect, some of the customers have  
10 brought to Plaintiff's place of business infringing wristbands, requesting for exchange to  
11 different colored ones.  
12

13 24. Additionally, an investigation revealed that Defendants were offering for sale other items  
14 that infringe upon the Plaintiff's intellectual property.  
15

16 25. Defendants are not authorized and have never been authorized by Plaintiff to produce,  
17 manufacture, distribute, advertise, offer for sale, and/or sell merchandise bearing any of the  
18 Plaintiff's intellectual property.  
19

20 26. Upon information and belief, the Infringing Products are of a quality substantially  
21 inferior to the Plaintiff's Products.  
22

23 27. Upon information and belief, Defendants are aware of the fame and strength of the  
24 Plaintiff's intellectual property, and the goodwill associated therewith. Defendants had access to  
25 Plaintiff's patent prior to their creation and sale of the Infringing Products.  
26

27 28. On or about July 23, 2013 and on or about October 14, 2013, Plaintiff sent a letter to  
28 Defendants in which Plaintiff informed Defendants of Plaintiff's right to the Plaintiff's  
intellectual property and requested that Defendants cease and desist from further manufacture,

1 importation, production, advertisement, distribution, promotion, offer for sale, and/or sale of the  
2 Infringing Products.

3 29. Defendants did not respond to said letters and, upon information and belief, continue to  
4 offer for sale and sell the Infringing Products, revealing Defendants' ongoing willful conduct.  
5

6 30. Upon information and belief, Defendants are still actively promoting and otherwise  
7 advertising, distributing, selling, and/or offering for sale substantial quantities of the Infringing  
8 Products with the knowledge and intent that such goods will be mistaken for the genuine  
9 Plaintiff's Products. Upon information and belief, at all relevant times, Defendants contributed  
10 directly to these infringing acts by knowingly displaying and offering for sale the Infringing  
11 Products.  
12

13 31. Upon information and belief, Defendants are conducting their infringing activities within  
14 this judicial district and elsewhere throughout the United States.  
15

16 32. Defendants' unauthorized use of Plaintiff's intellectual property in connection with the  
17 design, manufacturing, distribution, marketing, promotion, offering for sale, and/or sale of the  
18 Infringing Products is likely to cause confusion, deception, and mistake in the minds of  
19 consumers, the public, and the trade. Defendants' wrongful conduct is likely to create a false  
20 impression and deceive consumers, the public and the trade into believing there is a connection  
21 or association between Plaintiff and the Infringing Products.  
22

23 33. Defendants are engaging in the above-described infringing activities knowingly and  
24 intentionally, or with reckless disregard of or willful blindness to Plaintiff's rights, for the  
25 purpose of exploiting the goodwill and reputation of Plaintiff. If Defendants' infringing  
26 activities are not permanently enjoined by this Court, Plaintiff and consuming public will  
27 continue to be damaged by said activities.  
28

1 34. Plaintiff has no adequate remedy at law.

2 35. Plaintiff is suffering irreparable damage and has suffered substantial damages as a result  
3 of Defendants' infringing activities.

4 36. The damages sustained by Plaintiff have been directly and proximately caused by  
5 Defendants' wrongful reproduction, use, advertisement, promotion, offers to sell, and sale of the  
6 Infringing Products.  
7

8 FIRST CLAIM FOR RELIEF

9 (Infringement of the 879 Design Patent against All Defendants)

10 37. Defendants' application of the patented design of the Plaintiff' wristband, or a colorable  
11 imitation, to the article of manufacture for the purpose of sale constitutes infringement of the 879  
12 Patent pursuant to 35 U.S.C.A. § 289. Furthermore, Defendants' sales of its NIONZ wristband  
13 product, as well as the exposure of the NIONZ wristband for sale, which incorporates the design  
14 or a colorable imitation of the 879 Patent constitutes infringement of the 879 Patent pursuant to  
15 35 U.S.C.A. § 289.  
16  
17

18 38. Defendants' acts are deliberate and willful and will continue unless enjoined by this  
19 Court.

20 39. As a result of Defendants' acts, Plaintiff was damaged and will be damaged in an amount  
21 in excess of the jurisdictional limit of this Court. Due to the deliberate and willful nature of  
22 Defendants' acts, such damages should be increased to the maximum amount allowed by law  
23 including an award of attorney's fees.  
24

25 SECOND CLAIM FOR RELIEF

26 (Unfair Competition Cal. Bus. & Prof. Code § 17200, et seq. against All Defendants)  
27  
28



1 40. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as  
2 fully set forth herein.

3 41. Defendants' actions complained of herein are unlawful and/or fraudulent business acts or  
4 practices, constituting unfair competition in violation of California Business and Professions  
5 Code § 17200, et seq.

6  
7 42. As a direct, proximate, and foreseeable result of Defendants' wrongful conduct as alleged  
8 above, Plaintiff has suffered injury and is entitled to relief, including disgorgement of all  
9 revenues, earnings, profits, compensation, and benefits obtained by Defendants as a result of her  
10 unlawful and/or fraudulent business acts or practices.

11  
12 43. Defendants' unlawful and/or fraudulent business acts or practices described above are a  
13 serious and continuing threat to Plaintiff, and if Defendants are allowed to continue their  
14 wrongful conduct, Plaintiff will suffer further immediate and irreparable injury, loss, and  
15 damage. In the absence of preliminary and permanent injunctions, Defendants will continue to  
16 engage in the wrongful conduct described above.

17  
18 THIRD CLAIM FOR RELIEF

19 (Common Law Unfair Competition against All Defendants)

20  
21 44. Plaintiff repeats and realleges each and every allegation in the foregoing paragraphs as  
22 fully set forth herein.

23 45. Defendants' actions in connection with the Infringing Products are likely to cause  
24 confusion, to cause misrepresentation, to cause mistake, and/or to deceive the public as to the  
25 affiliation, approval, sponsorship, or connection between Defendants and Plaintiff, and constitute  
26 unfair competition at common law.  
27  
28

1 46. By reason of Defendants' actions in connection with the Infringing Products, Plaintiff has  
2 suffered, and will continue to suffer, irreparable injury to its rights, and has suffered, and will  
3 continue to suffer, substantial loss of goodwill and loss in the value of its patent, unless and until  
4 Defendants are enjoined from continuing their wrongful acts.  
5

6 47. By reason of Defendants' actions in connection with the Infringing Products, Plaintiff has  
7 been damaged in an amount not presently ascertained, and such damage will continue and  
8 increase unless and until Defendants are enjoined from continuing their wrongful acts.  
9

10 PRAYER FOR RELIEF

11 WHEREFORE, Plaintiff respectfully requests the following relief:

12 (a) A judgment that Defendants have infringed one or more claims of the United States  
13 Design Patent No. US D684,879 S;

14 (b) A judgment that United States Design Patent No. US D684,879 S is valid and  
15 enforceable;

16 (c) Plaintiff be awarded damages adequate to compensate Plaintiff for Defendants'  
17 infringement of United States Design Patent No. US D684,879 S up until the date such judgment  
18 is entered, including prejudgment and post-judgment interest, costs, and disbursements as  
19 justified under 35 U.S.C. § 284 and, if necessary, to adequately compensate Plaintiff for  
20 Defendants' infringement, an accounting;

21 (d) A judgment that Plaintiff be awarded attorney fees, costs, and expenses incurred in  
22 prosecuting this action;

23 (e) A judgment that Plaintiff be awarded such further relief at law or in equity as the Court  
24 deems just and proper; and  
25  
26  
27  
28

1 (f) A judgment permanently enjoining Defendants from further infringement of United  
2 States Design Patent No. US D684,879 S.

3  
4 (g) A judgment that Defendants' infringement of United States Design Patent No. US  
5 D684,879 S was willful and enhancing Plaintiff's damages to three times its actual damages as a  
6 result.

7 DEMAND FOR JURY TRIAL

8 Plaintiff hereby demands trial by jury on all claims and issues so triable.

9  
10  
11  
12 Dated: November 5, 2013

BAE PARK & NAZDJANOVA, PLC

13  
14  
15 By /s/ Shemshat Nazdjanova

16 Young H. Bae  
17 Shemshat Nazdjanova  
18 Attorneys for Plaintiff  
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