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10 Attorneys for Plaintiffs
11 **CARLINI ENTERPRISES, INC. dba CARLINI DESIGNS, and**
12 **ANTHONY J. CARLINI**

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

CARLINI ENTERPRISES, INC. dba
CARLINI DESIGNS, California
corporation, and ANTHONY J.
CARLINI, an individual,

Plaintiffs,

v.

PAUL YAFFE DESIGN, INC., an
Arizona corporation, and PAUL
YAFFE, an individual,

Defendants.

CASE NO.: 8:13-CV-01671

COMPLAINT FOR DESIGN
PATENT INFRINGEMENT

[DEMAND FOR JURY TRIAL]

COMPLAINT

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2 Plaintiffs CARLINI ENTERPRISES, INC. dba CARLINI DESIGNS and
3 ANTHONY J. CARLINI complain and allege against Defendants PAUL YAFFE
4 DESIGNS, INC., and PAUL YAFFE:

JURISDICTION AND VENUE

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6 1. The Court has federal question jurisdiction pursuant to the patent laws
7 of the United States of America, Title 35 of the United States Code.

8 2. Venue is proper in this District pursuant to 28 U.S.C.A. §§ 1391 (b)
9 and (c) and 1400 (a). On information and belief, Defendants PAUL YAFFE
10 DESIGNS, INC., and PAUL YAFFE (hereinafter collectively referred to as
11 “YAFFE” unless otherwise stated) sell the products at issue in this District, have
12 caused damage in this District, and on information and belief, have entered into
13 contracts such that the claims asserted in this Complaint arose in this District.
14 Defendants, on information and belief, are also doing extensive business in this
15 judicial district including continuous and extensive sales to retailers, consumers
16 and others such that Defendants have substantial, systematic and continuous
17 contacts with California, including this District.

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19 **THE PARTIES**

20 3. Plaintiff CARLINI ENTERPRISES, INC. dba CARLINI DESIGN is
21 a designer, manufacturer, distributor and retailer of aftermarket motorcycle parts,
22 including specifically, but not limited to, motorcycle handlebars for Harley
23 Davidson motorcycles. CARLINI DESIGN maintains if principal offices in
24 Orange County, California.

25 4. Plaintiff ANTHONY J. CARLINI is an individual who resides in
26 Orange County, California and is the President of Plaintiff CARLINI DESIGN.
27 Plaintiffs CARLINI DESIGN and ANTHONY J. CARLINI are hereinafter
28 collectively referred to as “CARLINI” except where otherwise stated.

1 handlebars invented by Plaintiff Anthony J. Carlini. A copy of the '343 Patent is
2 attached as Exhibit A.

3 10. Plaintiff Anthony J. Carlini is the owner of all right, title and interest
4 in and to the '343 Patent and has granted an exclusive worldwide license to
5 Plaintiff Carlini Enterprises, Inc. to advertise, manufacture, offer for sale and sell
6 the '343 Patent under the trademark "Evil Apes."

7 11. CARLINI has in fact produced and sold Evil Ape handlebars depicted
8 as:

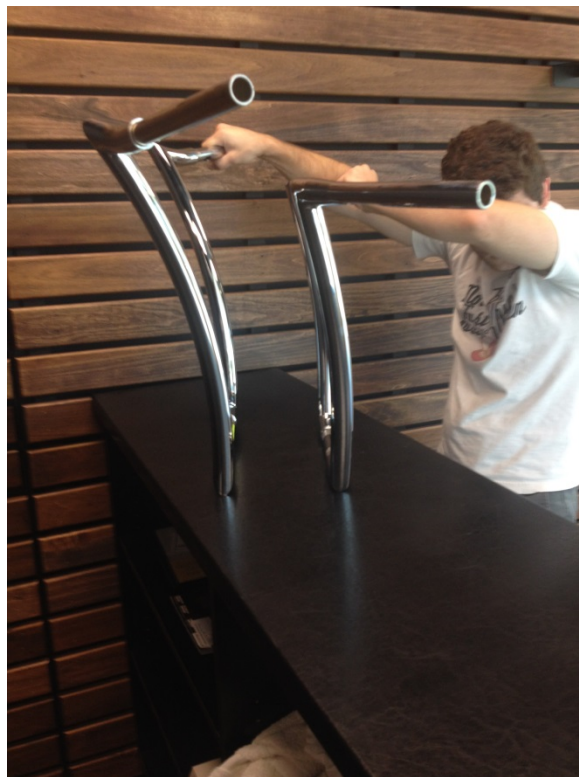


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22 **CARLINI EVIL APE HANDLEBARS**

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24 **C. INFRINGEMENT OF THE '343 PATENT**

25 12. CARLINI notified Defendants that it had exclusive intellectual
26 property rights in the '343 Design as early as April, 2013. Defendants did not
27 respond.
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1 13. On information and belief, Defendants, including specifically
2 Defendant Paul Yaffe personally, deliberately and willfully ignored such notice
3 and have persisted in selling and offering for sale motorcycle handlebars
4 substantially identical to the ornamental design of the '343 Patent. One example of
5 the infringing YAFFE motorcycle handlebars being sold are shown below on the
6 left hand side of this photo. CARLINI'S handlebars are shown on the right hand
7 side of this photo:



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22 14. Plaintiffs have been damaged by Defendants' infringing activities and
23 will be irreparably harmed by damage to their reputation and the exclusivity of
24 their unique product designs, specifically including the design of the '343 Patent,
25 unless such infringing activities are enjoined by this Court.

26 15. Plaintiffs have been damaged by Defendants' intentional and
27 deliberate infringements in that CARLINI has lost sales and/or lost royalties in an
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1 amount to be proven at trial, but in any event no less than \$100,000.00.

2 **SECOND CAUSE OF ACTION**

3 **INFRINGEMENT OF DESIGN PATENT NO. D 604,212**

4 Plaintiffs reallege Paragraphs 1 to 15 and incorporate them herein as if
5 set forth fully.

6 **A. DESIGN PATENT U.S. PATENT NO. D 604,212**

7 16. On or about November 17, 2009, the United States Patent and
8 Trademark Office issued United States Design Patent No. US 604,212 S
9 (hereinafter the “’212 Patent”) for the ornamental design for motorcycle
10 handlebars invented by Plaintiff Anthony J. Carlini. A copy of the ‘212 Patent is
11 attached as Exhibit B.

12 17. Plaintiff Anthony J. Carlini is the owner of all right, title and interest
13 in and to the ‘212 Patent and has granted an exclusive worldwide license to
14 Plaintiff Carlini Enterprises, Inc. to advertise, manufacture, offer for sale and sell
15 the ‘212 Patent under the trademark “Gangster Apes.”

16 18. CARLINI has in fact produced and sold products with the ‘212 Patent
17 Design using the trademark “Gangster Apes” as depicted below:



27 **CARLINI DESIGNS GANGSTER APES**
28 **U.S. PATENT NO. D 604,212 S**

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B. INFRINGEMENT OF THE ‘212 PATENT

19. CARLINI notified Defendants that it had exclusive intellectual property rights in the ‘212 Design Patent as early as April, 2013. Defendants did not respond.

20. On information and belief, Defendants, including specifically Defendant Paul Yaffe personally, deliberately and willfully ignored such notice and have persisted in selling and offering for sale motorcycle handlebars substantially identical to the ornamental design of the ‘212 Patent. One example of the infringing YAFFE motorcycle handlebars being sold are shown below:



21. Plaintiffs have been damaged by Defendants’ infringing activities and will be irreparably harmed by damage to CARLINI’S reputation and the exclusivity of its unique product designs, specifically including the design of the ‘212 Patent, unless such infringing activities are enjoined by this Court.

22. Plaintiffs have been damaged by Defendants’ intentional and deliberate infringements in that CARLINI has lost sales and/or lost royalties in an amount to be proven at trial, but in any event no less than \$100,000.00.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs CARLINI ENTERPRISES, INC. dba Carlini Designs and ANTHONY J. CARLINI pray for judgment against Defendants PAUL YAFFE DESIGNS, INC. and PAUL YAFFE, jointly and severally, as follows:

1. For a declaratory judgment that Defendants infringed CARLINI'S '343 Patent and '212 Patent;
2. For judgment against Defendants for all actual damages suffered by Plaintiff as provided by law or reasonable royalties, which upon information and belief, will total no less than Two Hundred Thousand Dollars (\$200,000.);
3. For treble damages pursuant to 35 U.S.C. § 284;
4. For preliminary and permanent injunctive relief against Defendants, their agents, owners, officers, representatives, employees and those acting in concert with them, to prevent and restrain Defendants from:
 - A. Continuing and/or pursuing the acts described and complained of in this action; and
 - B. Continuing to offer for sale, make or sell the infringing products and services;
5. For preliminary and permanent injunctive relief against Defendants, their agents, owners, officers, representatives, employees and those acting in concert with them, to account for and to destroy all products infringing the CARLINI '343 or '212 Patents;
6. Plaintiff further requests that the Court direct Defendants to file a report detailing all measures taken to comply with the injunction within thirty days of the Court's injunction;

1 7. For the full costs of this action, including attorneys' fees as allowed
2 by Title 35 of the United States Code;

3 8. For all such other relief as the Court deems just and proper.
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5 Dated: October 24, 2013

Respectfully submitted,

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8 Becky V. Christensen, Esq.

9 Attorneys for Plaintiffs

10 **PLAINTIFFS CARLINI ENTERPRISES,**
11 **INC. and ANTHONY J. CARLINI**

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DEMAND FOR JURY TRIAL

Plaintiffs CARLINI ENTERPRISES INC. dba Carlini Designs and ANTHONY J. CARLINI hereby demand a trial by jury of all issues triable to a jury.

Dated: October 24, 2013

Respectfully submitted,



Becky V. Christensen, Esq.

Attorneys for Plaintiffs
**CARLINI ENTERPRISES, INC. and
ANTHONY J. CARLINI**