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9 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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11 MAGTRIM DESIGNS LLC, a Florida
Limited Liability Company,

12 Plaintiff,

13 v.

14 PIER 1 IMPORTS, INC., a Delaware
15 Corporation

16 Defendants.

Case No. '14CV0593 LAB NLS

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

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18 Plaintiff MagTrim Designs, LLC (“MagTrim”) for its complaint alleges the
19 following against Defendant Pier 1, Inc. (“Pier 1”):

20 **THE PARTIES**

21 1. MagTrim is a Limited Liability Company organized and existing under the
22 laws of the State of Florida with its principle place of business at 3830 South
23 Highway A1A, Suite 4-128 Melbourne Beach, FL 32951. MagTrim is registered
24 to business in California and is doing business in California. MagTrim has done
25 business and continues to do business in this District.

26 2. Pier 1 is a Delaware corporation with its principal place of business at 100
27 Pier 1 Place, Fort Worth, TX 76102. Pier 1 is registered to do business in the State
28 of California and, in fact, is doing business in the State of California and in this

1 District. MagTrim is informed and believes that Pier 1 committed specific acts of
2 patent infringement as alleged below in this District.

3 **JURISDICTION AND VENUE**

4 3. This action arises under the patent laws of the United States, 35 U.S.C. § 1 *et*
5 *seq.*

6 4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331
7 and 1338(a).

8 5. This Court has personal jurisdiction over Pier 1 in that Pier 1 is registered to
9 do business in California and, in fact, is conducting business in California and in
10 this District. Moreover, MagTrim is informed and believes and on that basis
11 alleges that Pier has committed specific acts of patent infringement as alleged
12 below in this District.

13 6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b).

14 **GENERAL ALLEGATIONS**

15 7. In 2003, Colleen Nielsen conceived of magnetic adornments, such as
16 crystals, that decorators could attach to chandeliers and other fixtures in homes.
17 Using these magnetic adornments, decorators can embellish any iron-based home
18 fixture with decorative adornments without the need to drill holes or use wire
19 attachments.

20 8. Also in 2003, Ms. Nielsen designed and built examples of such magnetic
21 adornments.

22 9. Also in 2003, Ms. Nielsen filed a provisional patent application with the
23 United States Patent and Trademark Office (“USPTO”). In 2004, Ms. Nielsen filed
24 her first utility patent application with the USPTO.

25 10. The USPTO issued two patents to Ms. Nielsen, U.S. Patent No. 7,214,014
26 (the “’014 Patent”) and U.S. Patent No. 7,806,568 (the “’568 Patent”). True and
27 correct copies of the ’014 Patent and the ’568 Patent are attached to this Complaint
28 as Exhibits 1 and 2, respectively.

1 11.Ultimately, Ms. Nielsen assigned the '014 and '568 Patents to MagTrim.

2 12.Pier 1 makes, has made, imports into the United States, and sells
3 magnetically attachable acrylic accents for use on its custom line of lamp shades,
4 pendant lights, and other light fixtures. Pier 1 makes, has made, imports into the
5 United States, and sells infringing articles under the name "Magnetic Lamp Shade
6 Jewelry."

7 13.MagTrim is informed and believes and on that basis alleges that the Pier 1
8 magnetically attachable acrylic accents for use on its custom line of lamp shades,
9 pendant lights, and other light fixtures infringes the '014 Patent and/or the '568
10 Patent.

11 14.In addition, MagTrim is informed and believes that Pier 1 has used the Pier 1
12 magnetically attachable acrylic accents for use on its custom line of lamp shades,
13 pendant lights, and other light fixtures within this District.

14 **FIRST CLAIM FOR RELIEF**

15 Infringement of the '014 Patent

16 (Against Pier 1)

17 15.MagTrim repeats and reallege the allegations of paragraphs 1 through 14
18 above as if fully set forth below.

19 16.MagTrim is the Assignee of the '014 Patent.

20 17.MagTrim has the right to sue for infringement of the '014 Patent.

21 18.Pier 1 has infringed and continues to infringe the '014 Patent, either literally
22 or under the doctrine of equivalents, by making, having made, using, importing into
23 the United States, and offering to sell, and selling magnetically attachable acrylic
24 accents for use on its custom line of lamp shades, pendant lights, and other light
25 fixtures.

26 19.In addition, Pier 1 has been and continues to contribute to the infringement of
27 or to induce the infringement of the '014 Patent by making, having made, using,
28 importing into the United States, offering to sell, and selling magnetically

1 attachable acrylic accents for use on its custom line of lamp shades, pendant lights,
2 and other light fixtures.

3 20. Since 2009, MagTrim has marked its products with its patent numbers.
4 Accordingly, Pier 1 had constructive notice of the '014 Patent. Pier 1's direct
5 infringement, contributory infringement and/or inducement of infringement of the
6 '014 Patent has taken place and is taking place with actual or legal knowledge of
7 the '014 Patent and has been and is intentional, deliberate and willful.

8 21. As a result of Pier 1's direct infringement, contributory infringement and/or
9 inducement of infringement of the '014 Patent, MagTrim has been and will
10 continue to be damaged unless and until Pier 1 is enjoined by this Court.

11 22. MagTrim has suffered and continues to suffer damages, irreparable harm,
12 and impairment of its patent rights as a direct result of Pier 1's infringement.

13 23. MagTrim is entitled to recover from Pier 1 damages as a result of Pier 1's
14 infringement in an amount to be proven at trial, but no less than a reasonable
15 royalty.

16 **SECOND CLAIM FOR RELIEF**

17 Infringement of the '568 Patent

18 (Against Pier 1)

19 24. MagTrim repeats and realleges the allegations of paragraphs 1 through 23
20 above as if fully set forth below.

21 25. MagTrim is the Assignee of the '568 Patent.

22 26. MagTrim has the right to sue for infringement of the '568 Patent.

23 27. Pier 1 has infringed and continues to infringe the '568 Patent, either literally
24 or under the doctrine of equivalents, by making, having made, using, importing into
25 the United States, and offering to sell, and selling magnetically attachable acrylic
26 accents for use on its custom line of lamp shades, pendant lights, and other light
27 fixtures.

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1 28. In addition, Pier 1 has been and continues to contribute to the infringement of
2 or to induce the infringement of the '568 Patent by making, having made, using,
3 importing into the United States, offering to sell, and selling magnetically
4 attachable acrylic accents for use on its custom line of lamp shades, pendant lights,
5 and other light fixtures.

6 29. Since 2009, MagTrim has marked its products with its patent numbers.
7 Accordingly, Pier 1 had constructive notice of the '568 Patent as of the date it
8 issued in 2010. Pier 1's direct infringement, contributory infringement and/or
9 inducement of infringement of the '568 Patent has taken place and is taking place
10 with actual or legal knowledge of the '568 Patent and has been and is intentional,
11 deliberate and willful.

12 30. As a result of Pier 1's direct infringement, contributory infringement and/or
13 inducement of infringement of the '568 Patent, MagTrim has been and will
14 continue to be damaged unless and until Pier 1 is enjoined by this Court.

15 31. MagTrim has suffered and continues to suffer damages, irreparable harm,
16 and impairment of its patent rights as a direct result of Pier 1's infringement.

17 32. MagTrim is entitled to recover from Pier 1 damages as a result of Pier 1's
18 infringement in an amount to be proven at trial, but no less than a reasonable
19 royalty.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, MagTrim prays:

- 22 1. For a judgment holding Pier 1 liable for infringement of the '014 Patent;
- 23 2. For a judgment holding Pier 1 liable for infringement of the '568 Patent;
- 24 3. For permanent injunctive relief enjoining, Pier 1, its officers, agents,
25 servants, employees and attorneys, and all other persons in acts of concert or
26 participation with it, from further infringement of the '014 Patent and/or the '568
27 Patent;

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1 4. For an award of damages in an amount adequate to compensate MagTrim for
2 Pier 1's infringement, and for a trebling of such damages in view of the willful and
3 deliberate nature of the infringement pursuant to 35 U.S.C. § 284;

4 5. For an award of costs and expenses incurred in this action, including
5 reasonable attorney's fees under 35 U.S.C. § 285;

6 6. For an award of prejudgment interest on the amount of damages found; and

7 7. For such other and further relief as the Court may find equitable, just and
8 proper.

9 **DEMAND FOR A JURY TRIAL**

10 MagTrim demands a jury trial on all issues so triable.

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12 Dated: March 14, 2014

KYLE LUDWIG HARRIS LLP
JOHN S. KYLE

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16 Attorneys for MAGTRIM DESIGNS,
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