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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DISTRICT

<p>Alpine Innovations LLC, a Utah limited liability corporation,</p> <p style="text-align: center;">Plaintiff</p> <p style="text-align: center;">v.</p> <p>Chums, Inc., a Utah corporation,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No.: 2:14-cv-00201-TS</p> <p style="text-align: center;"><b>COMPLAINT WITH JURY DEMAND</b></p> <p>Judge: Ted Stewart</p>
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Plaintiff, Alpine Innovations LLC (hereinafter “Plaintiff” or “Alpine Innovations”), by and through its counsel hereby files this Complaint with Jury Demand against Chums, Inc., (hereinafter “Chums” or “Defendant”).

**COMPLAINT**

Alpine Innovations complains and alleges as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Alpine Innovations LLC is a Utah limited liability company having a principal place of business at 275 North 950 East, Lehi, UT 84043.

2. Upon information and belief, Chums, Inc. is a Utah corporation with its principal place of business at 2424 South 2570 West Salt Lake City, UT 84119.

3. Plaintiff brings this action under U.S. patent laws, 35 U.S.C. §§ 1 *et seq.*, and under various other Utah state law and common law provisions.

4. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338.

5. This Court has supplemental jurisdiction over any state law statutory and common law claims pursuant to 28 U.S.C. § 1367.

6. Upon information and belief, this Court has specific personal jurisdiction over Defendant as Defendant is a Utah corporation with its principal place of business in Utah, has purposefully directed its activities toward the state of Utah and has sold the product at issue in this case into the state of Utah.

7. Upon information and belief, this Court has general personal jurisdiction over Defendant since its contacts with Utah are substantial, continuous, and systematic and this action is based upon activities that arise out of or are related to those contacts.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 because Defendant conducts business directly related to the patent at issue in this case, thereby harming Plaintiff in this judicial district.

**GENERAL ALLEGATIONS  
PLAINTIFF'S PRODUCTS AND INTELLECTUAL PROPERTY**

9. Alpine Innovations is in the business of inventing, developing, manufacturing, distributing, and selling various products used in numerous fields.

10. One of Alpine Innovations' products is a cloth accessory product. This product has been marketed and labeled by Alpine Innovations as the "Spudz" product. A photograph of the Spudz product is provided below.



11. Alpine Innovations is the owner of a United States patent protecting its cloth accessory product from copying and other acts of patent infringement. That patent was granted on April 10, 2012 and was given U.S. Patent No. 8,151,399 (hereinafter the "'399 Patent"). A copy of the '399 patent is attached hereto as Exhibit A.

#### **CHUMS' MISCONDUCT**

12. Upon information and belief, Chums makes, uses, sells, offers for sale, and imports into the United States a cloth accessory product that infringes the claims of the '399

Patent (the “Infringing Product”). Images of two examples of the Infringing Product are shown below.



13. Chums is in direct competition with Alpine Innovations in the cloth accessory product market.

14. Chums makes, uses, sells, imports, offers for sale, and distributes its Infringing Products in the United States.

15. Upon information and belief, the Infringing Products are a copy of Alpine Innovations’ cloth accessory product.

16. Upon information and belief, Chums has purposefully copied Alpine Innovations’ cloth accessory product to unlawfully benefit from Alpine Innovations’ goodwill in the marketplace.

17. The Infringing Product infringes at least claim 1 of the ‘399 Patent.

18. Upon information and belief, Chums' continued manufacture, use, sale, importing, and offering for sale and distribution of its Infringing Products has injured, is injuring, and will continue to cause irreparable injury to Alpine Innovations.

19. Additionally, upon information and belief, Chums acted in an objectively reckless manner with respect to Alpine Innovations' patent rights. Upon information and belief, Chums made, used, sold, offered for sale, and imported into the United States its Infringing Products knowing that it was highly likely that its acts would constitute infringement of the '399 patent. Upon information and belief, Chums knew or should have known that its actions were highly likely to result in the infringement of the '399 patent. As a consequence, Chums has engaged in willful infringement of the '399 Patent and Alpine Innovations is therefore entitled to treble damages and attorneys' fees as well as costs incurred in this action along with prejudgment interest under 35 U.S.C. §§ 284 and 285

20. Alpine Innovations has been and continues to be significantly damaged by Chums' actions. So long as Chums continues performing the unlawful and improper actions described in this complaint, Alpine Innovations will continue to suffer irreparable harm that will not be fully compensable by money damages.

**FIRST CAUSE OF ACTION**  
**(PATENT INFRINGEMENT OF THE '399 PATENT UNDER 35 U.S.C. § 271)**

21. Alpine Innovations hereby incorporates by reference each and every preceding allegation of this complaint as if set forth fully herein.

22. Alpine Innovations owns the '399 Patent.

23. Chums makes, uses, sells, offers for sale, and/or imports into the United States a product that infringes the '399 Patent, either directly, indirectly, under the doctrine of equivalents, contributorily, and/or by inducement.

24. At no time has Alpine Innovations granted Chums permission, license, or authorization to market or sell the Infringing Product.

25. Upon information and belief, Chums' infringing activities have damaged Alpine Innovations in an amount to be proven at trial. Among other remedies, Alpine Innovations is entitled to its lost profits or, in the alternative a reasonable royalty to adequately compensate Alpine Innovations for Chums' infringing activities under 35 U.S.C. §284. Additionally, the harm to Alpine Innovations arising from these acts by Chums is not fully compensable by money damages. Alpine Innovations has suffered and continues to suffer irreparable harm that has no adequate remedy at law and that will continue unless this infringing conduct by Chums is preliminarily and permanently enjoined.

26. Upon information and belief, Chums acted in an objectively reckless manner with respect to Alpine Innovations' patent rights. Upon information and belief, Chums made, used, sold, and offered for sale its Infringing Product knowing that it was highly likely that its acts would constitute infringement of the '399 patent. Chums knew, or should have known, that its actions were highly likely to result in the infringement of the '399 patent. As a consequence, Chums has engaged in willful infringement of the '399 Patent and Alpine Innovations is therefore entitled to treble damages and attorneys' fees as well as costs incurred in this action along with prejudgment interest under 35 U.S.C. §§ 284 and 285

**SECOND CAUSE OF ACTION**  
**(UNFAIR COMPETITION, UTAH CODE ANN. §13-5A-102, 103 AND UTAH COMMON LAW)**

27. Alpine Innovations hereby incorporates by this reference each and every preceding allegation as if set forth fully herein.

28. Alpine Innovations owns the '399 Patent.

29. Chums has engaged in unfair methods of competition by infringing the '399 Patent either directly, indirectly, under the doctrine of equivalents, contributorily, or induced infringement.

30. Chums makes, uses, sells, offers for sale, and/or import into the United States a product that infringes the '399 Patent.

31. Upon information and belief, Alpine Innovations has been injured by Chums' infringing acts.

32. By engaging in the above-described activities, Chums has engaged in unfair competition under Utah Code Ann. §13-5a-102, 103 and under Utah common law.

33. Alpine Innovations has suffered actual damages as a result of unfair business practices by Chums in an amount to be proven at trial. Additionally, the harm to Alpine Innovations arising from these acts by Chums is not fully compensable by money damages. Alpine Innovations has suffered, and continues to suffer irreparable harm that has no adequate remedy at law and that will continue unless this unfair conduct by Chums is preliminarily and permanently enjoined. Furthermore, Alpine Innovations is entitled to its attorneys' fees and costs.

**WHEREFORE**, it is respectfully requested that the Court enter judgment in favor of Plaintiffs as follows:

- A. That the Court enter judgment that Chums has infringed the '399 Patent both literally and under the doctrine of equivalents.
- B. That the Court enter judgment that Chums has competed unfairly pursuant to Utah Code. Ann. §§ 13-5a-102, 103 and Utah common law.
- C. That the Court enter judgment that Chums has been unjustly enriched through its misconduct.
- D. That Chums be ordered to pay damages to Alpine Innovations, together with interest, in an amount to be determined by this Court.
- E. That the Court award Alpine Innovations treble damages pursuant to 35 U.S.C. §284.
- F. That the Court award Alpine Innovations punitive damages pursuant to Utah Code. Ann. § 13-5a-102 and § 13-5a-103.
- G. That the Court award Alpine Innovations costs and attorneys' fees related to this action pursuant to 35 U.S.C. §285 and/or Utah Code. Ann. §§ 13-5a-102, 103.
- H. That the Court award Alpine Innovations prejudgment interest.
- I. That Alpine Innovations have such other and further relief as shall seem just and proper to the Court.
- J. That the Court grant preliminary and permanent injunctive relief enjoining Chums, its officers, directors, principals, agents, servants, employees, successors and assigns, and all other aiding, abetting, or acting in concert or active participation therewith, from directly or indirectly infringing the '399 Patent, including with limitation, precluding Chums from making, using, selling, offering for sale, or importing the Infringing Product.



**JURY DEMAND**

Alpine Innovations demands that all claims and causes of action raised in this complaint be tried to a jury to the fullest extent possible under the United States and Utah Constitutions.

DATED this 18<sup>th</sup> day of March, 2014.

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