

1 BENJAMIN ASHUROV SBN 271716
2 Bashurov@KB-Ash.com
3 KB ASH Law Group PC
4 7011 Koll Center Pkwy, Suite 160
5 Pleasanton, CA 94566
6 Telephone: 415.754.9346
7 Facsimile: 415.952.9325



8 Attorneys for Plaintiff
9 PACIFIC SOLUTION MARKETING INC.

KB ASH LAW GROUP P.C.
7011 KOLL CENTER PKWY SUITE 160
PLEASANTON, CA 94566

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 ED CV13-1469 suw (opx)

13 PACIFIC SOLUTION MARKETING, INC.

14 Plaintiffs,

15 v.

16 MASTER CUTLERY, INC.,

17 Defendant.

18 **COMPLAINT FOR PATENT AND
19 COPYRIGHT INFRINGEMENT**

20 **DEMAND FOR JURY TRIAL**

21 JUDGE _____

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Plaintiff Pacific Solution Marketing, Inc., by and through its attorneys, alleges as follows:

PARTIES

1. Pacific Solution Marketing, Inc. (“Pacific”) is a corporation organized under the law of the State of California with its principal business address at 1220 E. Belmont St., Ontario, CA 91761. Pacific does business in this judicial district.

2. Upon information and belief, Defendant Master Cutlery (“Master”), Inc. is a corporation organized under the laws of the State of New Jersey with its principal business address at 700 Penhorn Ave., Seacaucus, New Jersey 07094. Upon information and belief, Master does business in this judicial district.

JURISDICTION AND VENUE

3. This is an action for patent and copyright infringement arising under the patent and copyright laws of the United States, namely, Title 17 U.S.C., § 101 *et seq.* and Title 35 § 271.

4. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this judicial district under 28 U.S.C. §§ 1391, 1400(a) and 1400(b).

6. This Court has personal jurisdiction over Master. Master has conducted and does conduct business within the State of California and within this judicial district. Master, directly or through intermediaries, makes, distributes, offers for sale or license, sells or licenses, and advertises its products in the United States, the State of California, and this judicial district.

BACKGROUND

7. Pacific is a provider of knives, swords, and related products among which is a knife designed to resemble a revolver (the “Revolver Gun”).

8. Pacific is the owner of United States Patent No. USD673, 441 (the “441 Patent”). A true and correct copy of the ‘441 Patent is included as EXHIBIT A.

9. Pacific owns copyrights in the design of the Revolver Gun. Pacific has submitted an application to register the Revolver Gun-related copyrights with the United States Copyright Office. A true and correct copy of the application is included as EXHIBIT B.

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10. Master competes with Pacific in the cutlery business. Master sells at least one knife designed to resemble a revolver gun (the “Master Knife”), a photograph of which is enclosed as EXHIBIT C.

11. On information and belief, Master has purposefully, actively, and voluntarily sold or offered for sale the Master Knife with the expectation that they will be purchased, used, or licensed by consumers or distributors in the Central District of California. Master has thus committed acts of copyright and patent infringement within the State of California and, particularly, within this judicial district.

12. The Master Knife infringes the sole claim of the ‘441 Patent. On information and belief, Master has been aware of Pacific’s ‘441 Patent since the patent issued.

13. By purposefully and voluntarily selling or offering for sale one or more of its infringing products, Master has injured Pacific and is thus liable to Pacific for infringement of the ‘441 Patent pursuant to 35 U.S.C. § 271

14. By selling the Master Knife, Master has injured Pacific and is thus liable to Pacific for copyright infringement under 17 U.S.C., § 101 *et seq.*

COUNT I

(Infringement of the ‘441 Patent)

15. Pacific hereby restates and realleges the allegations set forth in paragraphs 1 through 14 above and incorporates them by reference.

16. On January 1, 2013, United States Patent No. USD673, 441 (the “‘441 Patent”) entitled “Revolver Knife” was duly and legally issued to Pacific by the United States Patent and Trademark Office.

17. On information and belief Master actively and knowingly has infringed and is infringing the ‘441 Patent with knowledge of Pacific’s patent rights and without reasonable basis for believing that Master’s conduct is lawful.

18. On information and belief, Master has also induced and contributed to the infringement of the ‘441 Patent by purchasers, licensees, or distributors of the Master Knife and is continuing to induce and contribute to the infringement of the ‘441 Patent by purchasers,

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licensees, or distributors of the Master Knife. Master’s acts of infringement have been and continue to be willful, deliberate, and in reckless disregard of Pacific’s patent rights. Master is thus liable to Pacific for willful infringement of the ‘441 Patent under 35 U.S.C. § 271.

COUNT II

(Copyright Infringement)

19. Pacific hereby restates and realleges the allegations set forth in paragraphs 1 through 18 above and incorporates the by reference.

20. The Revolver Gun contains a substantial amount of original materials that is copyrightable subject matter under the Copyright Act, 17 U.S.C § 101 *et seq.*

21. Without consent, authorization, approval, or license, Master knowingly, willingly, and unlawfully copied, prepared, published, and distributed Pacific’s copyrighted work, portions thereof, or derivative works and continues to do so. The Master Knife infringes Pacific’s copyrights in the Revolver Gun and Master is not licensed to do so.

22. On information and belief, Master’s infringement is and has been knowing and willful.

23. By this unlawful copying, use, and distribution, Master has violated Pacific’s exclusive rights under 17 U.S.C. § 106.

24. Master has realized unjust profits, gains, and advantages as a proximate result of its infringement.

25. Master will continue to realize unjust profits, gains and advantages as a proximate result of its infringement as long as such infringement is permitted to continue.

26. Pacific is entitled to an injunction restraining Master from engaging in any further such acts in violation of the United States copyright laws. Unless Master is enjoined and prohibited from infringing Pacific’s copyrights, and unless as infringing products and advertising materials are seized, Master will continue to intentionally infringe Pacific’s registered copyrights.

27. As a direct and proximate result of Master’s direct willful infringement, Pacific has suffered and will continue to suffer monetary loss to its business, reputation, and goodwill. Pacific is entitled to recover from Master, in amounts to be determined at trial, the damages

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1 sustained and will sustain, and any gains, profits, and advantages obtained by Master as a result
2 of Master’s acts of infringement and Master’s use and publication of the copied materials.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Pacific prays for judgment as follows:

5 A. Entry of judgment holding Master liable for infringement of the patents and
6 copyrights at issue in this litigation;

7 B. An order permanently enjoining Master, its officers, agents, servants, employees,
8 distributors, attorneys and affiliated companies, its assigns and successors in interest, and those
9 persons in active concert or participation with it, from continued acts of infringement of the
10 patents and copyrights at issue in this litigation;

11 C. An order that all copies made or used in violation of Pacific’s copyrights, and all
12 means by which such copies may be reproduced, be impounded and destroyed or otherwise
13 reasonably disposed of.

14 D. An order awarding Pacific statutory damages and damages according to proof
15 resulting from Master’s infringement of the patents and copyrights at issue in this litigation,
16 together with pre-judgment and post-judgment interest;

17 E. Trebling of damages under 35 U.S.C. § 284 in view of the willful and deliberate
18 nature of Master’s infringement of the patents at issue in this litigation;

19 F. An order awarding Pacific its costs and attorney’s fees under 35 U.S.C. § 285 and
20 17 U.S.C. § 505; and

21 G. Any and all other legal and equitable relief as may be available under law and
22 which the Court may deem proper.

23 **DEMAND FOR JURY TRIAL**

24 Pacific demands a jury trial for all issues so triable.
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Dated: August 16, 2013.

Respectfully submitted,



By: _____

KB ASH LAW GROUP P.C
BENJAMIN ASHUROV SBN 271716
Bashurov@kb-ash.com
7011 Koll Center Pkwy, Suite 160
Pleasanton, CA 94566
Telephone: 415.754.9346
Facsimile: 415.952.9325

Attorneys for Plaintiff
PACIFIC SOLUTION MARKETING, INC.