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Of Counsel for Plaintiff 3form, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

3FORM, LLC, a Delaware limited liability
company,

Plaintiff,

v.

DECOTONE SURFACES, LLC, a
New Jersey limited liability company,

Defendant.

Civil Action No. _____

**COMPLAINT FOR PATENT AND
COPYRIGHT INFRINGEMENT AND
CERTIFICATION PURSUANT TO
LOCAL CIVIL RULE 11.2**

(JURY TRIAL DEMANDED)

Plaintiff 3form, LLC (“3form”), hereby complains against Defendant Decotone Surfaces, LLC (“Defendant” or “Decotone”), and alleges as follows:

PARTIES

1. 3form is a Delaware limited liability company with its principal executive offices located at 2300 South 2300 West, Salt Lake City, Utah 84119.

2. Decotone is a New Jersey limited liability company with its principal place of business located at 520 South Avenue, Garwood, New Jersey 07027.

JURISDICTION AND VENUE

3. This is a civil action for patent and copyright infringement brought by 3form for acts committed by Decotone arising under the patent and copyright laws of the United States, and more specifically under 35 U.S.C. §§ 271, 281, 283, 284, 285, and 289, and 17 U.S.C. §§ 501, 502, 503, 504, and 505. Subject matter jurisdiction of this Court is thereby founded on 28 U.S.C. §§ 1331 and 1338(a).

4. This also is a civil action with complete diversity of citizenship between 3form and Decotone, with the amount in controversy exceeding \$75,000, exclusive of interest and costs. Subject matter jurisdiction of this Court is thereby founded on 28 U.S.C. § 1332.

5. This Court has personal jurisdiction over Decotone by virtue of its residence and conduct of infringing activity in this judicial district.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D621,068)

7. 3form realleges and incorporates by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

8. U.S. Patent No. D621,068 (the “’068 Patent”) issued from the United States Patent and Trademark Office (“PTO”) on August 3, 2010, bearing the title “Architectural Panel with Thatch Reed Design.” (A true and correct copy of the ’068 Patent is attached hereto as Exhibit A and incorporated herein by this reference.).

9. 3form is the owner of all right, title, and interest in and to the '068 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '068 Patent, and to enjoin acts of infringement of the '068 Patent.

10. 3form has not licensed or otherwise authorized Decotone to practice the '068 Patent.

11. Decotone, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '068 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '068 Patent, including but not limited to, those products designated or denominated by Decotone as "SF1011," "SF1012," and "SF1013." Therefore, Decotone is liable for infringement of the '068 Patent pursuant to 35 U.S.C. § 271.

12. Decotone's acts of infringement have caused damage to 3form, and 3form is entitled to recover from Decotone the damages sustained by 3form as a result of Decotone's wrongful acts in an amount subject to proof at trial.

13. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Decotone is enjoined by this Court from committing further acts of infringement of the '068 Patent.

14. On information and belief, Decotone's infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

SECOND CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D653,359)

15. 3form realleges and incorporates by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

16. U.S. Patent No. D653,359 (the “’359 Patent”) issued from the PTO on January 31, 2012, bearing the title “Multi-Wave Pattern Panel.” (A true and correct copy of the ’359 Patent is attached hereto as Exhibit B and incorporated herein by this reference.)

17. 3form is the owner of all right, title, and interest in and to the ’359 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the ’359 Patent, and to enjoin acts of infringement of the ’359 Patent.

18. 3form has not licensed or otherwise authorized Decotone to practice the ’359 Patent.

19. Decotone, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the ’359 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the ’359 Patent, including but not limited to, those products designated or denominated by Decotone as “SF4001.” Therefore, Decotone is liable for infringement of the ’359 Patent pursuant to 35 U.S.C. § 271.

20. Decotone’s acts of infringement have caused damage to 3form, and 3form is entitled to recover from Decotone the damages sustained by 3form as a result of Decotone’s wrongful acts in an amount subject to proof at trial.

21. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged

by such acts in the future unless Decotone is enjoined by this Court from committing further acts of infringement of the '359 Patent.

22. On information and belief, Decotone's infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

THIRD CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D644,750)

23. 3form realleges and incorporates by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

24. U.S. Patent No. D644,750 (the "'750 Patent") issued from the PTO on September 6, 2011, bearing the title "Architectural Panel with Embossed Bubble." (A true and correct copy of the '750 Patent is attached hereto as Exhibit C and incorporated herein by this reference.)

25. 3form is the owner of all right, title, and interest in and to the '750 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '750 Patent, and to enjoin acts of infringement of the '750 Patent.

26. 3form has not licensed or otherwise authorized Decotone to practice the '750 Patent.

27. Decotone, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '750 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '750 Patent, including but not limited to, those products designated or denominated by Decotone as "SF-U0002," "SF-U0007," "SF-U0008," "SF-U0009," "SF-U0010." Therefore, Decotone is liable for infringement of the '750 Patent pursuant to 35 U.S.C. § 271.

28. Decotone's acts of infringement have caused damage to 3form, and 3form is entitled to recover from Decotone the damages sustained by 3form as a result of Decotone's wrongful acts in an amount subject to proof at trial.

29. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Decotone is enjoined by this Court from committing further acts of infringement of the '750 Patent.

30. On information and belief, Decotone's infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

FOURTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 5,998,028)

31. 3form realleges and incorporates by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

32. U.S. Patent No. 5,998,028 (the "'028 Patent") issued from the PTO on December 7, 1999, bearing the title "Thermoplastic Article Having Metallic Wire, Rod or Bar Embedded Therein." (A true and correct copy of the '028 Patent is attached hereto as Exhibit D and incorporated herein by this reference.)

33. 3form is the owner of all right, title, and interest in and to the '028 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '028 Patent, and to enjoin acts of infringement of the '028 Patent.

34. 3form has not licensed or otherwise authorized Decotone to practice the '028 Patent.

35. Decotone, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '028 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '028 Patent, including but not limited to, those products designated or denominated by Decotone as "SF-3017." Therefore, Decotone is liable for infringement of the '028 Patent pursuant to 35 U.S.C. § 271.

36. Decotone's acts of infringement have caused damage to 3form, and 3form is entitled to recover from Decotone the damages sustained by 3form as a result of Decotone's wrongful acts in an amount subject to proof at trial.

37. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Decotone is enjoined by this Court from committing further acts of infringement of the '028 Patent.

38. On information and belief, Decotone's infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

FIFTH CLAIM FOR RELIEF
(Copyright Infringement)

39. 3form realleges and incorporates by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

40. 3form is the owner of federally registered copyrights assigned Copyright Registration Nos. VA 1-364-474 ("SPLASH") and VAu 988-260 ("Array Pattern Panel Design"). (True and correct copies of the Registrations of the SPLASH and Array Pattern Panel

Design Copyrights are attached hereto as Exhibits E and F, respectively, and incorporated herein by reference.)

41. These works are original works of authorship, and are copyrightable subject matter under the laws of the United States.

42. Without 3form's authorization or permission, Decotone has reproduced, copied, distributed, prepared derivative works based on, publicly displayed, and sold 3form's copyrighted works, including but not limited to, in connection with those products designated or denominated by Decotone as "SF4003" and "LOC0009."

43. Decotone has thus infringed 3form's copyrights in the SPLASH and Array Pattern Panel Design works, in violation of 17 U.S.C. § 501.

44. Decotone's infringement is direct, contributory, and/or by inducement.

45. On information and belief, Decotone's infringement is willful.

46. Decotone's acts of copyright infringement have caused 3form actual damages in an amount to be proven at trial. In addition to 3form's actual damages suffered as a result of the infringement, 3form is entitled to recover Decotone's profits attributable to the infringement and not taken into account in computing actual damages, pursuant to 17 U.S.C. § 504(b).

47. In the alternative, 3form is entitled to statutory damages pursuant to 17 U.S.C. § 504(c), and these statutory damages should be enhanced in accord with 17 U.S.C. § 504(c)(2) as a result of Decotone's willful infringement.

48. Pursuant to 17 U.S.C. § 505, 3form is entitled to recover its attorney fees and costs of suit from Decotone.

49. 3form is being irreparably harmed by Decotone's infringement of its federally registered copyrights, and 3form has no adequate remedy at law. Thus, pursuant to 17 U.S.C. §

502, 3form is entitled to preliminary and permanent injunctive relief barring Decotone from engaging in further acts of copyright infringement.

50. Pursuant to 17 U.S.C. § 503, 3form is further entitled to the immediate impounding during the pendency of this litigation of all articles or copies made or used in violation of 3form's copyright rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such articles or copies may be reproduced, and to the destruction thereof upon entry of judgment in this matter.

PRAYER FOR RELIEF

WHEREFORE, 3form prays for entry of a final order and judgment that:

1. Decotone has infringed the '068 Patent.
2. Decotone has infringed the '359 Patent.
3. Decotone has infringed the '750 Patent.
4. Decotone has infringed the '028 Patent.
5. Decotone has infringed the following federally registered copyrights: U.S. Certificates of Copyright Registration Nos. VA 1-364-474 ("SPLASH") and VAu 988-260 ("Array Pattern Panel Design").
6. Decotone account for and pay to 3form all damages caused by Decotone's infringement of the '068 Patent, the '359 Patent, the '750 Patent, and the '028 Patent, which damages should be trebled, in accordance with 35 U.S.C. § 284, and/or an award of Decotone's profits from its infringement pursuant to 35 U.S.C. § 289.
7. 3form be awarded Decotone's total profits, or the greatest amount allowable under the statute, related to the sale of products found to infringe the '068 Patent, the '359 Patent, and the '750 Patent pursuant to 35 U.S.C. § 289.

8. 3form be granted preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Decotone, its officers, agents, servants, employees, and all those persons in active concert or participation with them or any of them from further acts of patent infringement with respect to the patents-in-suit.

9. Decotone account for and pay to 3form all damages caused by Decotone's infringement of the SPLASH and Array Pattern Panel Design copyrighted works and its profits attributable to the infringement and not taken into account in computing actual damages, pursuant to 17 U.S.C. § 504(b), or in the alternative, that 3form be awarded enhanced statutory damages pursuant to 17 U.S.C. § 504(c).

10. 3form be granted preliminary and permanent injunctive relief pursuant to 17 U.S.C. § 502 enjoining Decotone, its officers, agents, servants, employees, and all those persons in active concert or participation with them or any of them from further acts of copyright infringement with respect to the copyrights-in-suit.

11. The Court order an impoundment of all articles or copies made or used in violation of 3form's copyright rights, and of all plates, molds, matrices, masters, tapes, film negatives, or other articles by means of which such articles or copies may be reproduced during the pendency of this litigation and order the destruction thereof on entry of judgment in this matter.

12. Decotone be preliminarily and then permanently enjoined and restrained from assisting, aiding, or abetting, or contributing to or inducing, any other individual or entity in engaging in or performing any of the activities referred to in paragraphs 8 and 10 in this Prayer for Relief.

13. 3form be awarded its reasonable attorney fees and costs of suit.

14. 3form be awarded pre- and post-judgment interest.
15. 3form be granted such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, 3form demands trial by jury of all claims and issues so triable.

DATED: August 8, 2014

By: s/Jonathan Short
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Of Counsel for Plaintiff 3form, LLC

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

Pursuant to Local Civil Rule 11.2, I hereby certify that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge and belief.

DATED: August 8, 2014

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Of Counsel for Plaintiff 3form, LLC

CERTIFICATION PURSUANT TO L. CIV. R. 201.1

Pursuant to Local Civil Rule 201.1, I hereby certify that this action includes a prayer for injunctive relief and therefore this action is not appropriate for compulsory arbitration.

DATED: August 8, 2014

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