

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO

THE GILLETTE COMPANY, )  
 )  
 Plaintiff, ) Civil Action No. 3:13-cv-02241  
 )  
 vs. ) Judge Carr  
 )  
BK Gifts, *et al.*,  
Defendants.

**FIRST AMENDED COMPLAINT FOR DESIGN PATENT INFRINGEMENT –  
AMENDED AS TO NEW CLAIMS ONLY**

COMES NOW Plaintiff, The Gillette Company, (hereinafter “Gillette”), by and through its attorneys, and for its first amended complaint (amended here as permitted by Rule 15(a) as to only Counts Thirteen through Nineteen, claims against new Defendant Francis Saint-Arnaud asserted for the first time in the earlier-filed Amended Complaint (Doc. No. 42)) against Defendants BK Gifts, Brian Patrick, as an individual and d/b/a BK Gifts and d/b/a BK Razors, Kim Murry, as an individual and d/b/a BK Gifts and d/b/a BK Razors, other unknown John Doe and Jane Doe defendants associated with BK Gifts and BK Razors, Zilo Store, Inc. (hereinafter “Zilo”), and Francis Saint-Arnaud (collectively, all of the foregoing sometimes referred to herein as “Defendants”), alleges that:

**NATURE OF THE CASE**

1. This action arises from the manufacture, distribution, sale, and/or offer for sale of razor blades, razor cartridges, shaving blade units, dispensers for razor cartridges, and razor containers by BK Gifts, BK Razors, Zilo and Mr. Saint-Arnaud, that violate the patented design rights of Gillette. The razor blade products at issue in this case intentionally imitate and directly copy the valuable, unique and distinctive ornamental distinctive and non-functional design of and containers for Gillette’s Mach®, Fusion®, and/or Venus®

razor blade cartridges, shaving blade units, dispensers, and shaving blade containers products, thereby infringing Gillette's design patent rights in violation of the Patent Act, 35 U.S.C. §271 *et seq.*

### **THE PARTIES**

2. The Gillette Company is a corporation licensed in the state of Delaware, with its principal place of business at One Gillette Park, Boston, Massachusetts, 20127 and is a wholly-owned subsidiary of The Procter & Gamble Company (hereinafter P&G), a corporation licensed in the state of Ohio. Gillette's Corporate Disclosure Statement is filed concurrently with this Complaint, as required by Rule 7.1 of the Federal Rules of Civil Procedure.
3. Upon information and belief, Defendant Brian Patrick owns and operates BK Gifts (hereinafter, "BK Gifts") as an unincorporated entity, either as a sole proprietor and/or in conjunction with Defendant Kim Murry and/or in conjunction with other unknown Defendants John Doe(s) and/or Jane Doe(s), with its principal place of business located at 500 Lehman Avenue, Suite 23, Bowling Green, OH 43402.
4. Upon information and belief, Defendant Brian Patrick owns and operates BK Razors (hereinafter, "BK Razors") as an incorporated entity, either as a sole proprietor and/or in conjunction with Defendant Kim Murry and/or in conjunction with other unknown Defendants John Doe(s) and/or Jane Doe(s), with its principal place of business located at 500 Lehman Avenue, Suite 23, Bowling Green, OH 43402.
5. Upon information and belief, Defendant Brian Patrick is a resident of Michigan with a last known address at 16225 Manning St., Detroit, MI 48205, and who, upon information and belief, may now be residing in or around Bowling Green, Ohio.

6. Upon information and belief, Defendant Kim Murry is a resident of Wauseon, Ohio with an address of 809 Lawrence Avenue, Apt. 2, Wauseon, Ohio 43567.
7. Upon information and belief, one or more Defendants John Doe(s) and/or Jane Doe(s) (whose names and addresses are unknown) are individuals who at all times relevant hereto were owners, employees, agents, and/or representatives of BK Gifts and/or BK Razors.
8. Zilo Store, Inc. (“Zilo”) is a corporation existing under the laws of California, having its principal place of business located at 4318 Morrell St., San Diego, California, 92109.
9. Upon information and belief, Francis Saint-Arnaud is a resident of California with an address at 4318 Morrell St., San Diego, California, 92109.

#### **JURISDICTION AND VENUE**

10. This Court has subject matter jurisdiction over Gillette’s claims because they arise under the patent laws of the United States, including, but not limited to, Patent Act 35 U.S.C. §271. Subject matter jurisdiction is conferred by 28 U.S.C. § 1331 and 28 U.S.C. §1338(a).
11. This Court has personal jurisdiction over Defendants BK Gifts, BK Razors, Mr. Patrick, Ms. Murry, the Doe Defendants, Zilo, and Mr. Saint-Arnaud under Fed. R. Civ. Pro. 4 and under Ohio Rev. Code Ann. § 2307.382 because Defendants BK Gifts, BK Razors, Mr. Patrick, Ms. Murry, the Doe Defendants, Zilo, and Mr. Saint-Arnaud upon information and belief, have committed acts of infringement in Ohio and/or have regularly solicited business or derived substantial revenue from goods promoted, advertised, sold, used, and/or consumed in the state of Ohio, and specifically have sold shaving blade units, razor blade cartridges, and/or dispensers for razor cartridges that

infringe Gillette's intellectual property in the State of Ohio and have thus purposefully availed themselves of the privilege of doing business in the state of Ohio.

12. Venue is proper pursuant to 28 U.S.C. § 1391.

**FACTUAL BACKGROUND**

**OVERVIEW OF PLAINTIFF GILLETTE**

13. Gillette is the owner, by virtue of assignment, of the entire right, title and interest in and to U.S. design patent Des. 422,751 (“751 Patent”), issued on April 11, 2000, claiming “the ornamental design for a razor blade cartridge.” A copy of the ‘751 Patent is attached hereto as Exhibit A.
14. Gillette is the owner, by virtue of assignment, of the entire right, title and interest in and to U.S. design patent D575,454 S (“454 Patent”), issued on August 19, 2008, claiming “the ornamental design for a shaving blade unit.” A copy of the ‘454 Patent is attached hereto as Exhibit B.
15. Gillette is the owner, by virtue of assignment, of the entire right, title and interest in and to U.S. design patent D531,518 S (“518 Patent), issued on November 7, 2006, claiming “the ornamental design for a dispenser for razor cartridges.” A copy of the ‘518 Patent is attached hereto as Exhibit C.
16. Gillette is the owner, by virtue of assignment, of the entire right, title and interest in and to U.S. design patent Des. 415,315 (“315 Patent”), issued on October 12, 1999, claiming “the ornamental design for a razor cartridge.” A copy of the ‘315 Patent is attached hereto as Exhibit D.
17. Gillette is the owner, by virtue of assignment, of the entire right, title and interest in and to U.S. design patent Des. 430,023 (“023 Patent”), issued on August 29, 2000, claiming “the ornamental design for a container.” A copy of the ‘023 Patent is attached hereto as Exhibit E.

18. Gillette is the owner, by virtue of assignment, of the entire right, title and interest in and to U.S. design patent D440,874 S (“874 Patent”), issued on April 24, 2001, claiming “the ornamental design for a container.” A copy of the ‘874 Patent is attached hereto as Exhibit F.
19. Gillette has expended a great deal of time and money seeking federal protection of its intellectual property including, but not limited to, its unique, nonfunctional and distinctive product designs.
20. Gillette is in the business of, among other things, developing, designing, advertising and marketing personal care/grooming products for both men and women. These personal care/grooming products include a variety of shaving products for both men and women. Gillette, as part of the P&G family, is the global market leader in razors, shaving, and razor blade and shaving products.
21. For men, among other things, Gillette offers proprietary razors, razor blade cartridges, shaving blade units, razor blade dispensers, and refill razor blades under the Mach3® brand (including the Mach3, Mach3 Turbo and M3Power brands) and Fusion® brand (including Fusion Manual, Fusion Power and Fusion ProGlide brands).
22. For women, among other things, Gillette offers proprietary razors, razor cartridges, razor blade containers, and refill razor blades under the Venus® brand.
23. The Mach® line of razor blade cartridges feature a unique, distinctive, non-functional design that embodies the design of the ‘751 Patent.
24. Gillette has established tremendous goodwill and proprietary design rights in the design of the Mach® line of razor blade cartridges.

25. The Fusion® line of shaving blade units feature a unique, distinctive, non-functional design that embodies the design of the '454 Patent.
26. The Fusion® line of dispensers for razor cartridges are sold housed in a dispenser that features a unique, distinctive, non-functional design that embodies the design of the '518 Patent.
27. Gillette has established tremendous goodwill and proprietary design rights in the design of the Fusion® line of shaving blade units and dispensers for razor cartridges.
28. The Venus® line of razor cartridges feature a unique, distinctive, non-functional design that embodies the design of the '315 Patent.
29. Certain of the Venus® line of shaving blade containers are sold housed in a container that features a unique, distinctive, non-functional design that embodies the design of the '023 Patent.
30. Certain of the Venus® line of razor cartridges are sold housed in a container that features a unique, distinctive, non-functional design that embodies the design of the '874 Patent.
31. Gillette has established tremendous goodwill and proprietary design rights in the design of the Venus® line of razor cartridges and razor blade containers.

**OVERVIEW OF DEFENDANTS BK GIFTS, BK RAZORS,  
MR. PATRICK, MS. MURRY, AND DOE DEFENDANTS**

32. Upon information and belief, Defendants BK Gifts and BK Razors are unincorporated entities, operated either as sole proprietorships by Mr. Patrick or in conjunction with Defendant Ms. Murry and/or in conjunction with various unknown John Doe(s) and Jane Doe(s) Defendants.
33. Upon information and belief, Mr. Patrick has registered the domain names for the websites [www.bk-gifts.com](http://www.bk-gifts.com) and [www.bk-razors.com](http://www.bk-razors.com), (collectively, "BK Websites").

34. Upon information and belief, Mr. Patrick, in conjunction with Defendant Ms. Murry and/or with various unknown John Doe(s) and Jane Doe(s) Defendants, manages, operates and controls the BK Websites, through which consumers purchase razor blade cartridges, shaving blade units, and dispensers for razor cartridges that infringe upon Gillette's intellectual property and design patent rights.
35. Upon information and belief, Mr. Patrick, Ms. Murry, BK Gifts, BK Razors and the Doe Defendants (collectively, the "BK Entities") offer for sale, via the BK Websites, a variety of products, including razor blade cartridges, shaving blade units, and dispensers for razor cartridges that it claims are "compatible" with Gillette Fusion® razor blades and Gillette Mach3® razors. See <http://www.bk-razors.com/>, <http://www.bk-razors.com/Fusion.php>, <http://www.bk-razors.com/Fusion-Power.php>, <http://www.bk-razors.com/Mach-3.php>, <http://www.bk-razors.com/M3-Turbo.php>, and <http://www.bk-razors.com/M3-Power.php>
36. According to the BK Websites, products purchased from the website ship either from a warehouse in California or from BK Gifts' location in Bowling Green, Ohio. Certain products, including razor blade cartridges packaged in razor blade dispensers, may also be picked up from the Bowling Green, Ohio location. See <http://bk-razors.com/About-us.php>.
37. Upon information and belief, the BK Entities base a substantial component of the BK Entities' business on direct copies and near exact imitations of Gillette's products that embody the designs of the '751 Patent, the '454 Patent, and/or the '518 Patent.
38. On August 12, 2013, Gillette sent an email to various email addresses associated with BK Gifts notifying the BK Entities of the infringement of Gillette's intellectual property and



design patent rights. That same day, Gillette received a response from [bkgifts@yahoo.com](mailto:bkgifts@yahoo.com) that, upon information and belief, came from Mr. Patrick, stating that BK Gifts and/or BK Razors purchased the razor blade cartridges, shaving blade units, and razor blade dispensers at issue from Defendant Zilo, and then resold these products at the BK Websites.

39. On August 15, 2013, Gillette sent a letter to Mr. Patrick at that same email address ([bkgifts@yahoo.com](mailto:bkgifts@yahoo.com)) requesting resolution of BK Gifts' and BK Razors' infringement of Gillette's design patent and intellectual property rights. Included as attachments to this letter were copies of the '751 Patent and the '454 Patent. To date, Gillette has received no response to this letter, and the infringing razor blade cartridges, shaving blade units, and razor blade dispensers remain on the BK Websites and available for sale.
40. Gillette therefore files this Complaint seeking injunctive relief and damages from the BK Entities, individually and collectively for joint and several liability, for the BK Entities' willful infringement of Gillette's intellectual property and design patent rights.

**OVERVIEW OF DEFENDANTS ZILO STORES, INC. AND FRANCIS SAINT-ARNAUD**

41. Upon information and belief, Defendant Zilo operates the website [www.zilostore.com](http://www.zilostore.com), which is owned by Mr. Saint-Arnaud. On this website, Zilo offers for sale razor blade cartridges, shaving blade units, dispensers for razor cartridges, and razor containers that it claims are “compatible” with Gillette Fusion® razor blade cartridges, Mach® razor blade cartridges, and Venus® cartridges. See [www.zilostore.com](http://www.zilostore.com), <http://zilostore.com/gillette-fusion-compatible/>, <http://zilostore.com/gillette-fusion-power-compatible/>, and <http://zilostore.com/gillette-venus-compatible/>.
42. Zilo offers these products for sale in all 50 states and several other countries, and offers free shipping for all orders within the United States. See <http://zilostore.com/free-shipping/>.
43. Upon information and belief, Zilo’s customers for its infringing products include consumers/end users and other retailers and wholesalers, including, but not limited to, the BK Entities. Zilo lists the following on the “FAQ” page of its website:
- I am a wholesaler; can I buy from your online store?
- For large quantity inquiries (over 200 blades), please contact us at [sales@zilostore.com](mailto:sales@zilostore.com).
- See <http://zilostore.com/faq/>.
44. Upon information and belief, Zilo bases a substantial component of its business on direct copies of and near exact imitations of Gillette’s products that embody the designs of the ‘751 Patent, ‘454 Patent, ‘518 Patent, ‘315 Patent, ‘023 Patent, and ‘874 Patent.

45. Upon information and belief, Defendant Francis Saint-Arnaud operates Zilo out of his personal residence, located at 4318 Morrell St., San Diego, California, 92109, and is the sole shareholder of Zilo.
46. Upon information and belief, Defendant Francis Saint-Arnaud operated the zilostore.com website at least prior to Zilo's incorporation on January 4, 2012, and retains ownership/registration of the domain name.
47. Upon information and belief, the zilostore.com website offered for sale substantially the same products prior to Zilo's incorporation as after Zilo's incorporation, including the products listed in paragraph 41 above.
48. Upon information and belief, Defendant Francis Saint-Arnaud made sales of infringing product through the zilostore.com website prior to Zilo's date of incorporation, including, but not limited to, sales on each of January 1-3, 2012.
49. On July 21, 2013, Gillette sent a letter to Zilo demanding that Zilo cease and desist from further infringement of Gillette's design patents and intellectual property rights. Included as attachments to this letter were copies of the '751 Patent, the '454 Patent, and the '315 Patent.
50. On August 7, 2013, Zilo sent a response in writing to Gillette, enclosing samples of Zilo's products and offering "full cooperation" in order to assess Gillette's rights. However, despite additional communications, including an email from Zilo on September 4, 2013 stating that the offending products would be removed from the Zilo website, the infringing products remain on the website and available for sale.
51. Defendant Francis Saint-Arnaud signed the response described in paragraph 48, identifying himself as the "President" of Zilo.

52. Gillette therefore files this Complaint seeking relief from Zilo and Mr. Saint-Arnaud's infringement.

**COUNT ONE – DIRECT INFRINGEMENT OF THE ‘751 PATENT  
BY THE BK ENTITIES**

53. Gillette restates and realleges paragraphs 1-52.

54. Gillette is the owner of the ‘751 Patent, which is valid and enforceable.

55. Upon information and belief, the BK Entities, either alone or in concert with each other, have infringed, and continue to infringe, the ‘751 Patent by making, designing, selling, and/or offering for sale razor blade cartridges that apply the design of the ‘751 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).

56. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor blade cartridges made, designed, sold, and/or offered for sale by the BK Entities and the patented design in the ‘751 Patent so as to be induced to purchase the razor blade cartridges, either through the BK Websites, or in person at BK Gifts' Bowling Green location, believing the razor blade cartridges sold by the BK Entities to be substantially the same as the designs embodied by and protected under the ‘751 patent.

57. The BK Entities' deliberate and willful actions in infringing the design of Gillette's ‘751 Patent, either alone or in concert with each other, have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

58. The BK Entities, either alone or in concert with each other, have also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of

the BK Entities' willful infringement of Gillette's '751 Patent, pursuant to 35 U.S.C. §§284 and 289.

**COUNT TWO – DIRECT INFRINGEMENT OF THE '454 PATENT  
BY THE BK ENTITIES**

59. Gillette restates and realleges paragraphs 1-58.
60. Gillette is the owner of the '454 Patent, which is valid and enforceable.
61. Upon information and belief, the BK Entities, either alone or in concert with each other, have infringed, and continue to infringe, the '454 Patent by making, designing, selling, and/or offering for sale shaving blade units that apply the design of the '454 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).
62. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the shaving blade units made, designed, sold, and/or offered for sale by the BK Entities and the patented design in the '454 Patent so as to be induced to purchase the shaving blade units, either through BK Websites, or in person at BK Gifts' Bowling Green location, believing the shaving blade units to be substantially the same as the design embodied by and protected under the '454 patent.
63. The BK Entities' deliberate and willful actions in infringing the design of Gillette's '454 Patent, either alone or in concert with each other, have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.
64. The BK Entities, either alone or in concert with each other, have also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of

the BK Entities' willful infringement of Gillette's '454 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT THREE – DIRECT INFRINGEMENT OF THE '518 PATENT  
BY THE BK ENTITIES**

65. Gillette restates and realleges paragraphs 1-64.
66. Gillette is the owner of the '518 Patent, which is valid and enforceable.
67. Upon information and belief, the BK Entities, either alone or in concert with each other, have infringed, and continue to infringe, the '518 Patent by making, designing, selling, and/or offering for sale dispensers for razor cartridges that apply the design of the '518 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).
68. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor cartridge dispensers made, designed, sold, and/or offered for sale by the BK Entities and the patented design in the '518 Patent so as to be induced to purchase the razor cartridge dispensers, either through the BK Websites, or in person at BK Gifts' Bowling Green location, believing the razor cartridge dispensers to be substantially the same as the design embodied by and protected under the '518 Patent.
69. The BK Entities' deliberate and willful actions in infringing the design of Gillette's '518 Patent, either alone or in concert with each other, have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.
70. The BK Entities, either alone or in concert with each other, have also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of

the BK Entities' willful infringement of Gillette's '518 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT FOUR – INDUCEMENT TO INFRINGE THE '751 PATENT BY ZILO**

71. Gillette restates and realleges paragraphs 1-70.
72. Upon information and belief, Zilo has, and will continue to, actively induce infringement of the '751 Patent by aiding and abetting the BK Entities' infringement of the '751 Patent in violation of 35 U.S.C. §271(b).
73. Zilo's deliberate and willful actions in inducing infringement of the '751 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.
74. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful inducement of infringement of Gillette's '751 Patent pursuant to 35 U.S.C. §284.

**COUNT FIVE – INDUCEMENT TO INFRINGE THE '454 PATENT BY ZILO**

75. Gillette restates and realleges paragraphs 1-74.
76. Upon information and belief, Zilo has, and will continue to, actively induce infringement of the '454 Patent by aiding and abetting the BK Entities' infringement of the '454 Patent in violation of 35 U.S.C. §271(b).
77. Zilo's deliberate and willful actions in inducing infringement of the '454 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

78. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful inducement of infringement of Gillette's '454 Patent pursuant to 35 U.S.C. §284.

**COUNT SIX – INDUCEMENT TO INFRINGE THE '518 PATENT BY ZILO**

79. Gillette restates and realleges paragraphs 1-78.

80. Upon information and belief, Zilo has, and will continue to, actively induce infringement of the '518 Patent by aiding and abetting the BK Entities' infringement of the '518 Patent in violation of 35 U.S.C. §271(b).

81. Zilo's deliberate and willful actions in inducing infringement of the '518 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

82. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful inducement of infringement of Gillette's '518 Patent pursuant to 35 U.S.C. §284.

**COUNT SEVEN – DIRECT INFRINGEMENT OF THE '751 PATENT BY ZILO**

83. Gillette restates and realleges paragraphs 1-82.

84. Upon information and belief, Zilo has infringed, and continues to infringe, the '751 Patent by making, designing, selling, and/or offering for sale razor blade cartridges that apply the design of the '751 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).

85. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor blade cartridges made, designed, sold, and/or offered for sale by Zilo and the patented design in the '751



Patent so as to be induced to purchase the razor blade cartridges from Zilo's website, believing the razor blade cartridges to be substantially the same as the design embodied by and protected under the '751 patent.

86. Zilo's deliberate and willful actions in infringing the design of Gillette's '751 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

87. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful infringement of Gillette's '751 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT EIGHT – DIRECT INFRINGEMENT OF THE '454 PATENT BY ZILO**

88. Gillette restates and realleges paragraphs 1-87.

89. Upon information and belief, Zilo has infringed, and continues to infringe, the '454 Patent by making, designing, selling, and/or offering for sale shaving blade units that apply the design of the '454 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).

90. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the shaving blade units made, designed, sold, and/or offered for sale by Zilo and the patented design in the '454 Patent so as to be induced to purchase the shaving blade units from Zilo's website, believing the shaving blade units to be substantially the same as the designs embodied by and protected under the '454 patent.

91. Zilo's deliberate and willful actions in infringing the design of Gillette's '454 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

92. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful infringement of Gillette's '454 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT NINE – DIRECT INFRINGEMENT OF THE '518 PATENT BY ZILO**

93. Gillette restates and realleges paragraphs 1-92.

94. Upon information and belief, Zilo has infringed, and continues to infringe, the '518 Patent by making, designing, selling, and/or offering for sale dispensers for sale dispensers for razor cartridges that apply the design of the '518 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).

95. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the resemblance between the design of the razor cartridge dispensers made, designed, sold, and/or offered for sale by Zilo and the patented design in the '518 Patent so as to be induced to purchase the razor cartridge dispensers from Zilo's website, believing the razor cartridge dispensers to be substantially the same as the design embodied by and protected under the '518 Patent.

96. Zilo's deliberate and willful actions in infringing the design of Gillette's '518 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

97. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful infringement of Gillette's '518 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT TEN – DIRECT INFRINGEMENT OF THE '315 PATENT BY ZILO**

98. Gillette restates and realleges paragraphs 1-97.

99. Gillette is the owner of the '315 Patent, which is valid and enforceable.

100. Upon information and belief, Zilo has infringed, and continues to infringe, the '315 Patent by making, designing, selling, and/or offering for sale razor cartridges that apply the design of the '315 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).

101. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor cartridges made, designed, sold, and/or offered for sale by Zilo and the patented design in the '315 Patent so as to be induced to purchase the razor cartridges from Zilo's website, believing the razor cartridges to be substantially the same as the design embodied by and protected under the '315 patent.

102. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful infringement of Gillette's '315 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT ELEVEN – DIRECT INFRINGEMENT OF THE '874 PATENT BY ZILO**

103. Gillette restates and realleges paragraphs 1-102.

104. Gillette is the owner of the '874 Patent, which is valid and enforceable.

105. Upon information and belief, Zilo has infringed, and continues to infringe, the '874 Patent by making, designing, selling, and/or offering for sale razor containers that apply the design of the '874 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).

106. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantially similarity between the design of the razor containers made, designed, sold, and/or offered for sale by Zilo and the patented design in the '874 Patent so as to be induced to purchase the razor containers from Zilo's website, believing the razor containers to be substantially the same as the design embodied by and protected under the '874 patent.

107. Zilo's deliberate and willful actions in infringing the design of Gillette's '874 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

108. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful infringement of Gillette's '874 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT TWELVE – DIRECT INFRINGEMENT OF THE '023 PATENT BY  
ZILO**

109. Gillette restates and realleges paragraphs 1-108.

110. Gillette is the owner of the '023 Patent, which is valid and enforceable.

111. Upon information and belief, Zilo has infringed, and continues to infringe, the '023 Patent by making, designing, selling, and/or offering for sale razor containers that apply the design of the '023 Patent or colorable imitation thereof, in violation of 35 U.S.C. §271(a).

112. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor containers made, designed, sold, and/or offered for sale by Zilo and the patented design in the '023 Patent so as to be induced to purchase the razor containers from Zilo's website, believing the razor containers to be substantially the same as the design embodied by and protected under the '023 patent.

113. Zilo's deliberate and willful actions in infringing the design of Gillette's '023 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

114. Zilo has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Zilo's willful infringement of Gillette's '023 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT THIRTEEN – LIABILITY OF FRANCIS SAINT-ARNAUD FOR  
ACTIONS OF ZILO**

115. Gillette restates and realleges paragraphs 1-114.

116. Upon information and belief, Francis Saint-Arnaud is, and at all relevant times after Zilo's incorporation was, the sole, or one of a small group of shareholders of Zilo.

117. Upon information and belief, at all relevant times after Zilo's incorporation, Francis Saint-Arnaud exercised control over Zilo that was so complete that Zilo had no separate mind, will, or existence of its own. Specifically, as the sole active participant in Zilo, Saint-Arnaud directs all of Zilo's activity, including but not limited to attempting to represent Zilo in this lawsuit himself, and retaining ownership/registration of the zilostore.com domain in his own name.

118. Gillette has never received, seen or heard any communication purporting to be from Zilo that was not from Saint-Arnaud, and is not aware of Zilo abiding by or producing any information evidencing that Saint-Arnaud or Zilo operate Zilo in accordance with ordinary corporate formalities. In fact, the Zilo tax returns produced by Saint-Arnaud are unsigned and incomplete. There is no “Zilo board of directors” and apparently no officers or employees other than Saint-Arnaud.

119. Upon information and belief, Zilo was incorporated on January 4, 2012. Defendant Francis Saint-Arnaud operated the zilostore.com website out of his personal residence prior to Zilo’s incorporation, and offered for sale substantially the same products prior to Zilo’s incorporation as after Zilo’s incorporation, including the products listed in paragraph 41 above.

120. Upon information and belief, Defendant Francis Saint-Arnaud made sales of infringing product through the zilostore.com website at least prior to Zilo’s date of incorporation, including, but not limited to, sales on each of January 1-3, 2012. The result is that the infringing activity of both Saint-Arnaud and Zilo is identical – the same products being sold in the same manner, on the same website, from the same physical location (Saint-Arnaud’s residence). Saint Arnaud and Zilo are effectively one and the same.

121. Upon information and belief, at all relevant times before and after Zilo’s incorporation, Francis Saint-Arnaud exercised his exclusive and complete control over Zilo in such a manner as to violate the intellectual property rights of Gillette as described in Counts Four through Twelve of this Complaint. Saint-Arnaud further exercised his exclusive and complete control over Zilo in a wrongful manner, to perpetuate and enable

the infringing conduct he first conducted individually. Saint-Arnaud attempted to shield himself from personal liability for that infringement by forming a corporation, the sole purpose of which appears to have been to serve as a vehicle for his continued infringement.

122. Saint-Arnaud further abused the corporate form by threatening to use his sole and exclusive control over Zilo to put the corporation into bankruptcy, which would leave Gillette without a remedy for Zilo's and Saint-Arnaud's infringing conduct. Based on Saint-Arnaud's threat that Zilo might file for bankruptcy, Zilo is grossly undercapitalized by its owner, Saint-Arnaud. Moreover, the threat of bankruptcy evidences Saint-Arnaud's intent to utilize Zilo's corporate status as a shield, protecting him from liability for his unlawful, infringing conduct.

123. Upon information and belief, Saint-Arnaud further abused the corporate form by authorizing a distribution to the shareholder(s) of Zilo in 2012 in the amount of \$13,924.00 despite claiming a loss of \$8,944.00 for the year, again showing that Mr. Saint-Arnaud has allowed Zilo to be undercapitalized, to his benefit.

124. Based on the foregoing allegations, Francis Saint-Arnaud and Zilo are alter-egos such that Mr. Saint-Arnaud is liable for Zilo's actions, which caused pecuniary damage to Gillette in amounts to be determined at trial. More specifically, Saint-Arnaud's use of the corporate form to shield his infringing conduct will itself cause injury to Gillette, insofar as Saint-Arnaud will deny personal liability for the infringing conduct.

**COUNT FOURTEEN – DIRECT INFRINGEMENT OF THE ‘751 PATENT BY  
FRANCIS SAINT-ARNAUD**

125. Gillette restates and realleges paragraphs 1-124.
126. Upon information and belief, Mr. Saint-Arnaud has infringed the ‘751 Patent by making, designing, selling, and/or offering for sale razor blade cartridges that apply the design of the ‘751 Patent or colorable imitation thereof, through use of the Zilo website or other means, at least prior to Zilo’s incorporation, in violation of 35 U.S.C. §271(a).
127. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor blade cartridges made, designed, sold, and/or offered for sale by Mr. Saint-Arnaud and the patented design in the ‘751 Patent so as to be induced to purchase the razor blade cartridges from the Zilo website or through other means, believing the razor blade cartridges to be substantially the same as the design embodied by and protected under the ‘751 patent.
128. Mr. Saint-Arnaud’s deliberate and willful actions in infringing the design of Gillette’s ‘751 Patent have caused irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.
129. Mr. Saint-Arnaud has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Mr. Saint-Arnaud’s willful infringement of Gillette’s ‘751 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT FIFTEEN – DIRECT INFRINGEMENT OF THE ‘454 PATENT BY  
FRANCIS SAINT-ARNAUD**

130. Gillette restates and realleges paragraphs 1-129.
131. Upon information and belief, Mr. Saint-Arnaud has infringed the ‘454 Patent by making, designing, selling, and/or offering for sale shaving blade units that apply the



design of the '454 Patent or colorable imitation thereof, through use of the Zilo website or other means, at least prior to Zilo's incorporation, in violation of 35 U.S.C. §271(a).

132. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the shaving blade units made, designed, sold, and/or offered for sale by Mr. Saint-Arnaud and the patented design in the '454 Patent so as to be induced to purchase the shaving blade units from the Zilo website or through other means, believing the shaving blade units to be substantially the same as the designs embodied by and protected under the '454 patent.

133. Mr. Saint-Arnaud's deliberate and willful actions in infringing the design of Gillette's '454 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

134. Mr. Saint-Arnaud has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Mr. Saint-Arnaud's willful infringement of Gillette's '454 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT SIXTEEN – DIRECT INFRINGEMENT OF THE '518 PATENT BY FRANCIS SAINT-ARNAUD**

135. Gillette restates and realleges paragraphs 1-134.

136. Upon information and belief, Mr. Saint-Arnaud has infringed the '518 Patent by making, designing, selling, and/or offering for dispensers for sale dispensers for razor cartridges that apply the design of the '518 Patent or colorable imitation thereof, through use of the Zilo website or other means, at least prior to Zilo's incorporation, in violation of 35 U.S.C. §271(a).

137. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the resemblance between the design of the razor cartridge dispensers

made, designed, sold, and/or offered for sale by Mr. Saint-Arnaud and the patented design in the '518 Patent so as to be induced to purchase the razor cartridge dispensers from the Zilo website, or through other means, believing the razor cartridge dispensers to be substantially the same as the design embodied by and protected under the '518 Patent.

138. Mr. Saint-Arnaud deliberate and willful actions in infringing the design of Gillette's '518 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

139. Mr. Saint-Arnaud has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Mr. Saint-Arnaud's willful infringement of Gillette's '518 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT SEVENTEEN– DIRECT INFRINGEMENT OF THE '315 PATENT BY FRANCIS SAINT-ARNAUD**

140. Gillette restates and realleges paragraphs 1-139.

141. Upon information and belief, Mr. Saint-Arnaud has infringed the '315 Patent by making, designing, selling, and/or offering for sale razor cartridges that apply the design of the '315 Patent or colorable imitation thereof, through the use of the Zilo website or through other means, at least prior to Zilo's incorporation, in violation of 35 U.S.C. §271(a).

142. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor cartridges made, designed, sold, and/or offered for sale by Mr. Saint-Arnaud and the patented design in the '315 Patent so as to be induced to purchase the razor cartridges from the Zilo website or through other means, believing the razor cartridges to be substantially the same as the design embodied by and protected under the '315 patent.

143. Mr. Saint-Arnaud has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Mr. Saint-Arnaud's willful infringement of Gillette's '315 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT EIGHTEEN – DIRECT INFRINGEMENT OF THE '874 PATENT BY FRANCIS SAINT-ARNAUD**

144. Gillette restates and realleges paragraphs 1-143.

145. Upon information and belief, Mr. Saint-Arnaud has infringed the '874 Patent by making, designing, selling, and/or offering for sale razor containers that apply the design of the '874 Patent or colorable imitation thereof, through the use of the Zilo website or through other means, at least prior to Zilo's incorporation, in violation of 35 U.S.C. §271(a).

146. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantially similarity between the design of the razor containers made, designed, sold, and/or offered for sale by Mr. Saint-Arnaud and the patented design in the '874 Patent so as to be induced to purchase the razor containers from the Zilo website or through other means, believing the razor containers to be substantially the same as the design embodied by and protected under the '874 patent.

147. Mr. Saint-Arnaud's deliberate and willful actions in infringing the design of Gillette's '874 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.

148. Mr. Saint-Arnaud has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Mr. Saint-Arnaud's willful infringement of Gillette's '874 Patent pursuant to 35 U.S.C. §§284 and 289.

**COUNT NINETEEN – DIRECT INFRINGEMENT OF THE ‘023 PATENT BY  
FRANCIS SAINT-ARNAUD**

149. Gillette restates and realleges paragraphs 1-148.
150. Upon information and belief, Mr. Saint-Arnaud has infringed the ‘023 Patent by making, designing, selling, and/or offering for sale razor containers that apply the design of the ‘023 Patent or colorable imitation thereof, through the use of the Zilo website or through other means, at least prior to Zilo’s incorporation, in violation of 35 U.S.C. §271(a).
151. An ordinary observer, given such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the design of the razor containers made, designed, sold, and/or offered for sale by Mr. Saint-Arnaud and the patented design in the ‘023 Patent so as to be induced to purchase the razor containers from the Zilo website or other means, believing the razor containers to be substantially the same as the design embodied by and protected under the ‘023 patent.
152. Mr. Saint-Arnaud’s deliberate and willful actions in infringing the design of Gillette’s ‘023 Patent have caused and will continue to cause irreparable harm to Gillette unless preliminarily and permanently enjoined pursuant to 35 U.S.C. §283.
153. Mr. Saint-Arnaud has also profited from and Gillette has suffered pecuniary damage in amounts to be determined at trial as a result of Mr. Saint-Arnaud’s willful infringement of Gillette’s ‘023 Patent pursuant to 35 U.S.C. §§284 and 289.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Gillette respectfully requests that the Court enter judgment:

- A. In favor of Gillette and against the defendants on all claims;

- B. Preliminarily and permanently enjoin and restrain Defendants BK Gifts, BK Razors, Mr. Patrick, Ms. Murry, unknown John Doe(s) and Jane Doe(s) defendants and their respective officers, agents, employees, parents, subsidiaries, representatives, and all persons in active concert or participation with them against continued infringement of the '751 Patent, the '454 Patent, and the '518 Patent (35 U.S.C. § 283);
- C. Preliminarily and permanently enjoin and restrain Defendant Zilo and its respective officers, agents, employees, parents, subsidiaries, representatives, and all persons in active concert or participation with Zilo against continued infringement of the '751 Patent, the '454 Patent, the '518 Patent, the '023 Patent and the '874 Patent (35 U.S.C. § 283);
- D. Preliminarily and permanently enjoin and restrain Defendant Francis Saint-Arnaud against continued infringement of the '751 Patent, the '454 Patent, the '518 Patent, the '023 Patent and the '874 Patent (35 U.S.C. § 283);
- E. Order an accounting for Gillette's damages and/or for Defendants' profits derived from and/or related to Defendants' infringement of the '751 Patent, the '454 Patent, the '518 Patent, the '315 Patent, the '023 Patent, and the '874 Patent (35 U.S.C. §§284 and 289);
- F. Order an assessment of interest and costs against defendants (35 U.S.C. § 283);
- G. Find this to be an exceptional case and to award reasonable attorneys' fees to Gillette (35 U.S.C. §285); and
- H. Award Gillette such other relief as the Court may deem just and proper.

**JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Gillette demands a trial by jury for all claims so triable.

Respectfully submitted,

*/s/ Tammy L. Imhoff* \_\_\_\_\_

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*Counsel for Plaintiff The Gillette Company*

**Certificate of Service**

I certify that on the 22nd day of September, 2014, a copy of the foregoing was served via

U.S. Mail on the following parties:

Zilo Store, Inc.  
c/o Francis Saint-Arnaud, President  
4318 Morrel St.  
San Diego, CA 92109

Francis Saint-Arnaud  
4318 Morrel St.  
San Diego, CA 92109

/s/Tammy L. Imhoff  
Tammy L. Imhoff  
*Counsel for Plaintiff, The Gillette Company*