1 2 3 4 5 6 7 8 9	THOMAS J. DALY, CA Bar No. 1196 thomas.daly@cph.com G. WARREN BLEEKER, CA Bar No. warren.bleeker@cph.com CHRISTIE, PARKER & HALE, LLP 655 N. Central Avenue, Suite 2300 Glendale, California 91203-1445 Telephone: (626) 795-9900 Facsimile: (626) 577-8800  Attorneys for Plaintiff, BRAGEL INTERNATIONAL, INC.	. 210834	
10 11 12 13	UNITED STATES DISTRICT COURT  CENTRAL DISTRICT OF CALIFORNIA		
14 15 16 17 18	BRAGEL INTERNATIONAL, INC., a California corporation,  Plaintiff,  vs.	Case No. 2:15-cv-7148  COMPLAINT FOR PATENT INFRINGEMENT  DEMAND FOR JURY TRIAL	
19 20 21 22 23	E-RETAIL SOCIETY DBA BRA SOCIETY, a Montreal corporation, and VELVET INTIMATES, INC., a Montreal corporation,  Defendants.		
24 25 26	For its complaint against Defendants E-Retail Society d/b/a Bra Society and Velvet Intimates, Inc. (collectively, "Defendants"), Plaintiff Brage International, Inc. ("Plaintiff") alleges as follows:		

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#### **JURISDICTION**

- 1. This is an action for patent infringement pursuant to 35 U.S.C. Section 271. This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).
  - 2. Venue is proper under 28 U.S.C. Sections 1391(b)(2) and/or (b)(3).

#### **PARTIES**

- 3. Plaintiff is a corporation organized and existing under the laws of the State of California, having a principal place of business at 3833 Pomona Blvd, Pomona, California.
- 4. Plaintiff is informed and believes, and thereon alleges that Defendant E-Retail Society is a Montreal corporation having a principal place of business at 3500 Maissoneuve Boulevard, Suite 1750, Montreal, Quebec H3Z 3C1, Canada.
- 5. Plaintiff is informed and believes, and thereon alleges that Defendant Velvet Intimates is a Montreal corporation having a principal place of business at 5333 Casgrain Avenue, #907, Montreal, Quebec, H2T 1X3, Canada.
- 6. This court has personal jurisdiction over Defendants because they have conducted systematic and continuous business within California and within this district and habe directed their unlawful business activities towards California and this district.

#### FACTUAL BACKGROUND

- 7. Plaintiff has been engaged and is presently engaged in the design and distribution of strapless bras and attachable breast forms. Plaintiff's products are sold throughout the United States and in many foreign countries including the People's Republic of China, Hong Kong, Europe, and Canada.
- 8. On February 7, 2005, Plaintiff filed a U.S. patent application directed to its attachable breast form enhancement system. It issued as U.S. Patent 7,144,296 B2 (the "'296 Patent") on December 5, 2006 and is titled "Attachable

Breast Form Enhancement System." A copy of the '296 Patent is attached as Exhibit A.

- 9. On March 15, 2004, Plaintiff filed a U.S. patent application directed to a method of using its attachable breast form enhancement system. It issued as U.S. Patent 6,852,001 B2 (the "'001 Patent") on February 8, 2005 and is titled "Attachable Breast Form Enhancement System." A copy of the '001 Patent is attached as Exhibit B.
- 10. Defendants have sold and offered for sale in this District and elsewhere, and continue to sell and offer for sale in this District and elsewhere, without the consent or authorization of Plaintiff, "Ultimate 100% Silicone Strapless-Backless Invisibra" products that are covered by one or more claims of the '296 Patent and the '001 Patent (the "Infringing Products").

### FIRST CLAIM FOR RELIEF

#### (Patent Infringement)

- 11. Plaintiff realleges paragraphs 1 through 10 as though fully set forth herein.
- 12. Defendants, by themselves or in concert with others, have made, used, sold or offered to sell, and continue to make, use, sell or offer to sell, in this District and elsewhere in the United States, the Infringing Products which infringe the '296 Patent. In addition, Defendants actively induce their customers to directly infringe one or more claims of the '001 Patent. Defendants also contribute to the direct infringement of one or more claims of the '001 and '296 Patents by Defendants' customers and/or end users of the Infringing Products. The Infringing Products have no substantial, noninfringing use.
- 13. The alleged infringing acts of Defendants are without right, license, or authorization from Plaintiff.

- 14. By their aforesaid acts, Defendants have infringed the '296 and '001 Patents entitling Plaintiff to relief pursuant to 35 U.S.C. Section 271.
- 15. Defendants have had actual or constructive notice of the existence of the '296 and '001 Patents and despite such notice have continued to engage in acts of infringement.
- 16. As a direct result of Defendants' acts complained of herein, Plaintiff has been actually damaged and irreparably harmed and Defendants have been unjustly enriched, to an extent not presently ascertained, which damage, harm and enrichment will continue until enjoined by order of this Court.
- 17. Defendants' infringement is and has been willful and Plaintiff is entitled to enhanced damages against Defendants.
- 18. This is an exceptional case and Plaintiff is entitled to an award of its attorneys' fees.

#### **PRAYER**

Plaintiff demands judgment against Defendants as follows:

- 1. Adjudging and decreeing that Defendants have committed acts of patent infringement by their manufacture, use, sale, and offer for sale of the infringing products and for contributory patent infringement and inducing patent infringement;
- 2. For a temporary and permanent injunction prohibiting Defendants and their officers, agents, servants, employees and attorneys, and other persons in active concert or participation with them, from further infringing the '296 and '001 Patents and requiring Defendants to deliver up to Plaintiff for destruction any and all Infringing Products in any Defendant's possession, custody or control, along with any items of manufacture, the sole purpose of which is to manufacture such Infringing Products, as well as any promotional literature and packaging which displays or promotes such Infringing Products.

1	3. For patent infringement damages in an amount not less than	a	
2	reasonable royalty, and for those damages to be trebled, pursuant to 35 U.S.C.		
3	Section 284 and/or lost profits;		
4	4. For prejudgment interest;		
5	5. For all of Plaintiff's costs of this Action, including attorneys' fee	es;	
6	and		
7	6. For such other or further relief as the Court may deem just a	nd	
8	proper.		
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10	DATED: September 10, 2015 Respectfully submitted,		
11	CHRISTIE, PARKER & HALE, LLP		
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14	By <u>/s/Thomas J. Daly</u>		
15	Thomas J. Daly		
16	Attorneys for Plaintiff, Bragel International, Inc.		
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**DEMAND FOR JURY TRIAL** Plaintiff Bragel International, Inc., pursuant to Federal Rule of Civil Procedure 38, hereby demands a trial by jury of all issues so triable. DATED: September 10, 2015 Respectfully submitted, CHRISTIE, PARKER & HALE, LLP By /s/ Thomas J. Daly Thomas J. Daly Attorneys for Plaintiff, BRAGEL INTERNATIONAL, INC. SIS PAS1377442.1-\*-09/10/15 3:16 PM