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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SUPERIOR IMAGING GROUP, INC., a
Washington Corporation,

Plaintiff,

v

COLE SCREENPRINT, INC., a Washington
corporation, LLOYD M SILVER and JANE
DOE SILVER, husband and wife, and the
marital community composed thereof,
STACEY A OGLE, a Washington resident,
EDWIN B OGLE, a Washington resident, and
EDWIN B OGLE and STACEY A OGLE,
husband and wife, and the marital community
composed thereof,

Defendants

CV02 5316 KOB

VERIFIED COMPLAINT FOR PATENT
INFRINGEMENT, UNFAIR
COMPETITION, COMMERCIAL
DISPARAGEMENT, TORTIOUS
INTERFERENCE WITH BUSINESS,
BREACH OF LICENSE, AND UNFAIR
BUSINESS PRACTICES



CV 02 05316 #00000001

Superior Imaging Group, Inc., for its complaint alleges as follows

I. PARTIES

1 Plaintiff Superior Imaging Group, Inc. ("SIG") is a corporation organized and
existing under the laws of the State of Washington and having its principal place of business at
19000 72nd Avenue South, Kent, WA 98032

2 Upon information and belief, Defendant Cole Screenprint, Inc., d/b/a
"Pumpskins" (singly and together referred to herein as "Cole") is a corporation organized and

VERIFIED COMPLAINT FOR PATENT
INFRINGEMENT, UNFAIR COMPETITION
Case No

6049 10 0002 BSC DOC

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ORIGINAL

existing under the laws of the State of Washington, and having its principal place of business at 4901 Center Street, Tacoma, WA 98409

3 On information and belief, defendant Lloyd Silver ("Silver") is an owner, director, and Chief Executive Officer of defendant Cole and resides at 1125 Garden Circle, Fircrest, WA 98466 and/or 1125 Garden Circle, Tacoma, WA 98466 and/or 11714 SW 254th Lane, Vashon, WA 98070. The acts of Silver complained of herein are all acts by or on behalf of his marital community

4 On information and belief, defendant Stacey A. Ogle ("SA Ogle") is an owner, director and President of defendant Cole and resides at 541 Monterey Lane, Tacoma, WA 98466. The acts of SA Ogle complained of herein are all acts by or on behalf of her marital community

5 On information and belief, defendant Edwin B. Ogle ("EB Ogle") is an owner, director and Vice President of defendant Cole and resides at 541 Monterey Lane, Tacoma, WA 98466. The acts of EB Ogle complained of herein are all acts by or on behalf of his marital community

II. NATURE OF ACTION

6 This is an action for patent infringement under the Patent Laws of the United States, Title 35 United States Code sections 271 and 281, arising from the defendants' illegal and unauthorized actions in making, using, selling, and offering for sale, throughout the United States and abroad, removable display surfaces including plastic vacuum airport wraps in willful and knowing violation of SIG's exclusive rights under United States Patent 6,250,005 ("the '005 patent"). The tortious acts pleaded herein occurred, and are occurring, within the State of Washington and throughout the United States and its possessions

7 This is also an action for false designation of origin, unfair competition and reverse passing off under section 43(a) of the Lanham Act, Title 15 US Code section 1125(a), and Washington state law claims of unfair business practices under the Washington Consumer

Protection Act, RCW 19 86, and common law claims of commercial disparagement, tortious interference with business, and breach of license

III. JURISDICTION AND VENUE

8 This Court has jurisdiction over this action pursuant to 28 U S C § 1338(a) This Court has supplemental jurisdiction over the related state law counts under 28 U S C § 1338(b) and/or 28 U S C § 1367(a)

9 Venue is proper in this district pursuant 28 U S C § 1400

IV. FACTUAL BACKGROUND

10 Plaintiff SIG is a designer, manufacturer and distributor of removable display surfaces ("RDS"), such as plastic vacuum airtop wraps, which are sold throughout the United States under SIG brand names, such as COFFEECOAT and IDENTABREW

11 Old style coffee warmer burners and open coffee pots are not in the best interests of the flavor characteristics of a good brew of coffee To that end, vacuum airtops of various shapes and descriptions have become increasingly popular and prevalent, especially in finer commercial coffee houses and restaurants Such a pot preserves desirable coffee serving temperature with reduced risk of, and exposure to, either burner heat scorching or air oxidation of the coffee They also generally hold more coffee, and can be made available for use and refills by customers in places that are not wired or not safe for warmer burners

12 These vacuum airtops are often highly visible to the customers Inventor Eric W Richards ("Richards") thought the airtops could be effective sign boards for the brand of coffee or any other advertising an owner may wish to display in conjunction with the service of the coffee or other beverage However, with the passing of time and customer use and normal wear and tear (such as by dish washing operations), the vacuum airtops themselves can take on unsightly dents and surface mars The vacuum airtop container wall can also become marred and disfigured, and the printing matter on the container wall degraded, so that the container wall becomes a poor display for the subject matter of the advertisement or promotion. At one time,

1 there was no feasible and effective display surface that could be removably attached to these
2 beverage containers or other containers

3 13 As early as February 1995, Richards conceived of RDS technology, including a
4 removable container cover that could serve as a removable display surface. Each container cover
5 included a flexible sheet with a graphical display imprinted on it. He conceived that the cover
6 should be removably fastened to the container with a cover fastener, and made the flexible sheet
7 to substantially cover the sidewalls of the container. In particular embodiments, he conceived
8 the cover fastener to include one or more releasable closures, such as magnetically active
9 materials, or magnet strips, that would removably adhere to the metal containers or coffee
10 airpots.

11 14 On July 21, 1997 Richards filed an application for United States Letters Patent on
12 his RDS technology entitled Removable Display Surface.

13 15 On June 26, 2001 United States Patent 6,250,005 ("the '005 Patent") was duly
14 and legally issued in the name of Eric W. Richards as inventor, a true and correct copy of which
15 is attached as Exhibit A to this Complaint.

16 16. SIG is successor in interest to predecessor company Fascination Graphics, Inc.
17 ("Fascination"). Fascination was owned by Inventor Richards, and Fascination is now a wholly
18 owned subsidiary of SIG. Richards did not assign the '005 patent to Fascination.

19 17. SIG is the owner of the entire right, title, and interest in and to the '005 patent,
20 including the right to sue for past infringement, by virtue of an Assignment from Richards, a true
21 and correct copy of which is attached as Exhibit B to this Complaint.

22 18. SIG continues with the development, manufacture, and sale of advanced and
23 improved removable wraps and other RDS goods, directly and through its subsidiary
24 Fascination.

1 19 Defendant Cole is a manufacturer and distributor of permanently adhered plastic
2 airpot wraps that are sold in Washington and throughout the U S under the Cole mark
3 “Pumpskins ”

4 20 On information and belief, Silver is an officer and major shareholder for the
5 corporate defendant, and he willfully conducts the business of the corporate defendant for his
6 own personal gain and profit, and as a veil for his activities, and without due regard for corporate
7 formalities, and the infringing acts of Cole are the personal acts of Silver

8 21 On information and belief, SA Ogle is an officer and major shareholder for the
9 corporate defendant, and she willfully conducts the business of the corporate defendant for her
10 own personal gain and profit, and as a veil for her activities, and without due regard for corporate
11 formalities, and the infringing acts of Cole are the personal acts of SA Ogle

12 22 On information and belief, EB Ogle is an officer and major shareholder for the
13 corporate defendant, and he willfully conducts the business of the corporate defendant for his
14 own personal gain and profit, and as a veil for his activities, and without due regard for corporate
15 formalities, and the infringing acts of Cole are the personal acts of EB Ogle

16 23 On information and belief, all defendants are alter egos, one for the other All
17 defendants have willfully conducted their infringing practices and their business without due
18 regard for corporate formalities, and therefore none of the individual defendants may legally use
19 the corporation as a shield to liability for their illegal acts

20 24 On information and belief, defendants and each of them have long coveted the
21 design excellence of Richard’s RDS products and have wanted to make them their own
22 Defendants, and each of them, have engaged in a continuing pattern of harassment and threats to
23 Richards, SIG and Fascination, and false and disparaging statements to others about SIG, all in
24 an attempt to delay or prevent them from competing fairly with Cole
25
26

COUNT I

PATENT INFRINGEMENT

25 SIG repeats and realleges the allegations set forth in the above paragraphs as if more fully set forth below

26 As early as 1998, SIG began distributing their COFFEECOAT® brand magnetically adhered, tab and slot wrap from amongst its line of RDS goods (“the COFFEECOAT wrap”) A copy of a set of pictures of the front and back of the COFFEECOAT wrap is attached to the Complaint as Exhibit D The wrap shown in Exhibit D is actually the wrap model and graphics that Fascination produced and sold to the Panache account from August 1999 to July 2000 Subsequently, Cole took over this account

27 On information and belief, Defendants Cole, Silver, EB Ogle and SA Ogle and each of them became aware of the COFFEECOAT wrap, knowing it to be SIG’s proprietary design, and conceived a plan for knocking off the COFFEECOAT wrap design and presenting it to the market public as their own design At least as early as the year 2000, when they took over the Panache account, they began making and selling to the Panache account a knock-off version of the COFFEECOAT wrap, identical to the COFFEECOAT wrap in every significant respect A copy of a set of pictures of the front and back Cole’s Panache knock-off version of the COFFEECOAT wrap is attached to the Complaint as Exhibit E The picture copies in Exhibit E also include two detail blow ups from the front of the knock-off Panache wrap clearly showing the copyright notice and date of 2000 for Coffee Bean International, and the Cole patent notice falsely telling the world that this knock-off wrap is covered by their own patent, United States Patent 5,322,578 (“the ‘578 patent”)

28 On information and belief, Defendants Cole, Silver, EB Ogle and SA Ogle have been and still are infringing the ‘005 patent by making, using, selling and offering to sell airport wraps such as the Café D’Amore knock-off of SIG’s COFFEECOAT wrap shown in Exhibit H

1 The tab structure and magnetic strip on this removable wrap that are identical to the
2 COFFEECOAT wrap are clearly visible in the photo

3 29 On information and belief, Defendants Cole, Silver, EB Ogle and SA Ogle have
4 been and still are infringing the '005 patent by making, using, selling and offering to sell airport
5 wraps such as the Panache knock-off of SIG's COFFEECOAT wrap shown in Exhibit G Part of
6 the tab structure and magnetic strip on this removable wrap that are identical to the
7 COFFEECOAT wrap are clearly visible in the photo, as is the complete coverage of the airport
8 sidewalls

9 30 On information and belief, the knock-off wrap shown in Exhibits E and G is the
10 same wrap that was offered for sale by Cole in the Cole booth at the Specialty Coffee
11 Association of America trade show ("SCAA") on May 4-6, 2002

12 31 Defendants Cole, Silver, EB Ogle and SA Ogle have been and still are infringing
13 the '005 patent by making, using, selling and offering to sell airport wraps and other wraps and
14 other RDS goods, including the knock-offs of SIG's COFFEECOAT wrap shown in Exhibits E,
15 G and H, and otherwise misappropriating the technology described and claimed in the '005
16 patent within this District and elsewhere

17 32 In particular, defendants Cole, Silver, EB Ogle and SA Ogle make and sell a
18 container cover that meets the limitations of at least one claim of the '005 patent because it
19 includes a flexible sheet with some kind of graphical display and a cover fastener The cover
20 fastener allows the cover to be removable and includes one or more releasable closures that
21 further include at least one pair of magnetically active materials The Cole flexible sheet is also
22 adapted to substantially cover the side walls of a container

23 33 Cole's own patent for permanently adhered wraps establishes that Cole's
24 removable wraps are adapted to substantially cover the side walls of a container Defendants
25 allege they own the '578 patent with claims to a permanently adhered airport wrap In their
26 literature and in the '578 patent, the fit of their airport wrap is described as "to fit like a glove,"

1 and "We [Cole] offer both permanent and removable versions that are custom die-cut to fit your
2 specific thermal server "

3 34 Defendants recently began distributing literature announcing that they now have a
4 "new" "removable" model See Exhibit G The literature implies that the removable model is
5 otherwise the same as their permanent model, in other words, that it also exactly fits the airpot
6 for which it is designed and substantially covers all of the sidewall of the airpot

7 35 On December 23, 1993, during EB Ogle's prosecution of the '578 patent in the
8 US Patent and Trademark Office, the Examiner rejected the claims of his patent application
9 because the prior art already teaches how to approximate a fit on the peripheral surface of a
10 container with a heat shrinkable material The Examiner said that letting the shrinkage
11 accomplish the precise fit fully anticipated EB Ogle's (now Cole's) claims. EB Ogle told the
12 patent Examiner that the claimed invention was distinguished over the cited references primarily
13 in that the references all disclosed and taught the use of a "heat shrink" type of plastic designed
14 to be telescopically slipped over a container and then shrunk *in situ* by application of heat so
15 that the shrunken skin thus either conforms tightly to the container surface or is melt bonded to
16 it EB Ogle argued that the cited references' heat shrink processes did not teach a "precisely
17 formed" sheet like he was claiming in the application that issued as the '578 patent

18 36 In other words, EB Ogle and Cole have admitted and claimed publically that both
19 their permanent and their infringing removable wraps cover substantially all of the sidewall of an
20 airpot, and the Exhibits establish that the Cole knock-off meets all the other elements of at least
21 one claim of the '005 patent

22 37 Exhibits E and G establish visually that the obviously removable wrap, as shown,
23 covers virtually all of the side wall, this is bolstered by Cole's imprint on the removable wrap of
24 the legend indicating that the removable wrap is covered by the '578 Cole patent, including the
25 '578 patent's provision for substantial coverage of the side wall
26

38 On information and belief, defendants' removable wraps are the same as their permanent wraps, differing only in being removable. Each removable Cole wrap is intended to exactly fit the airpot for which it is designed and substantially covers all of the sidewall of the airpot. The phrase "precisely formed" sheet" in the paragraph above means that both of Cole's wrap models, permanent and removable, are precisely formed to cover the customer's airpot. Therefore Cole's removable wraps, and the knock-off wrap in particular, is an infringement of the '005 patent.

39 On information and belief, defendants have spent a substantial but not yet determined amount in product development, tooling, and marketing, in an effort to attempt to beat SIG to the market by knocking off SIG patent products, all in knowing and willful violation and disregard of the claims of the '005 patent, and the rights of SIG.

40 On information and belief, Coffee Bean International ("CBI") is a distributor of coffee beans and retailer of coffee beverages, dispensed from airpots. CBI has purchased and used infringing removable wraps from Cole.

41 On January 29, 2002 SIG wrote to CBI advising them of their infringement and Cole's complicity in knocking off SIG's wraps. On February 21, 2002 CBI wrote back saying they would cease all infringing activity.

42 On information and belief, defendants and each of them has since falsely told CBI that the Cole wraps sold to CBI are covered by Cole's '578 patent, and that SIG is the one who is infringing by infringing the '578 patent with SIG's removable wraps.

43 This unlawful conduct has since induced CBI to continue their infringing use of Cole's removable wraps.

44 SIG manufactures and sells goods made in accordance with and embodying at least some of the claims of the '005 patent. Goods sold by SIG since at least August 2001 patent have borne proper notice of said patent pursuant to 35 U.S.C. § 287, furthermore, on January 29, 2002, SIG gave express written notice to counsel for defendant Cole of the existence of Cole's

1 infringement of the '005 patent, demanding that all infringing activity immediately cease. A true
 2 copy of this letter is attached as Exhibit C.

3 45 Notwithstanding this express notice of infringement, Defendants Cole, Silver, EB
 4 Ogle and SA Ogle, in complete disregard and in deliberate knowing and wanton disregard of the
 5 rights of plaintiff, proceeded with the manufacture and sale of infringing goods, and have been,
 6 and on information and belief, are still manufacturing and selling or causing to be manufactured
 7 and sold such infringing goods, thereby deriving unlawful gains and profits, and will continue to
 8 do so by continued infringement of the patent in continued deliberate, knowing, and wanton
 9 disregard of SIG's rights and to SIG's irreparable damage, unless restrained by this Court.

10 46 Defendants have at all times since receiving the letter evidenced by Exhibit C
 11 willfully refused to cease and desist from their infringing activities.

12 47 On information and belief, Silver is an officer, a member of the board of directors
 13 and sizeable shareholder of defendant Cole. He controls defendant Cole's daily operations, and
 14 the acts of Cole are in fact the personal acts of Silver. Silver has acted willfully and knowingly,
 15 during all relevant times herein, to instigate and direct, and to aid and abet, the infringing
 16 activities complained of herein, to personally participate in both the development and the
 17 promotion of the infringing goods, and as the moving, active and conscious force behind the
 18 manufacture and sale of the infringing goods, and has personally derived and is deriving a direct
 19 benefit from the infringement by using Cole as an instrument to infringe the '005 patent. Silver
 20 is therefore personally liable for acts of patent infringement plead herein.

21 48 On information and belief, SA Ogle is President, director and a major shareholder
 22 of defendant Cole, she controls defendant Cole's daily operations, and the acts of Cole are in fact
 23 the personal acts of SA Ogle. SA Ogle has acted willfully and knowingly, during all relevant
 24 times herein, to instigate and direct, and to aid and abet, the infringing activities complained of
 25 herein, to personally participate in both the development and the promotion of the infringing
 26 goods, and as the moving, active and conscious force behind the manufacture and sale of the

VERIFIED COMPLAINT FOR PATENT
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1 infringing goods, and has personally derived and is deriving a direct benefit from the
 2 infringement by using Cole as an instrument to infringe the '005 patent. SA Ogle is therefore
 3 *personally liable for acts of patent infringement plead herein*

4 49 On information and belief, EB Ogle is Vice President, director and a major
 5 shareholder of defendant Cole, he controls defendant Cole's daily operations, and the acts of
 6 Cole are in fact the personal acts of EB Ogle EB Ogle has acted willfully and knowingly,
 7 during all relevant times herein, to instigate and direct, and to aid and abet, the infringing
 8 activities complained of herein, to personally participate in both the development and the
 9 promotion of the infringing goods, and as the moving, active and conscious force behind the
 10 manufacture and sale of the infringing goods, and has personally derived and is deriving a direct
 11 benefit from the infringement by using Cole as an instrument to infringe the '005 patent EB
 12 Ogle is, therefore, personally liable for acts of patent infringement plead herein

13 50 On or about April 3, 2002 counsel for Cole delivered to Cole what purports to be
 14 a written opinion of non-infringement by Cole of the '005 patent This document is abbreviated
 15 and deals only conclusorily with important infringement issues, and fails to meet minimum
 16 required standards for serving as a shield to allegations of willful patent infringement
 17 Therefore, notwithstanding the existence of this opinion letter, defendant's conduct still
 18 *constitutes willful infringement*

19 51 On information and belief, none of the individual defendants engaged
 20 independent patent counsel to receive an opinion as to his or her own infringement liability
 21 and/or willful infringement liability

22 52 As a result of the infringing activities of the Defendants, SIG has suffered and
 23 *will continue to suffer grievous damage, including lost profits, in an amount to be proven at trial*
 24 Defendants have derived profits, gains and advantages from their infringing activities that SIG
 25 would otherwise have received
 26

LANHAM ACT VIOLATION

55 SIG is in the business of developing, manufacturing, and selling RDS goods of
the type disclosed in the '005 patent in interstate commerce

57 Defendants make and sell a knock-off of SIG's COFFEECOAT wrap passing it off as SIG's goods. The Cole knock-off wrap is shown in Exhibit E. On information and belief, purchasers and potential purchasers of Cole's knock-off goods are likely to be confused into believing that the goods originate from or are sponsored, approved and/or manufactured by SIG.

58 As a result of this likelihood of confusion by purchasers and potential purchasers, and defendants' false designation of origin, SIG has lost sales and sustained harm and injury, and SIG's valuable business property and goodwill are diminished and placed at risk in a way that SIG cannot control

59 On information and belief, purchasers and potential purchasers of SIG's goods are likely to be confused into believing that SIG's goods originate from or are sponsored, approved and/or manufactured by Cole. As a result of defendants' acts, SIG has lost sales and sustained harm and injury, and SIG's valuable business property and goodwill are diminished and placed at risk in a way that SIG cannot control.

60 Defendants' acts of unfair competition fall within the meaning of 15 U S C § 1125(a), and will continue unless enjoined by the Court

COUNT III

BREACH OF LICENSE

61 SIG repeats and realleges the allegations set forth in the above paragraphs as if
62 more fully set forth below

63 On or about October 14, 1996 Cole falsely accused Fascination of patent
64 infringement, alleging that Cole owned the '578 patent, and that Fascination's removable wraps
65 and RDS technology infringed the '578 patent Cole coerced Fascination into a license by
66 threatening legal action if Fascination did not agree to take the license under the '578 patent

67 The '578 patent only claims a coffee pot or airpot wrap that is *permanently*
68 adhered to the pot Neither Fascination nor its successor SIG has ever at any time made, used or
69 sold any permanently adhered wraps

70 On or about November 25, 1998 Fascination and Cole entered into a written
71 agreement ("the Cole license") Fascination paid Cole \$10,000 and Cole granted to Fascination a
72 fully paid up, royalty-free and unrestricted right to make, use, and sell throughout the world any
73 articles covered by the '578 patent The agreement contained a standard successors and assigns
74 provision and runs to the benefit of SIG as Fascination's successor A true copy of the Cole
75 license is attached to this Complaint as Exhibit F

76 The only benefit of the bargain in this agreement for Fascination was to be free
77 forever of any claims by Cole that any Fascination product could or did infringe the '578 patent
78 or any other like disparagement This was all Fascination wanted, and it is everything that
79 Fascination paid for

80 Despite Fascination's full payment for the license, on or about May 6, 2002
81 employees of Cole, on information and belief, were heard on the floor of the SCAA show in
82 Anaheim, California to say that Fascination and/or SIG were actually the infringers (of the '578
83 patent), not Cole, all in knowing and willful breach of the Cole license

67. Defendants' wrongful acts and conduct, described in the paragraphs above constitute unlawful commercial disparagement and slander and had the purpose and effect of interfering with SIG's business and contractual relations, and of depriving it of existing and prospective business advantage. Defendants' wrongful conduct caused persons who might reasonably have been expected to enter into advantageous business arrangements and contracts with SIG not to do so, or to do so to a lesser extent or on terms less advantageous to SIG than would have been the case in the absence of defendants' wrongful conduct. Fascination and SIG have each sustained injury to their goodwill and business reputation from this breach and from the knowingly and wantonly false and defamatory statements of Cole's employees in an amount to be proven at trial.

68. Plaintiff has been deprived entirely of the benefit of its bargain, and merits a refund of its license price of \$10,000.

69. On information and belief, Cole will repeat these false and disparaging statements and remain in breach of the Cole license unless enjoined by this Court.

COUNT IV

UNFAIR BUSINESS PRACTICES

70. SIG repeats and realleges the allegations set forth in the above paragraphs as if more fully set forth below.

71. The acts complained of herein are in violation of the Washington Consumer Protection Act ("CPA"), RCW 19 86.

72. The Court has jurisdiction over this related state law claim through its supplemental jurisdiction.

73. The tortious acts complained of herein occurred, and are occurring, within the State of Washington and are subject to the laws of the State of Washington.

74. Defendants have engaged in a pattern of threatening activity deceptively using and falsely asserting their own patents to harass and damage SIG's business, and alleging *inter*

1 *alia* that SIG is actually an infringer of its '578 patent, notwithstanding that SIG is a privileged
2 licensee under the '578 patent and could not fairly or truthfully be called an infringer of the '578
3 patent, even if SIG was using (as it does not) any of the Cole permanent adhesive wrap
4 technology

5 75 Defendants' wrongful acts and conduct described herein have the purpose and
6 effect of interfering with SIG's business and contractual relations, and of depriving it of existing
7 and prospective business advantage, and constitute unfair and deceptive acts and practices in
8 commerce

9 76 Defendants, and each of them, engaged in the conduct described in the paragraphs
10 above intentionally, maliciously, unjustifiably, willfully, wantonly, recklessly, and in conscious,
11 deliberate and utter disregard of SIG's rights, and the rights of the public

12 77 This wrongful and illegal conduct will continue, and will continue to cause injury
13 to SIG and to the public unless enjoined by the Court

14 WHEREFORE, Superior Imaging Group, Inc prays for judgment as follows.

15 A That defendants, their officers, agents, servants, employees, attorneys, and all
16 other persons acting in concert or in participation with them, and each and all of them, be
17 preliminary and permanently enjoined from, in any manner, directly or indirectly making, using,
18 offering for sale, selling, or importing into the United States any products infringing the claims
19 of the '005 patent, or from inducing, contributing to, aiding, assisting, or abetting others in any
20 such conduct,

21 B That defendants, and each of them, be directed to file with this court and serve on
22 SIG within thirty (30) days after service of the Order for Injunction, a report in writing, under
23 oath, *setting forth in detail the manner and form in which each defendant has complied with the*
24 *injunction,*
25
26

1 C For an accounting and determination of the damages plaintiff has suffered in
2 consequence of defendants' acts of patent infringement and of the profits gained by defendants,
3 by copying plaintiff's product and unfair competition,

4 D That defendants be required jointly and severally to account for and pay over to
5 SIG all gains, profits and advantages realized from infringement of the patent,

6 E That defendants, and each of them, jointly and severally be required to pay to SIG
7 such damages (including lost profits) as SIG has sustained as a consequence of their acts of
8 patent infringement, unfair competition and deceptive and unfair practices, that the conduct of
9 defendants and each of them be declared by this Court to be "exceptional" within the meaning of
10 section 285 of the patent laws, and that all damages be trebled because of the willful acts
11 described herein in disregard of SIG's known rights,

12 G That defendants jointly and severally be required to pay to SIG all of SIG's costs,
13 expenses, reasonable attorneys' fees, and prejudgment interest in connection with this action, and
14 in particular because of their willful infringement,

15 H. That defendants and their agents be required to deliver up for destruction all
16 infringing products in their possession or control, together with all molds, machineries and other
17 instrumentalities adapted solely for producing infringing articles,

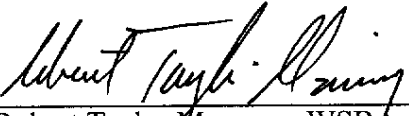
18 I That defendants be required to pay to SIG's attorneys' fees pursuant to
19 RCW 19 86, as seems to the court to be just under the circumstances,

20 J That the Court order defendants and each of them never again to disparage SIG or
21 Fascination in any manner whatever, and in particular never to allege that SIG or Fascination are
22 infringing or have ever infringed the '578 patent, and that, as an equitable remedy to partially
23 compensate SIG for its injury at defendants' hands, the Cole license be reformed by the Court to
24 remove the marking requirement on any SIG goods that are not permanently adhered

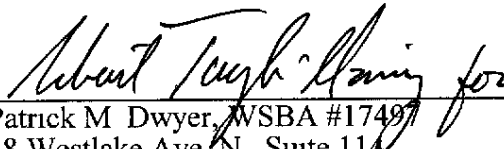
25 K For a judgment against Cole in the sum of \$10,000 to be attributable to acts of
26 breach of license by Cole, and

1 L That SIG have such other and further relief as this Court deems just and proper
2 DATED June 18, 2002

3 HAGENS BERMAN LLP

4
5 By 
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10 PATRICK M DWYER, PC

11 By 
12 Patrick M Dwyer, WSBA #17497
13 1818 Westlake Ave N, Suite 114
14 Seattle, WA 98109
15 Telephone

16 Attorneys for Plaintiff
17 Superior Imaging Group, Inc
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VERIFICATION

I, declare under penalty of perjury that the following statements are true

1 I am CEO of Superior Imaging Group, Inc., and am authorized to sign this
complaint on behalf of it

2 I have read the foregoing complaint and know its contents, and the same are true
of my own knowledge except as to such matters therein stated to be on information and belief,
and as to these matters, I believe them to be true

3 To the best of my knowledge, information, and belief based upon reasonable
inquiry, this complaint is well founded in fact and is warranted by existing law or a good faith
argument for the extension, modification, or reversal of existing law

4 This complaint is not being filed for any improper purpose, such as to harass, to
cause unnecessary delay, or to needlessly increase the cost of litigation

Pursuant to the provisions of 28 U S C § 1746, I declare under penalty of perjury that the
foregoing is true and correct

DATED at Kent, Washington, June 18, 2002

SUPERIOR IMAGING GROUP, INC

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VERIFIED COMPLAINT FOR PATENT
INFRINGEMENT, UNFAIR COMPETITION,
Case No

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(12) **United States Patent**
Richards

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(54) **REMOVABLE DISPLAY SURFACE**

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Subject to any disclaimer the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days

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(52) U.S. Cl. **40/665, 40/306 150/901, 215/121**

(58) Field of Search **40/306, 310, 665 40/630 675 215/121 122, 131, 392, 394 150/901 283/81**

(56) **References Cited**

U.S. PATENT DOCUMENTS

587 312 *	8/1897	Ives	40/665
1 632 347 *	6/1927	Pipkin	215/394 X
1 647 169 *	11/1927	Anton	150/901 X
2 081 152 *	5/1937	Replogle et al	215/121 X
2 123 610 *	7/1938	Neher	40/310
2 127 342 *	8/1938	Neher	40/310
2 240 072 *	4/1941	Hodgdon et al	40/675 X
2 376 194	5/1945	Samuels	215/121 X
2 384 274 *	9/1945	Bean	40/661 04
2 409 820	10/1946	Zimniem	215/121
2 490 250	12/1949	Boener	150/52
2 745 569 *	5/1956	Seaman	215/121 X
3 092 277 *	6/1963	Brum	215/121
3 680 726 *	8/1972	Massev	215/122
3 760 968	9/1973	Amberg et al	215/12
3 826 026 *	7/1974	Bevan	40/644

3 829 348	8/1974	Spiegel et al	161/16
3 941 159 *	3/1976	Toll	138/147
3 967 993	7/1976	Isonu	156/86
3 967 995	7/1976	Fabiane	156/86
4 181 765 *	1/1980	Harmonv	150/901 X
4 190 168	2/1980	Jacques	215/12 R

(List continued on next page)

OTHER PUBLICATIONS

Journal of AMA vol 168 No 7 Self-Adhering Nylon Tapes Maurice Gershman M.D. Oct 1958

Primary Examiner—Anthony Knight

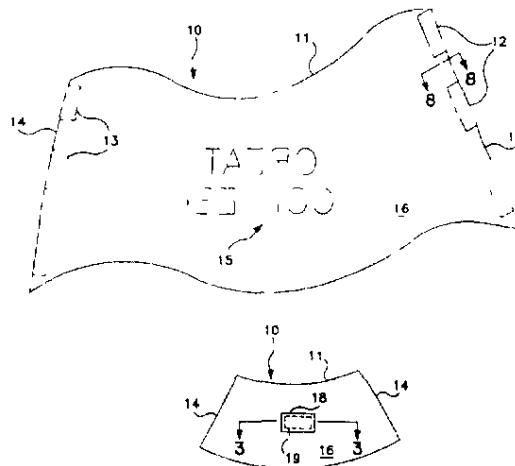
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(57) **ABSTRACT**

A precisely measured removable cover for reusable beverage containers. A covering of independently resilient material is precisely cut to fit a given size and shape of pot, and the material has imprinted on it a desired promotional or advertising message and/or graphics. The covering material is removably fastened with releasable closures to the outside of the pot in such a way as not to impair significantly the natural independent resiliency of the material. Thus, dents in the pot do not generally show in the covering surface because it retains its independent resiliency even if the blow was delivered through the covering surface. Messages may be changed as often as suits the promotional and decorative needs of the owner of the pot so the display surface is always timely and in top condition. An optional "window" permits display of interchangeable labels on the inside of the covering. When the display surface is fully removed, the original surface of the pot is substantially restored to its former appearance. Optionally, a protective plastic covering or overlaminant is attached to the print side of the covering material so that when the printed cover is in its removed state the printing will not be accidentally damaged by scratching. Some embodiments employ a nylon fabric cover material with promotional printing.

20 Claims, 5 Drawing Sheets



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U S PATENT DOCUMENTS

4 215,498	8/1980	Wilson	40/665	5,318,821	6/1994	Bradlev, Jr	428/100
4 268,567	5/1981	Harmony	.	...	150/901 X	5 322,578	6/1994	Ogle et al	..	...	156/64
4 282,279 *	8/1981	Strickland	.	..	150/901 X	5,325,991	7/1994	Williams	..	..	215/121 X
4 401,245 *	8/1983	Zills	.	.	215/121 X	5,358,770	10/1994	Evans	.....	.....	40/310 X
4 478,265 *	10/1984	DeMarco	..	..	215/131 X	5,448,844	9/1995	Miller, Jr et al	.....	.....	40/611
4 491,494	1/1985	Davis, Jr et al	..	.....	156/240	5,454,492	10/1995	Hunter et al	.....	.....	222/185 I
4 511,616	4/1985	Pitts et al	...	.	40/675 X	5,609,265 *	3/1997	Haberkorn et al	.....	.....	150/901 X
4 526,280	7/1985	Taylor	.....	...	215/100 S	5,622,389 *	4/1997	Courtney	..	...	283/81
4 583,577	4/1986	Canfield	..	..	150/52 R	5,676,401	10/1997	Witkowski	.....	.....	40/306 X
4 727,667	3/1988	Ingle	..	...	40/306	5,680,944 *	10/1997	Rueter	.....	.....	215/131
4 778,545	10/1988	Von Derau et al	..	..	156/64	5,704,144	1/1998	Groth	.....	...	40/665 X
4 871,597	10/1989	Hobson	..	...	215/121 X	5,711,836	1/1998	Hill	.....	...	40/630 X
4 884,704	12/1989	Spector	..	.....	215/12.1	5 809,867 *	9/1998	Turner et al	.....	.....	150/901 X
4 923,557	5/1990	Dickey	...	.	156/86	5,845,804 *	12/1998	Prescott	...	..	215/121 X
4 955,153 *	9/1990	Albrecht et al	..	..	40/661	5,902,659 *	5/1999	Lewin	...	.	283/81 X
5 065,879	11/1991	King	..	...	220/739	5,915,580 *	6/1999	Melk	..	...	215/121 X
5 078,817	1/1992	Takagaki	..	...	156/731	6,019,540 *	2/2000	Senior	...	...	283/81 X
5 131,177 *	7/1992	Sy, Jr	..	...	40/593	6,073,796 *	6/2000	Mogil	.....	...	215/121 X
5 169,025 *	12/1992	Guo	215/121 X	6,079,316 *	6/2000	Barden et al	150/901 X

* cited by examiner

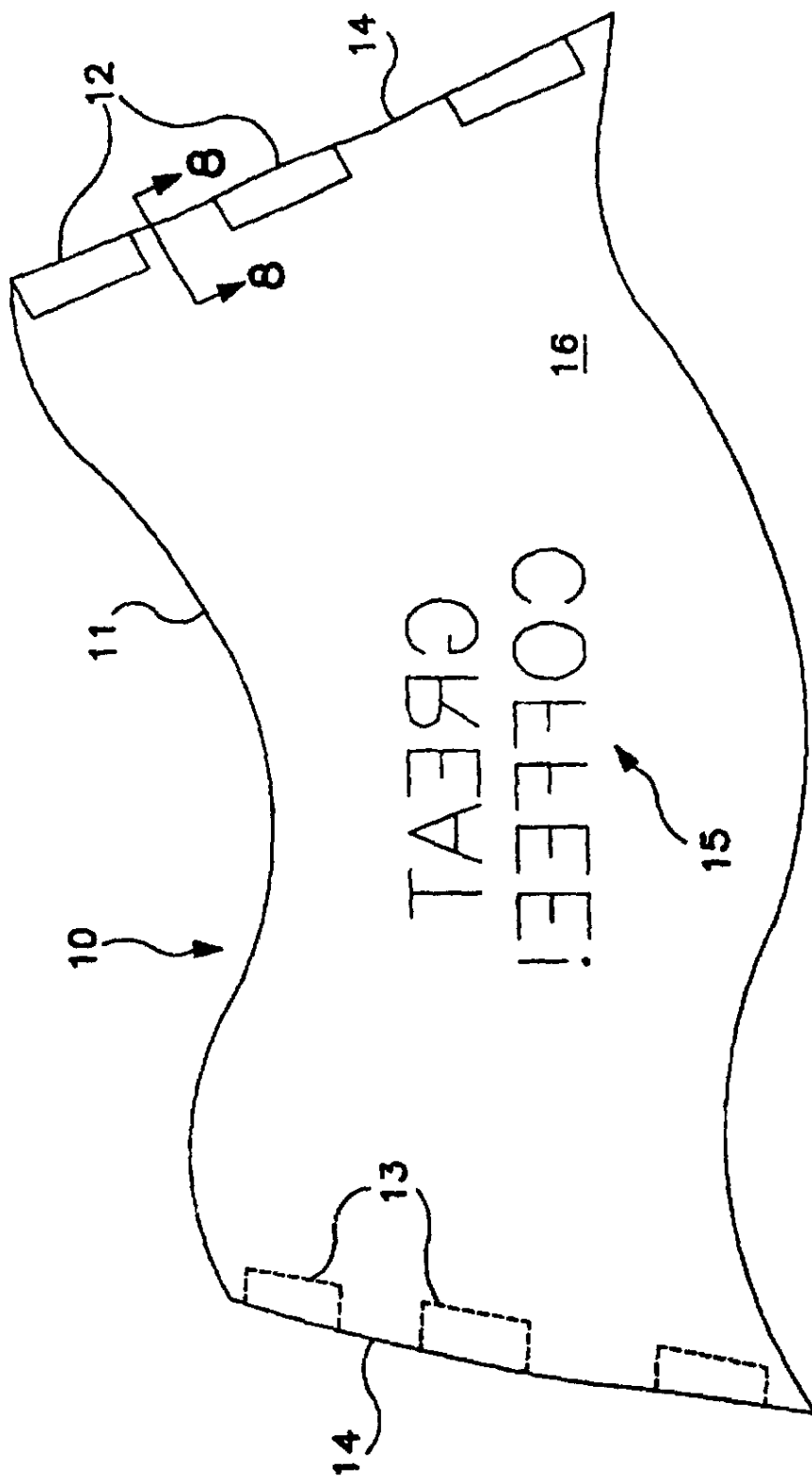


FIG. 1

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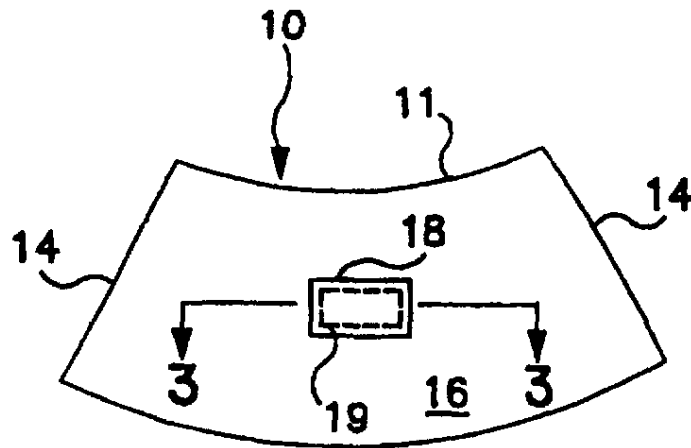


FIG. 2

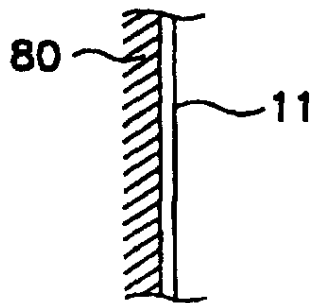


FIG. 4A

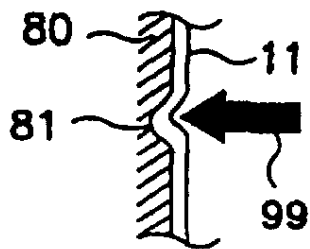


FIG. 4B

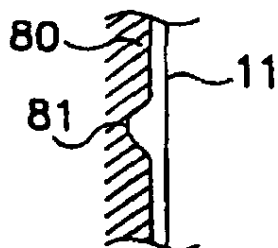


FIG. 4C

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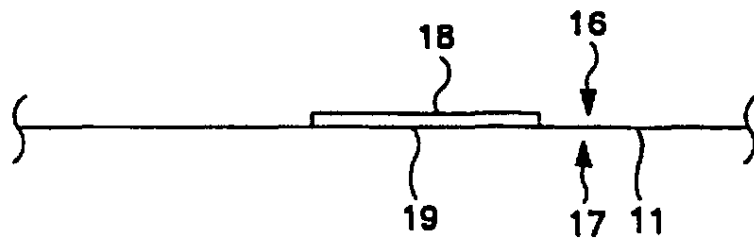


FIG. 3

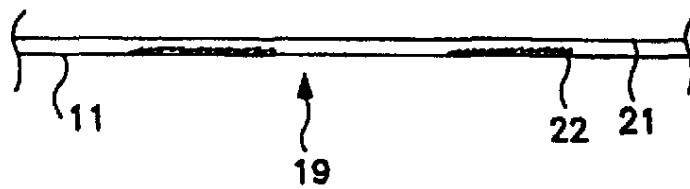


FIG. 5

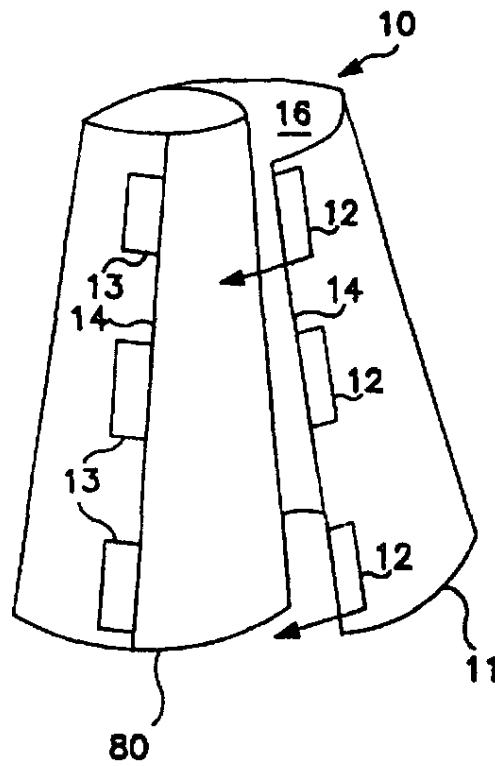


FIG. 6

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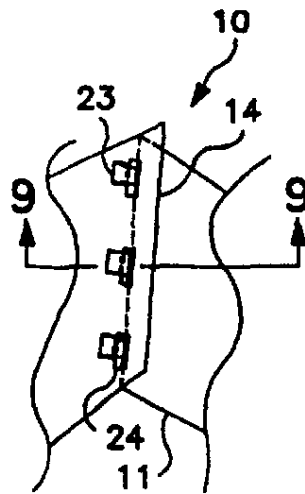


FIG. 7

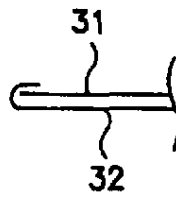


FIG. 8

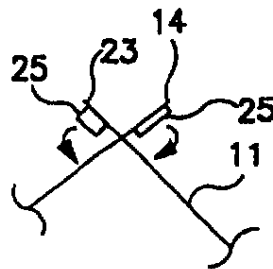


FIG. 9

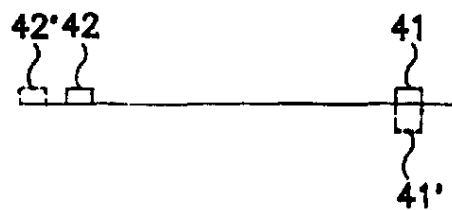


FIG. 11

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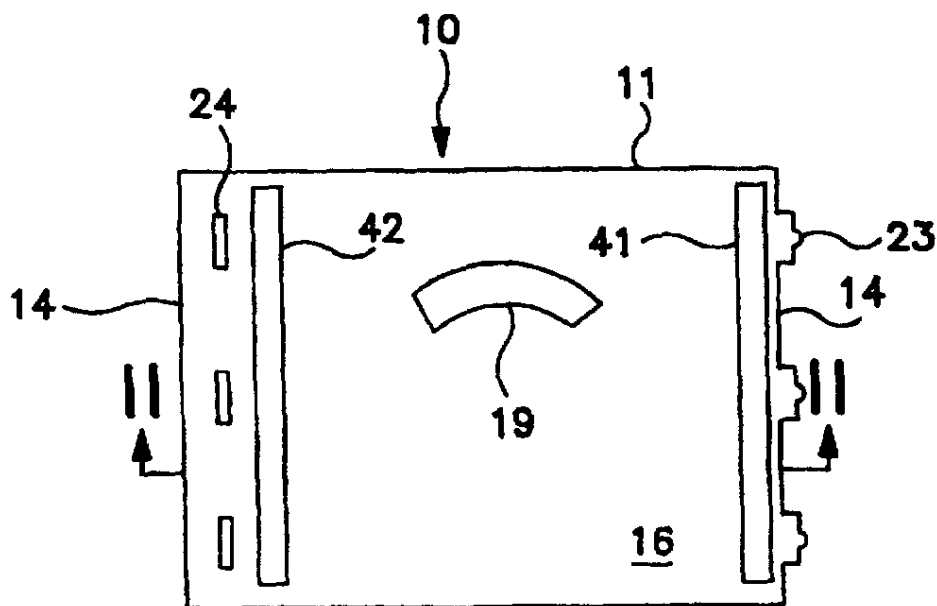


FIG. 10

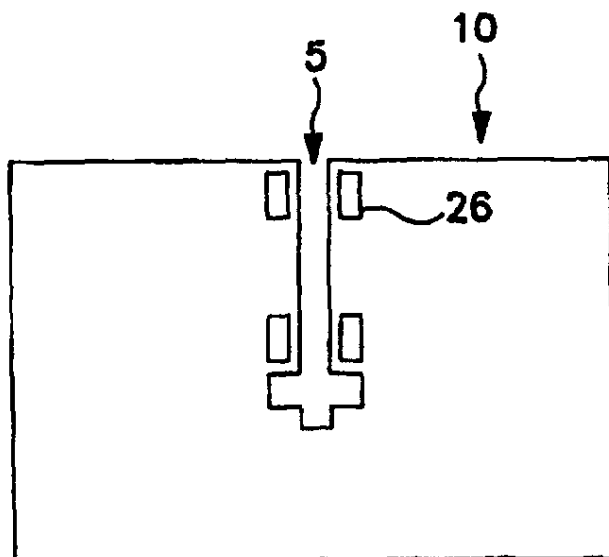


FIG. 12

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REMOVABLE DISPLAY SURFACE**TECHNICAL FIELD**

The invention relates to a removable display surface for use as a cover to a beverage container; more particularly, it relates to a removable and precisely measured independently resilient cover for reusable beverage containers with a promotional or advertising message printed on the cover

BACKGROUND OF THE INVENTION

Many kinds of containers, and particularly beverage containers, are placed in public view, both commercially and privately used, and therefore are appropriate for use as display surfaces for various kinds of advertising and promotion. Commercially, beverage containers are on display containing coffee and other beverages, privately, thermos bottles may be viewed by others while in use, both by way of example. The container wall itself however is ill suited to a display surface as it readily becomes marred and disfigured, and the printing matter itself is degraded, so that any such display is a poor display indeed for the subject matter of the advertisement or promotion. As yet however, no feasible and effective display surface has been proposed which may be attached to these beverage containers or other containers so as to adequately address the needs of current advertising and promotional standards

In recent years, it has come to be recognized that old style coffee warmers and open coffee pots are not in the best interests of the delicate flavor characteristics of a good brew of coffee. To that end, vacuum pots of various shapes and descriptions have become increasingly popular and prevalent, especially in finer commercial coffee houses and restaurants. Such a pot preserves desirable coffee serving temperature with reduced risk of, and exposure to, either burner heat scorching or air oxidation of the coffee esters. They also generally hold more coffee, and can be made available for use and refills by customers in places that are not wired or not safe for warmer burners.

As mentioned, these pots are often highly visible to the customers and could become effective sign boards for the brand of coffee or any other advertising an owner may wish to display in conjunction with the service of the coffee or other beverage. However, with the passing of time and customer use and normal wear and tear (such as by dish washing operations), the vacuum pots themselves can take on unsightly dents and surface mars

It has been suggested to permanently adhere a surface covering that is specially cut to fit the covering to the outside of the pot. This covering can hold or display various advertising or promotional messages and graphics. These covering systems however suffer from several disadvantages. Because they are permanently adhered to substantially the entire outside surface of the pot, they in effect become a second skin, and as such lose much if not all of the independent resiliency such a covering material might otherwise inherently have. Any blow or other force striking the skin will be transmitted to the pot as well, and any resulting deformation in the pot surface will also show on the tightly adhered covering skin. Also, if the advertising message becomes stale or otherwise out of date, or if the covering begins to show signs of wear or other distress, it must laboriously be removed in its entirety, leaving the pot covered in unsightly adhesive residue until it is recovered, and this operation must be repeated every time it is desirable to change the advertising message.

Other proposed covering systems require application of a heat shrinkable film to a container, with the disadvantages

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that such films are not readily, and certainly not non-destructively, removable, and rather less control of the kind and quality of printing that may be imprinted on the film, on its resultant resized surface, is possible compared with unshrunk covers.

Other covering system proposals disclose (1) a foam rubber beverage can insulator with flexible sidewall and bottom member with slits on the bottom for expansion and contraction, (2) a wastebasket, or other open container, cover with a flexible sheet to wrap around the side wall of the basket, and clips to detachably interconnect the top and bottom edges of the sheet to the open rims of the container, and Velcro type closures to hold the ends together, and (3) a loose fitting sock-like covering to fit over standing water cooler bottles and the like, or a free standing cylinder of rigid material resting on the cooler apparatus, with holes or viewing ports to show water level and provide air circulation inside the covering.

What is needed is a feasible and effective display surface which may be attached to beverage containers or other containers so as to adequately address the needs of current advertising and promotional standards. In addition, it would be desirable for such a display surface to be easily and readily removable and to possess independent resiliency (and not be just a second skin tight layer). The desired removable display surface would require only cover end attachment by releasable closures, and would provide an excellent base medium for commercial printing processes

DISCLOSURE OF THE INVENTION

Accordingly, it is an object of the invention to provide a feasible and effective display surface which may be attached to beverage containers or other containers so as to adequately address the needs of current advertising and promotional standards

It is a further object of the invention to provide in such a display surface an easily and readily removable wrap around cover.

It is another object of the invention to provide a wrap around cover having independent resiliency

It is another object of the invention to provide a removable display surface requiring only releasable closures for attachment together of its cover ends

It is another object of the invention to provide a removable display surface in turn providing an excellent base medium for commercial printing processes

It is yet another object of the invention to meet any or all of the needs summarized above

These and such other objects of the invention as will become evident from the disclosure below are met by the invention disclosed herein

The invention addresses and overcomes these difficulties by providing a method for making a precisely measured cover for reusable beverage containers. A covering of independently resilient material is precisely cut to fit a given size and shape of pot, and the material has imprinted on it a desired promotional or advertising message and/or graphics. The covering material is removably fastened to the outside of the pot in such a way as not to impair significantly the natural resiliency of the material. For instance, in one embodiment the covering is fastened to the pot by means of temporary fasteners such as Velcro® type hook and pile magnets, removable tape, or the like. Thus, dents in the pot do not generally show in the covering surface because it retains its independent resiliency, even if the blow was

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delivered through the covering surface. Messages may be changed as often as suits the promotional and decorative needs of the owner of the pot, 50 the display surface is always timely and in top condition. An optional "window" permits display of interchangeable labels on the inside of the covering. When the display surface is fully removed, the original surface of the pot is substantially restored to its former appearance. Some of the covers are to be transparent or translucent and are to have graphic images back printed on them. Optionally, a protective plastic covering or over-

laminant is attached to the print side of the covering material, so that when the printed cover is in its removed state, the printing will not be accidentally damaged by scratching. Some embodiments employ a nylon fabric cover material with promotional printing.

The invention provides a flexible, removably fastened, precisely fitted container cover having a graphical display imprinted on one side of the cover. The graphical display may be advertising or promotional text and/or non-textual graphical images. The flexibility of the container cover material is to facilitate ready application, removal and reapplication of the container cover to the same or different containers, as often as may be necessitated by the need, for instance, to replace a worn or damaged cover, or to provide a different promotional message. By "precisely fitted" is meant that each cover is measured and cut to substantially exactly fit a particular container or identically sized series of containers, where "fitting" means to substantially completely cover the side walls of the container, generally without overlap. In some instances however, some overlap may be advantageously provided for the purpose of providing a fastener mounting surface to facilitate that no fastener parts need be attached in any way to the container itself. It will be appreciated by those skilled in the art that variations of this dimensioning and fitting may be effected to no particular purpose but to avoid the above definition, in which case such variations are to be regarded as within the scope of this invention. Generally, this invention will find application as a covering for beverage containers of the type used to serve coffee in public establishments, however, the invention is not limited to such a particular container.

Some embodiments of the invention will include a transparent window in the cover, through which a "label" may be viewed through the window. A window is preferably a transparent region of the cover on which no graphic display has been imprinted, but may in some embodiments be effected with a separate transparent material sewn in or otherwise assembled into the cover material itself. A "label" can either be an actual label, such as the name of the blend or beverage being dispensed from the container, or it can be any additional supplemental promotional graphical display information. The label is generally disposed over the window in such a way that the graphic material on the label can be viewed through the window, and the label is preferably attached to the window with a removable pressure sensitive adhesive. However, it will be appreciated that any conventional means for holding a piece of material on which can be printed some graphical information, such as an open ended clear envelope attached to one side of the container cover can advantageously be employed to make the label viewable through the window. Preferred embodiments will have the label holder on the inside or rear surface of the container cover where it may readily be accessed by removing the cover, inserting or replacing the label and reattaching the cover. This arrangement will provide both protection for the label, and facilitate integration of the label into the overall graphical design of the cover.

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Some embodiments of the invention will be made of a durable, preferably washable, woven fabric such as nylon ripstop or cordura, and the graphical display is generally imprinted on a front surface of the cover material ("front printed"). Such embodiments may be removed for cleaning as well as for replacement to display different promotional messages. This embodiment will also be especially resistive to displaying or revealing any surface imperfections of the container itself, and will be better able to resist impact damage to the cover material itself. Preferred embodiments will have a second, or inner, fabric layer preferably made of a more tightly woven polyester material for additional resiliency and insulating value.

Other embodiments of the invention will be made of a resilient translucent material, such as clear plastic sheet, with the graphical display imprinted on a rear surface of the cover ("back printed") to better protect the printing itself. Various materials may be employed such as printing grades of Lexan® brand plastic sheeting and various vinyl sheet materials and all such plastics as will be known by those skilled in art to take and retain a high quality graphical imprint. It will generally not be necessary to take any special precaution or apply any selection criteria relating to heat shrinkability, or thermal stability, as the covering material will generally be removed from the container prior to exposing the container itself to high temperature washing or sterilization. While thermally unstable material will therefore generally not be preferred, its use will not depart from the scope of the invention.

Some embodiments will also employ an overlaminant layer disposed to cover the graphical display imprinted on the rear surface of the clear plastic sheet. Since some embodiments have no attachment whatever of the cover to the container itself, other than that provided by the relatively tight "wrap" of the cover on the container and the attachment of one edge of the cover to itself, it is anticipated that some sliding of the cover as wrapped around some of the containers will produce some chaffing or wear of the back printed matter, and possibly some discoloration or staining of the surface of the container itself. Even without such sliding, the removal and replacement of the printed covers will leave the printing exposed to possible damage while the cover is off the container. To forestall any such damage to the printing, an overlaminant layer may be advantageously applied over the printing to seal it from such damage. This layer will preferably be laminated to the cover material by methods well known to those in the art, but may also be adhesively adhered to the printed side of the cover material, or attached in any other way as may seem useful to those skilled in the art.

The overlaminant layer may be clear also, but may also be opaque or even metalized (such as for instance a sheet of aluminized mylar) to provide insulation to the container.

The removable fastening of the cover to the container may be effected by one or more releasable closures. A preferred releasable closure is a paired arrangement of hook and pile closures respectively attached to opposite ends of the cover material. They may be disposed as single strips along the end (adjoining) edges of the cover, or as spaced closure tabs along the adjoining edges of the cover. Alternatively, part of the closure pair may be attached to the container itself to forestall sliding of the cover on the container, and the opposite closure type may be attached to one or both ends of the cover for removable fastening of the cover to the container.

Alternatively, the releasable closures may be paired magnetically active materials, such as two compatibly poled

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magnets, or a magnet and a strip of ferrous material. For ferrous bodied containers, it may only be necessary to provide a magnetic strip, or magnetic tabs (as described above) along adjoining edges of the cover for magnetic attachment of the cover to the container by the magnets. For non-ferrous container, including some stainless steel types, paired magnets, or a magnet and steel strip combination, will be employed and attached to the cover as described above for hook and pile closures for attaching the cover to the container. In some embodiments, at least one part of the pair of magnetic materials is comprised of a magnet strip and the other part of the pair of magnetic materials is a ferrous container surface to which the magnet strip is attracted. In other embodiments, the pair of magnetic materials is comprised of a pair of magnet strips magnetically attracted to each other.

The invention generally provides a removable wrap around container cover of material providing independent resiliency. By "independent resiliency" it is generally meant that the material referred to thusly is capable of sustaining an impact, and even of transmitting that impact through to the underlying container, where the impact might cause surface damage to the container such as a dent, but whereby material is capable of rebounding to or resuming its previous shape resiliently so that the cover material does not betray the damage to the container beneath. One way to achieve or preserve this independent resiliency is to forebear to adhere the cover material in any substantial way to the container itself.

Preferred embodiments of the invention will also have at least one guide slot and tab pair with the tab on one end of the cover and the slot near to, or proximate, the opposite end of the cover and generally aligned with its tab mate in a generally parallel way. A slot is proximate an end of the cover material to the extent that there is generally not more of the cover material between the slot or slots and the end than is useful to preserve the physical integrity of the slots themselves on the one hand, and than is useful to effect a mating layer, for use when an optional adhesive material is provided on the contacting surface of one or both of the slot/tab pair so that the tab(s) and mating layer may both or singly be pressed in the direction of the container to be removably adhered to the cover material to form a secure but removable cover attachment.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a schematic rear plan view of the invention.

FIG. 2 is a schematic rear plan view of an alternate embodiment of the invention.

FIG. 3 is a partial cross section of the invention taken at line 3—3 of FIG. 2.

FIGS. 4a-c is a schematic partial cross section of the invention.

FIG. 5 is a partial cross section of an alternate embodiment of the invention.

FIG. 6 is a front perspective elevation of the invention.

FIG. 7 is a partial perspective view of an aspect of the assembly of the invention.

FIG. 8 is a partial schematic cross section taken along line 8—8 of FIG. 1.

FIG. 9 is a partial schematic cross section taken along line 9—9 of FIG. 7.

FIG. 10 is a schematic rear plan view of an alternate embodiment of the invention.

FIG. 11 is a cross section taken along line 11—11 of FIG. 10.

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BEST MODE OF CARRYING OUT THE INVENTION

Turning now to the drawings, the invention will be described in a preferred embodiment by reference to the numerals of the drawing figures wherein like numbers indicate like parts.

In FIG. 1 removable display surface 10 is comprised of independently resilient cover 11 and releasable closure or fastener pairs 12, 13, where fastener half 12 and fastener half 13 are generally matable or detachable halves of a releasable closure system pair, such as for instance a hook and pile type closure or paired magnets. It will be appreciated that in many instances, the halves are interchangeable, which is not to say identical, but rather that part 12 may be either a "hook" strip for instance or a "pile" strip, and vice versa for part 13. In general, one half of the closure will be on one cover end 14 and the other half will be on the other cover end. In the case of hook and pile closures, fastener half 12 will preferably be on the rear surface 16, while fastener half 13 will be disposed on the front surface 17 of cover 11. Thus, as cover 11 is wrapped around container 80 (see FIG. 6), halves 12 and 13 are able to engage each other and removably fasten cover 11 to container 80.

In this embodiment, though the cover is precisely fitted to its intended container or container series, that fit is accommodated at least in part by a careful overlap of ends 14 to the extent necessary to effect the releasable engagement of fastener halves 12 and 13. It should be noted that halves 12 and 13 are illustrated as groups of separate strips, however, it will be advantageous in some applications to have fastener half 12 be a single long strip covering substantially the width of cover end 14, and the same will be true for fastener half 13. Where a plurality of strips is employed, the respective mating opposite pair halves will be aligned so that, upon mating engagement, the cover is closed without appreciable skew in the mating of cover ends 14, that is, a cover 11 cut to cover a cylindrical container, for example, will close into a cylindrical shape, with ends 14 overlapping (where such overlap is required by the nature of the fastener) and more or less congruent. In FIG. 6, display surface 10 is wrapped around container 80 so that fastener halves 12 and 13 engage their respective mates in the direction indicated by the arrows after cover ends 14 overlap.

The cut of cover 11 is also effected to accommodate the shape of the intended container, whether it be cylindrical or frusto-conical or other shape. Both FIG. 1 and FIG. 2 illustrate covers cut to accommodate a frusto-conical container. In FIG. 1, the pronounced "waviness" of the top and bottom edges of cover 11 are intended to illustrate the relatively more flexible nature of the woven fabric embodiment, as opposed to the relatively more rigid plastic sheet embodiment of FIG. 2. However, the aspect of back printing of graphical message 15 onto the rear surface 16 of cover 11 is arbitrarily illustrated in FIG. 1, notwithstanding that fabric embodiments of the invention will generally not be translucent to any appreciable extent and will rather be front printed. By the same token, the "window" aspect of the invention illustrated in FIG. 2 by window 19 and label 18 may be advantageously employed in either the sheet or fabric embodiments of the invention, though illustrated arbitrarily only in FIG. 2.

FIG. 12 illustrates a typical accommodation in the precise fit of cover 11 for its container. In the example case of a beverage container/dispenser having a conventional glass fill gauge and a pour spigot beneath, cover 11 is relieved by cut out 5 so that display surface 10 covers all of the sidewall

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surface of the container. Optional hook or pile fastener halves 26 are appropriately placed to mate with corresponding and respective pile or hook fastener halves affixed to the container itself.

FIG 8 illustrates an alternative construction for cover 11 in FIG 1. Instead of one layer of fabric in cover 11, two layers are sewn together: inner layer 31 and outer layer 32. Preferred outer layer (also preferred in there is only one layer) material is style 2020 200 denier ripstop nylon, inner layer material is preferably style 6000 600 denier polyester fabric.

In FIG. 2 a plastic sheet embodiment of the invention is illustrated. General Electric Lexan® brand plastic film is preferred in this embodiment, though printing grades of vinyl sheeting may also be made to serve. For the sake of simplicity of illustration, closure halves 12 and 13 are not shown, however, it is to be understood that the releasable fasteners described in reference to FIG. 1, or their equivalents, may be employed in any other embodiment, whether illustrated or not. Label 18 is preferably disposed on or over transparent window 19 in cover 11 so that a message (not shown) on label 18 disposed on the rear surface 16 of cover 11 may be viewed through window 19 from the front surface 17 of cover 11. This arrangement is shown in partial cross section in FIG. 3.

Label 18 is preferably attached to the rear surface 16 of cover 11 and over or behind window 19 with a pressure sensitive removable adhesive so that labels of differing message content may be interchangeably disposed behind window 19 from time to time without damage to cover 11 and without need for alternative label attaching means. Alternative label attaching means may however be employed without departing from the scope of the invention. Mounting label 18 behind window 19 provides the protection of a covering window to the various labels that may be placed behind any particular window. In practice, it will be a simple matter to open cover 11, remove a label, and replace it with a new label. It has been found that Flexcon (Seattle, Washington) V400 frosty clear V68 removable pressure sensitive adhesive adequately adheres label 18 to any part of rear surface 16, including window 19, while providing ease of removal of label 18 when it is time for replacement. Preferred label material is Flexcon 90 PFW vinyl.

FIGS. 4a-c schematically illustrate the quality of independent resiliency of the invention. In FIG. 4a container wall 80 is obscured by cover 11. The cover appears smooth and unbroken to the viewer. In FIG. 4b an impact force 99 strikes both cover 11 and, through it, to container wall 80, causing a dent 81. If cover 11 were permanently adhered, or even adhered at all to wall 80, dent 81 would show to some extent in cover 11. This would also be true in other conventional covering systems. But in FIG 4c, cover 11 appears much as it did before the impact of force 99, thus obscuring dent 81 and other surface imperfections in container wall 80. This might not hold true for forces and impacts from sharp objects whose effect is to cut or tear cover 11, but for most relatively dull impact forces short of those tending to destroy the container itself, cover 11 will merely transmit such forces, not be changed by them.

In FIG. 5, an alternate embodiment of the sheet plastic embodiment is illustrated in schematic partial cross section. Cover 11 is back printed with ink 22, except in the region of window 19. Over the ink layer is preferably disposed overlaminant 21. Overlaminant 21 provides enhanced resiliency to cover 11 and protects ink 22 from abrasion against container 80 and from accidental damage while cover 11 is

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removed, as for example when the container is being washed. For embodiments not employing an overlaminant, conventional UV hardening inks may be employed, and if protection from abrasion is desired without using an overlaminant, then an air cure texture coat of Deco-Chem 7030 abrasion matt small text may be applied to the back of the back printed graphic ink layer.

In the case of overlaminant, conventional inks are preferred, as it has been noted that UV inks tend to release to the overlaminant and cause flaws or bubbles to appear from the front of the cover. Preferred overlaminant material is Flexcon Flextwin MM-200 white/white metalized mylar adhered to the cover sheet layer with TC-249, V-29, 1504-9 adhesives or their equivalent. These adhesives provide a white backing layer to obviate the need otherwise for a white coat behind the graphic display ink. Alternatively, vinyl sheeting may also be used for the overlaminant layer.

FIG 10 shows an alternate configuration of the invention. Curved window 19 is set amid cover 11 of display surface 10. Preferred magnetic closures 41 and 42 in the form of cover end width rubberized magnetic strips are adhered to the rear surface 16 of cover 11 proximate the respective cover ends 14. In some embodiments (not shown), magnetic strips 41 and 42 lie at or very near the cover ends and the cover is wrapped around a container having ferrous material walls so that the magnets adhere magnetically to the container walls, and the fitted cover 11 fits precisely around the container without overlap, the magnets maintaining both closure of the seam whereat the two cover ends meet, but also thereby holding the cover to the container. This configuration is advantageous for ferrous bodied containers. For non-ferrous bodies and some types of stainless steel, it is desirable for the magnet pair to be disposed for mating engagement with each other through self adherence.

As these arrangements will sometimes permit slippage of cover 11 both with respect to its grip on container 80 and also with respect to its own precise, unskewed alignment of its cover ends 14, especially in smooth or relatively featureless containers, the embodiment illustrated in FIG 10 is preferred. In this embodiment, alignment tabs 23 and slots 24 are provided. Some overlap is provided to effect the engagement of respective corresponding slots and tabs, and the positioning of the magnets 41 and 42 is adjusted, with magnet 41 near the tab end of the cover being preferably quite close to, but not overlapping, the tabs, and with magnet 42 being inside the line of slots 24, rather than being so close to the other end 14 of cover 11, as shown in FIG. 6. In this configuration, as cover 11 is wrapped around its container (such as is shown in FIG. 6), tabs 23 come into engagement with and through slots 24, thereby assuring complete and correct alignment of ends 14; at the same time the magnets 41 and 42 adhere to container 80 and releasably hold cover 11 to the container.

FIG 11 shows a schematic cross section for the preferred placement of magnets 41 and 42. As they are intended to adhere, not to each other, but to the container, they are placed on the same (inner) side of cover 11. As an alternate arrangement, providing for magnet-to-magnet engagement, magnets 41' and 42' are shown positioned on opposite sides of cover 11, and with magnet 42' shifted relative to the position of magnet 42 to be more proximate the cover end 14, where magnet 42' is disposed between the cover end 14 and the line of slots 24, so that, with appropriate overlap of cover ends 14, magnet 41' may engage magnet 42' when cover 11 is wrapped around its container. Tabs 23 have a roughly pointed and stepped design to facilitate insertion into slots 24.

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FIGS 7 and 9 illustrate a variation on the guide tab and slot configuration of FIG. 10. FIG 7 also shows the wrapped engagement of tabs 23 into slots 24. The alternate embodiment requires no hook, an pile or magnet fasteners, but rather relies on the application of removable pressure sensitive adhesive 25 to the underside of tabs 23 and to the flap end of cover end 14 that lies between the cover end and the line of slots 24. After tabs 23 are fully inserted into slots 24, adhesive 25 is activated if required (such as by removing any protective non adhesive strip or strips), and the tabs and the flap end are all pressed inward (in the direction shown by the arrows) against wrapped cover 11 to securely, but releasably fasten cover 11 around container 80. This configuration is particularly well suited to wrap covers for children's containers which must endure rugged usage, such as thermoses.

With regard to systems and components above referred to, but not otherwise specified or described in detail herein, the workings and specifications of such systems and components and the manner in which they may be made or assembled or used, both cooperatively with each other and with the other elements of the invention described herein to effect the purposes herein disclosed, are all believed to be well within the knowledge of those skilled in the art. No concerted attempt to repeat here what is generally known to the artisan has therefore been made.

INDUSTRIAL APPLICABILITY

A feasible and effective display surface which may be attached to publicly placed beverage containers or other containers is needed to adequately address the needs of current advertising and promotional standards. Such a display surface is most valuable if it is easily and readily removable and possesses independent resiliency. Advertising may be changed often, and the owner of the containers is never embarrassed at the physical condition of the containers themselves, covered as they are by the display surface.

In compliance with the statute, the invention has been described in language more or less specific as to structural features. It is to be understood, however, that the invention is not limited to the specific features shown, since the means and construction shown comprise preferred forms of putting the invention into effect. The invention is, therefore, claimed in any of its forms or modifications within the legitimate and valid scope of the appended claims, appropriately interpreted in accordance with the doctrine of equivalents.

I claim.

1. A container cover comprising a flexible sheet with a graphical display unprinted thereon, and a cover fastener whereby the cover may be removed from a container, and further wherein the sheet is adapted to substantially cover the side walls of a container, the apparatus further comprising a window that is transparent through the cover, and a label disposed on said window to be viewed through the window.

2. The cover of claim 1, wherein the container cover is comprised of a woven fabric and the graphical display is unprinted on a front surface thereof.

3. The cover of claim 2 further comprising a second fabric layer.

4. The cover of claim 1 wherein the container cover is comprised of a resilient translucent material.

5. The cover of claim 4 wherein the resilient material is a clear plastic sheet, and the graphical display is unprinted on a rear surface thereof.

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6. The cover of claim 5 further comprising an overlaminant layer disposed to cover the graphical display unprinted on the rear surface of the clear plastic sheet.

7. The cover of claim 6 wherein the overlaminant layer is metalized to provide insulation to the container.

8. A container cover comprising a flexible sheet with a graphical display unprinted thereon, and a cover fastener whereby the cover may be removed from a container, wherein the fastener comprises one or more releasable closures, and further wherein the sheet is adapted to substantially cover the side walls of a container, and wherein the releasable closures are comprised of at least one pair of magnetically active materials.

9. The cover of claim 8 wherein at least one part of the pair of magnetic materials is comprised of a magnet strip and the other part of the pair of magnetic materials is a ferrous container surface to which the magnet strip is attracted.

10. The cover of claim 8 wherein the pair of magnetic materials is comprised of a pair of magnet strips magnetically attracted to each other.

11. The cover of claim 8 further comprising at least one guide slot and tab pair wherein the tab is on one end of the cover and the slot is proximate the opposite end of the cover and parallel to the tab.

12. The cover of claim 11 further comprising adhesive material on the contacting surface of at least one part of the slot/tab pair.

13. The cover of claim 12 wherein the adhesive material is of the removable type.

14. A flexible, removably fastened, precisely fitted container cover having a graphical display unprinted on a rear surface thereof, wherein the container cover is comprised of a resilient translucent plastic sheet, and further comprising a transparent window and a label disposed over the window so that it may be viewed through the window, and further comprising one or more releasable closures where each closure is further comprised of at least one pair of magnetically active materials and wherein the cover is removably fastenable to a container with the closures.

15. A container cover comprising a flexible sheet with a graphical display unprinted thereon, and a cover fastener for removably fastening the cover to a container, the fastener comprising one or more releasable closures, the releasable closures comprising at least one pair of magnetically active materials, and further wherein the sheet is adapted to substantially cover the side walls of the container.

16. The cover of claim 15 wherein at least one part of the pair of magnetic materials is comprised of a magnet strip and the other part of the pair of magnetic materials is a ferrous container surface to which the magnet strip is attracted.

17. The cover of claim 15 wherein the pair of magnetic materials is comprised of a pair of magnet strips magnetically attracted to each other.

18. The cover of claim 15 further comprising at least one guide slot and tab pair wherein the tab is on one end of the cover and the slot is proximate the opposite end of the cover and parallel to the tab.

19. The cover of claim 18 further comprising adhesive material on the contacting surface of at least one part of the slot/tab pair.

20. The cover of claim 19 wherein the adhesive material is of the removable type.

* * * * *

B

ASSIGNMENT OF INVENTION

In consideration of payment by ASSIGNEE to ASSIGNOR of the sum of One Dollar (\$1 00), and for other good and valuable consideration, the receipt of which is hereby acknowledged,

ASSIGNOR, Eric W Richards

a United States citizen who resides at 33004 - 129th Way SE, Auburn, WA 98092, does hereby sell, assign and transfer to

ASSIGNEE, Superior Image Group, Inc ,

a corporation under the laws of Washington and doing business at 1130 Andover Park East, Tukwila, WA 98188, and to the successors, assigns and legal representatives of the ASSIGNEE, ASSIGNOR's entire right, title and interest, whether now held or after acquired, for the United States and its territorial possessions, and in all foreign countries, including all rights to claim priority, in and to any and all improvements which are disclosed in the invention entitled

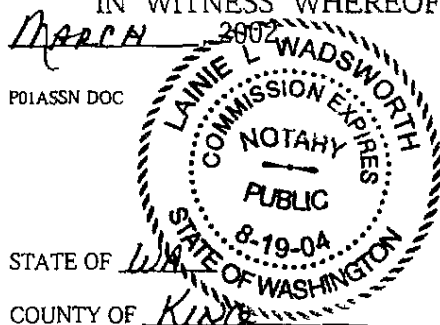
Removable Display Surface

("the Invention"), which is found in U S patent number 6,250,005 issued 6/26/2001, Eric W Richards, inventor, and to any and all patents and patent applications as may be related to the Invention and owned by ASSIGNOR, now or hereafter filed, and in any legal equivalent thereof in a foreign country, including the right to claim priority, and the right to sue for past infringement, and in and to all Letters Patent to be obtained for said invention by the above application, and in and to any continuation, division, renewal, or substitute thereof, and, as to letters patent, any reissue or re-examination thereof

ASSIGNOR hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment,

ASSIGNOR further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation or proceeding related thereto and will promptly execute and deliver to ASSIGNEE or its legal representatives any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue and enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes hereof

IN WITNESS WHEREOF, I have hereunto set hand and seal this 22nd day of



Eric W. Richards

On this 22 day of MARCH, 2002, ERIC W. RICHARDS to me known to be the individual described in, and who executed the foregoing instrument and acknowledged to me that he/she signed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned, personally appeared before me, the undersigned Notary Public in and for the State of WA duly commissioned and sworn

WITNESS my hand and official seal hereto affixed this day and year first above written

NOTARY PUBLIC in and for
the State of WA
residing at SEATTLE, WA
My Commission expires 8-19-04

**Exhibit B
to complaint**

PATRICK M. DWYER PC

LAW OFFICES

**1818 WESTLAKE AVENUE N, SUITE 114
SEATTLE, WA 98109
206-343-7074
FAX 206-343-7085
pmdwyer@earthlink.net**

January 29, 2002

Mr. Edwin S. Budge
Budge & Heipt PLLC
705 Second Avenue, Suite 910
Seattle, WA 98104

RE: Infringement by Cole Screenprint
of United States Patent No. 6,250,005 to Richards
Removable Display Surface

Dear Ed:

Preliminarily, it is my understanding that you continue to represent Cole Screenprint Inc. in all of its patent matters; if my understanding is not current, please communicate with me immediately.

We have been asked by Eric Richards of Fascination Graphics, Inc. (now part of Superior Image Group, Inc.) to forward to you for your review a copy of the above patent (enclosed). We would also point out that at least one store in the Spokane area has been using a wrap made by Cole Screenprint under their Pumpskins mark that we believe is covered by one or more of the claims of the above patent.

Unfortunately it appears that Cole has simply duplicated a wrap design which our client introduced several years ago while the patent was still pending. As you know, such egregious copying will count heavily against Cole in any test for willful infringement.

We must respectfully ask therefore that Cole immediately cease making, using, selling or offering to sell any removable wrap that is covered by the claims of the above patent. As one with long experience in the industry, we are sure you will appreciate the need for our client to protect and enforce its rights in its patents.

Please afford us the courtesy of an expedited response from your client at your earliest convenience, so that we may report to and further advise our client. In your response, please

*Edwin S. Budge
Budge & Heipt PLLC
Infringement by Cole Screenprint
Page 2
January 29, 2002*

indicate how Cole plans to dispose of the infringing wraps they have on hand, including those which they may already have distributed to customers.

Very truly yours,



Patrick Michael Dwyer

PMD.gw G0155F.ESB
cc: client

D

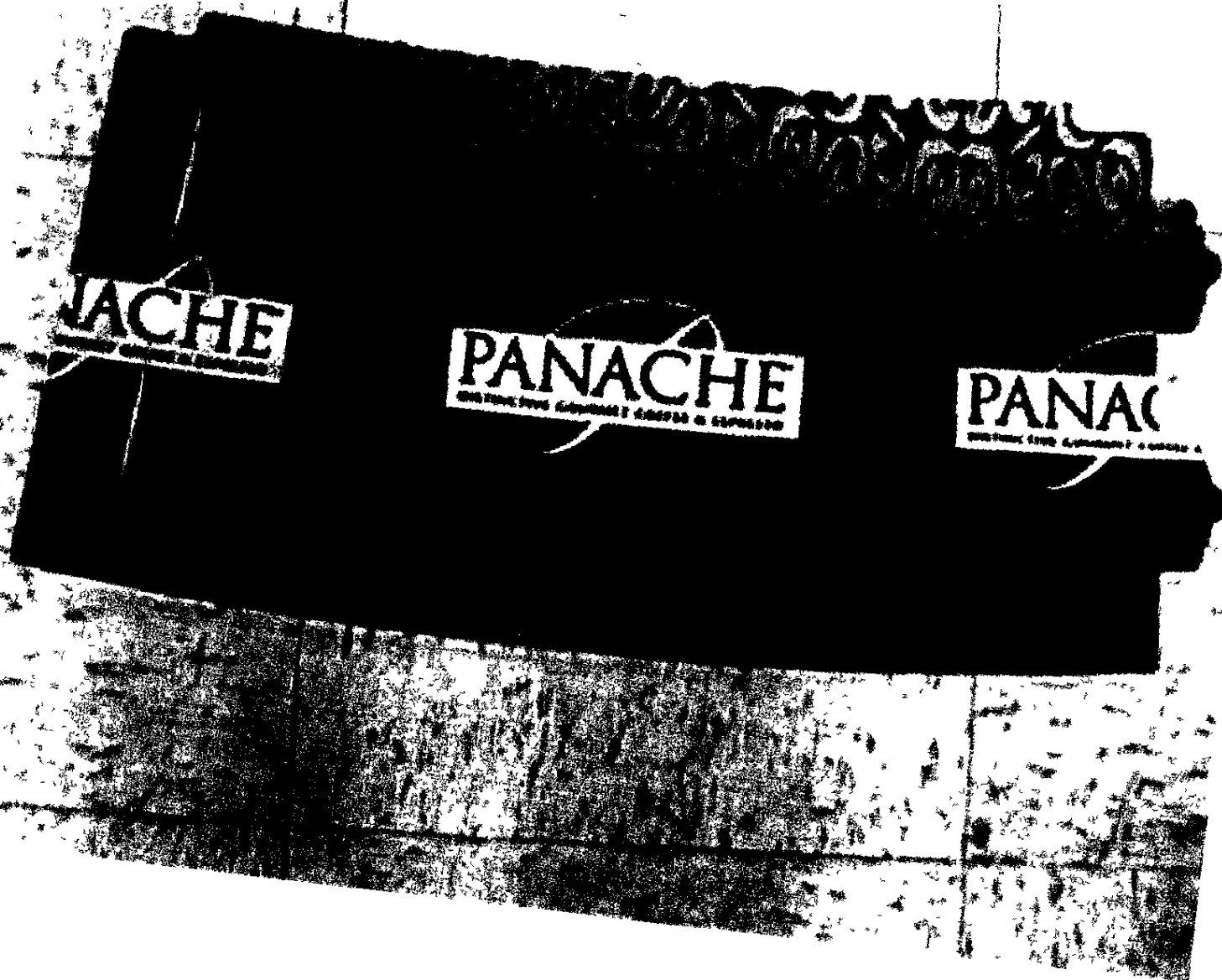


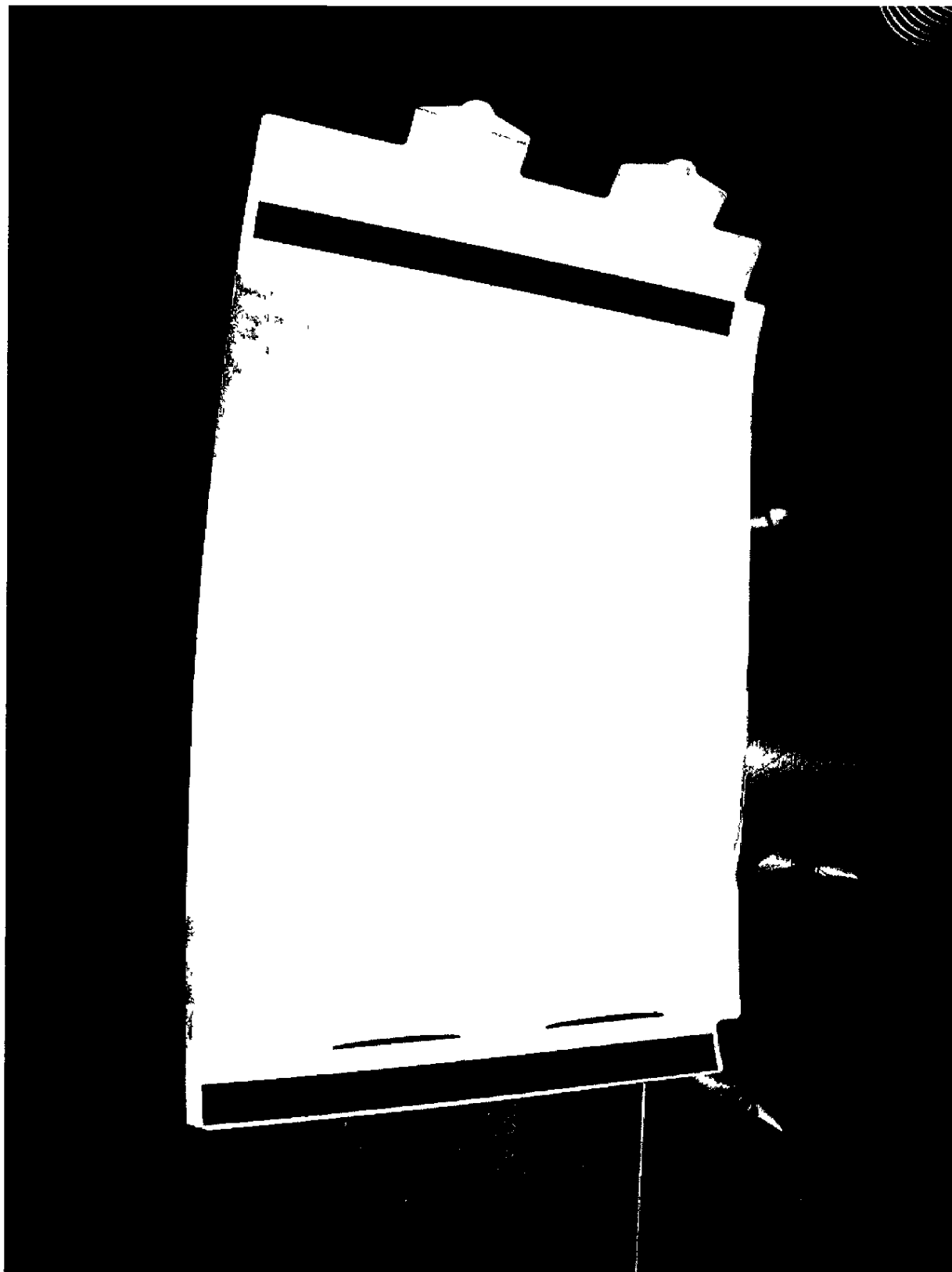
Exhibit D
to Complaint



E



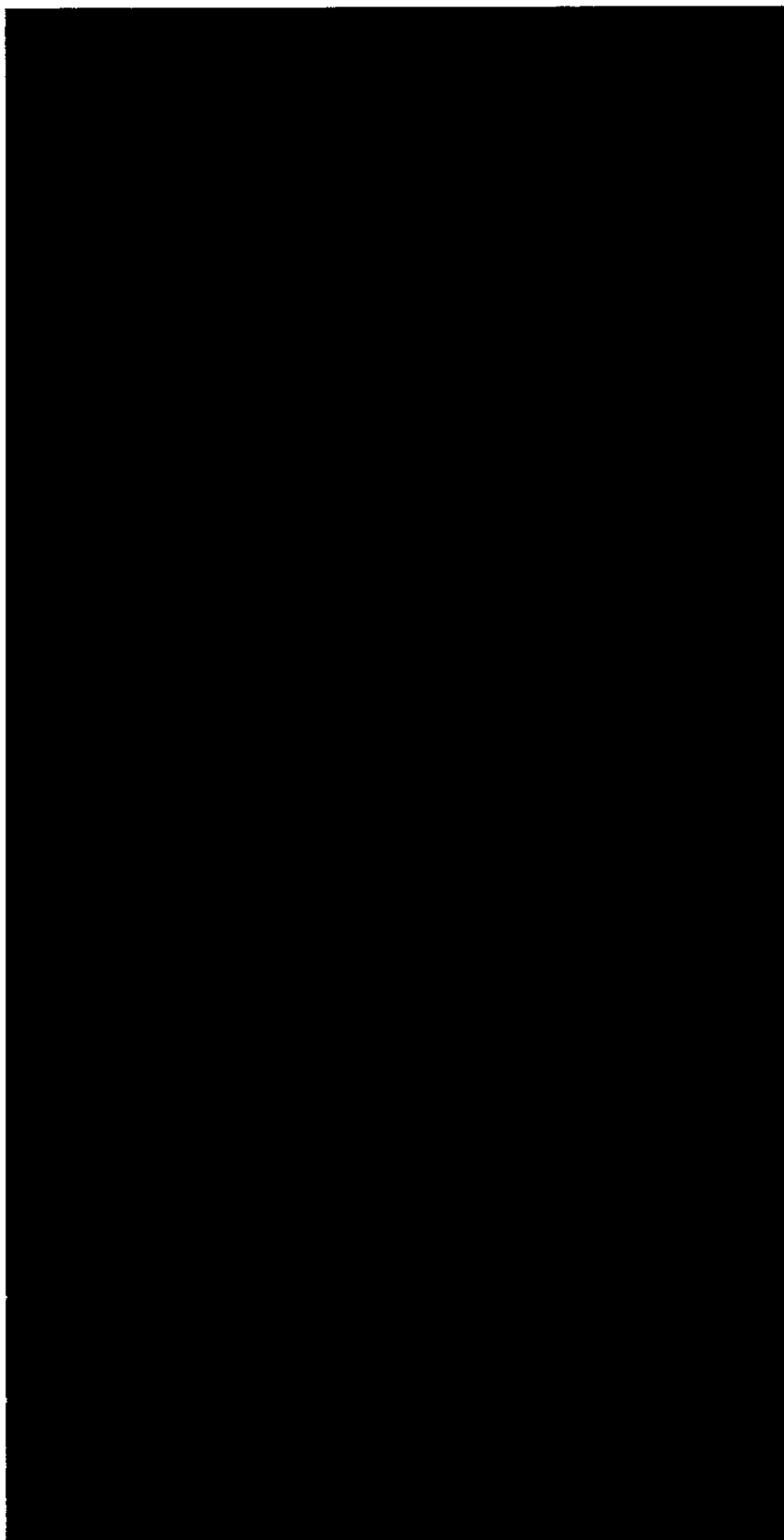
Exhibit E
to complaint



ACHE

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NEEDHAM HILLS INTERNATIONAL, INC.



NON-EXCLUSIVE LICENSE AGREEMENT

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LWR
This Non-Exclusive License Agreement (this "Agreement") is made and entered into as of the 25th day of November, 1998, by and between Cole Screenprint, Inc., a Washington Corporation, having its principal office in Tacoma, Washington (hereinafter referred to as "Licensor"), and Fascination Graphics, Inc., a Washington Corporation, having its principal office in Tukwila, Washington (hereinafter referred to as "Licensee").

RECITALS

Licensor is the owner by assignment from the inventor of United States Patent No. 5,322,578 issued June 21, 1994 for PROCESS FOR MANUFACTURING A PROTECTIVE SKIN FOR RESURFACING REUSABLE BEVERAGE CONTAINERS (hereinafter referred to as the "Licensed Patent")

Licensee desires a nonexclusive license to practice the invention disclosed and claimed by the Licensed Patent subject to the restrictions described herein, and Licensor is willing to grant such a license to Licensee on the terms and conditions described herein

AGREEMENT

NOW THEREFORE, in consideration of the promises and the mutual covenants herein contained, it is agreed by and between the parties hereto as follows

- 1 **Warranty of Title.** Licensor represents and warrants that it is the owner of the Licensed Patent, and that it has the right to grant the license described herein

- 2 **License Grant.** Licensor hereby grants to Licensee, and Licensee hereby accepts, a nonexclusive, nontransferable license to manufacture, use and sell removable covers for carafes that attach to carafes by means of tabs, velcro or magnetic strips, and that embody the invention of one or more of the claims in the Licensed Patent

- 1 -

COLE 404 Fascination License 10/98

6/2 p 788

11-27-98 04:35PM 5756324

FROM OWNER MARQUA-CT PLLC 208 343 7085

**Exhibit F
to complaint**

- 3 **License Fee** Licensee agrees to pay to Licensors a non-refundable license fee of \$10,000 in consideration of the grant of this Agreement, which payment shall be payable as follows

- 1/15/99 EWR LBO
- i) \$2,500 ~~on execution of this Agreement,~~
 - ii) \$2,500 on or before ~~February 15, 1999,~~ APRIL 15, 1999, EWR LBO
 - iii) \$2,500 on or before ~~May 15, 1999,~~ JULY 15, 1999, and EWR LBO
 - iv) \$2,500 on or before ~~August 15, 1999~~ OCT 15, 1999 EWR LBO

- 4 **Cancellation by Licensors Upon Default.** Licensors may cancel this Agreement if Licensee fails to make any payment required under this Agreement, but only if such default is not corrected within seven (7) days after written notice thereof by Licensors to Licensee. Licensors's right of cancellation shall be in addition to all other rights it may have to enforce this contract or to seek damages for breach thereof or for Licensee's infringement of the Licensed Patent.

- 5 **Termination.** Unless sooner terminated in accordance with its terms, this Agreement shall continue until the date of expiration of the Licensed Patent or any extensions, reissues, or renewals of the same

- 6 **Parties Bound By and Benefitting from this Agreement.** This Agreement and the license herein granted shall inure to the benefit of and be binding upon the parties hereto, their successors, assigns and all corporations controlled by them, except that it shall not be assignable by Licensee without written permission of Licensors, except to a successor in interest of Licensee or to a corporation at least 50% owned by Licensee

- 7 **Marking.** Licensee agrees to affix to each product a legible notice reading "Licensed under U S Patent 5,322,578"

- 8 **Notices.** All notices, requests, demands, and other communications under this

Agreement or in connection therewith shall be given to or be made upon the respective parties hereto as follows

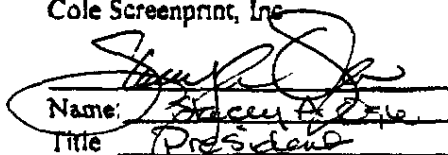
To Licensee FASCINATION GRAPHICS, INC
1130 Andover Park East
Tukwila, WA 98188

To Licensor COLE SCREENPRINT, INC
4901 Center Street
Tacoma, WA 98409-2321

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives effective as of the date first above written

LICENSOR

Cole Screenprint, Inc


Name: Tracy A. Cole
Title: President

ATTEST

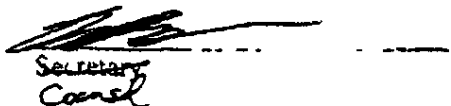

Secretary

LICENSEE

Fascination Graphics, Inc

Name: Eric W. Richards
Title: PRESIDENT

ATTEST


Secretary
Carol

G

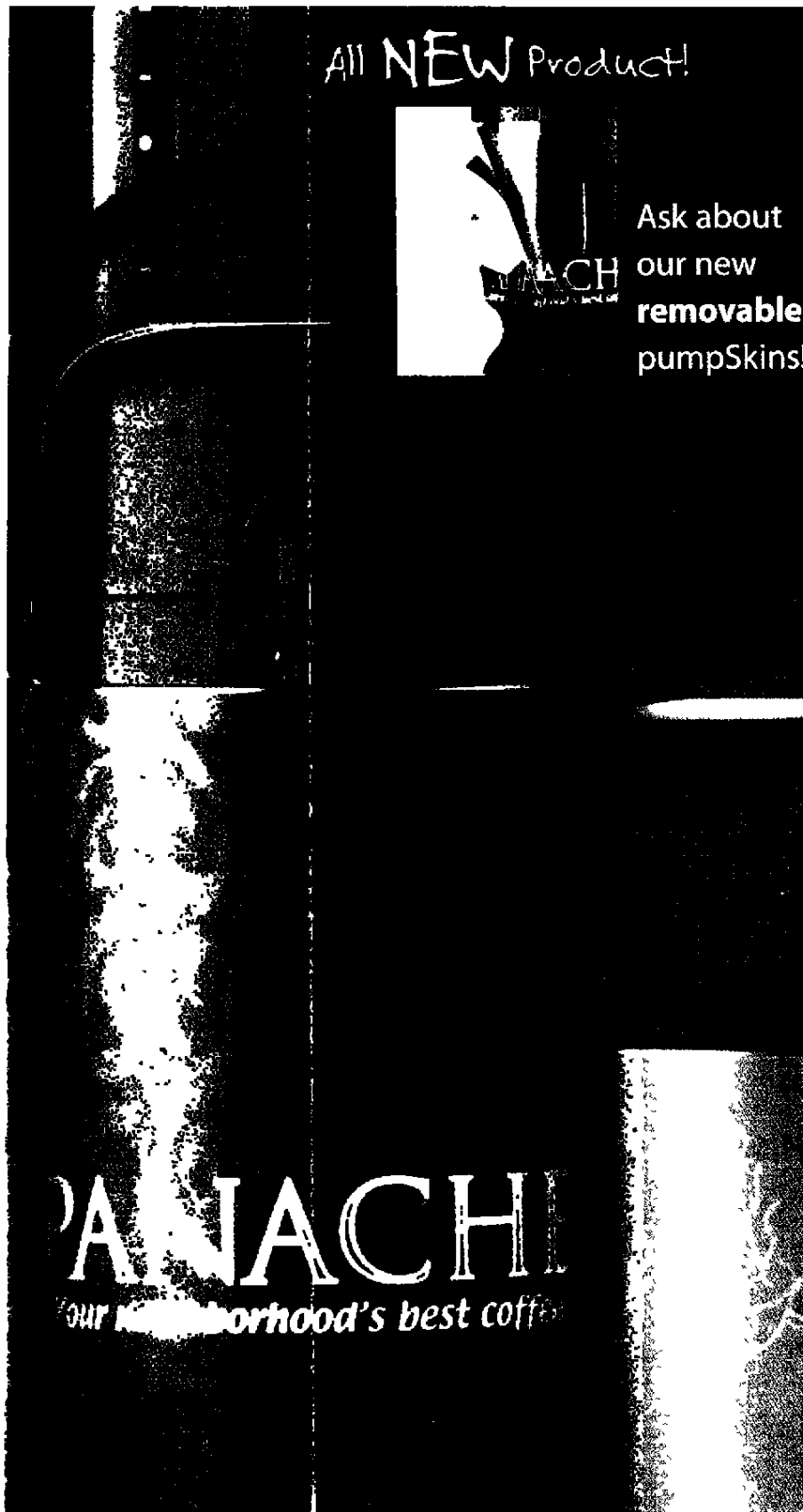
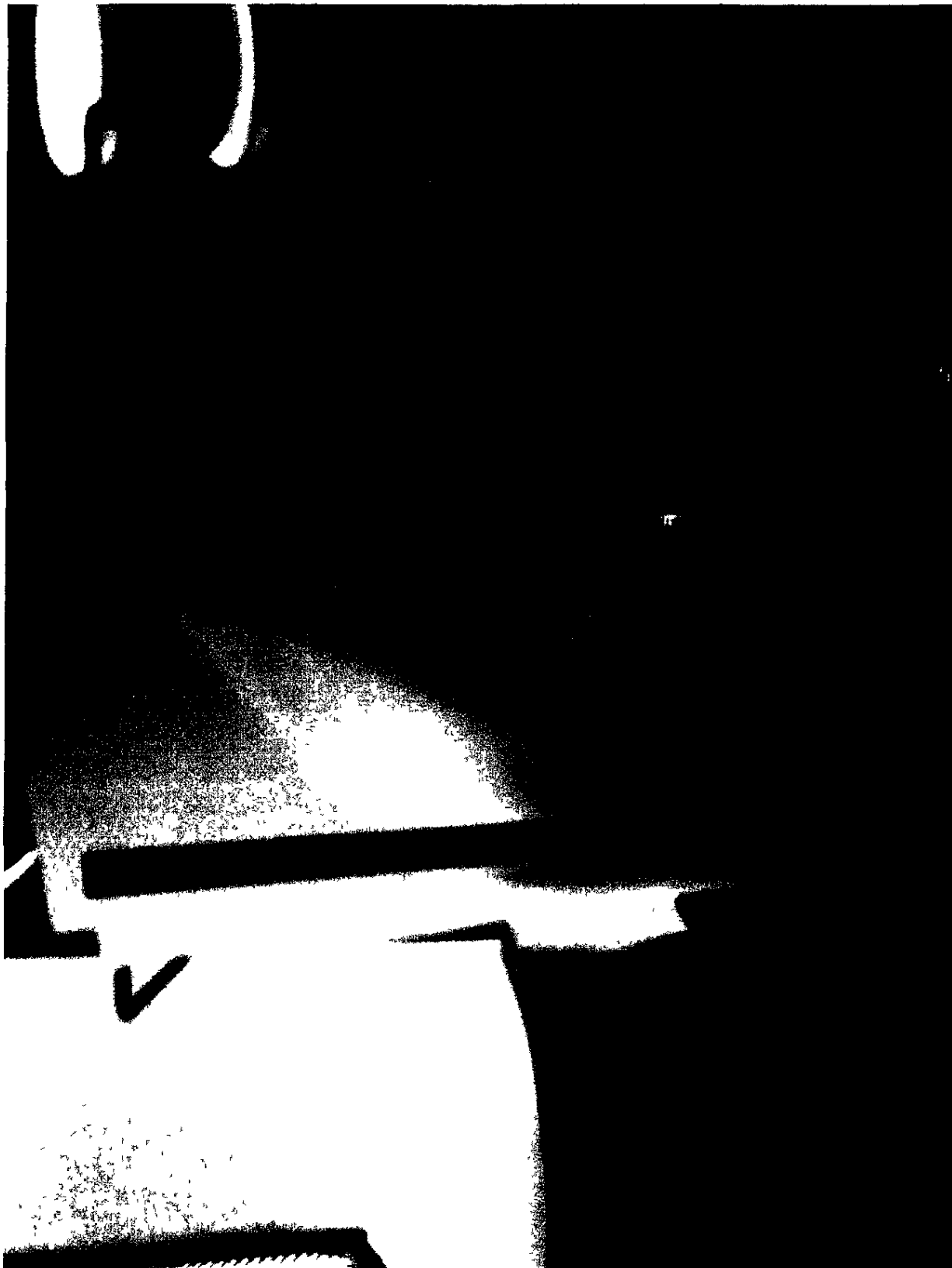


Exhibit G
to complaint



Exhibit G
to complaint

H



*Exhibit H
to Complaint*