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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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05-CV-05399-CMP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

SPLIT THE SHEETS, LLC;

Plaintiff,

v.

HILDA DILBECK individually; and "JOHN
DOE" DILBECK her husband and the marital
community composed thereof;

Defendants.

Civil Action No. **CV05-5399**

COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-INFRINGEMENT
& INVALIDITY OF PATENT

JURY TRIAL REQUESTED

Plaintiff, SPLIT THE SHEETS, LLC ("Plaintiff"), for its Complaint against the
Defendants, HILDA DILBECK ("Defendant"), avers that:

STATEMENT OF JURISDICTION AND VENUE

1. This is an action for declaratory judgment arising under the United States Patent
Laws, 35 U.S.C. §271, et seq. Plaintiff seeks a declaration that United States Patent No. 379,893
is not infringed, and is invalid and/or unenforceable. This Court has jurisdiction pursuant to 28
U.S.C. §§1331, 1338, 2201 and 2202.

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

THE PARTIES AND THEIR BUSINESS

ORIGINAL

BLACK LOWE & GRAHAM ^{PLLC}

701 Fifth Avenue, Suite 4800
Seattle, Washington 98104
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1 3. Plaintiff Split The Sheets, LLC, is a Washington corporation having its principal
2 place of business at 1432 N. Woodlawn Street, Tacoma, WA 98406.

3 4. Split The Sheets, is a leading developer and marketer of innovative bed coverings.

4 5. Upon information and belief, Defendant Hilda Dilbeck is an Oklahoma resident
5 with an address of Box 44, Ratliff City, OK 73081. All acts of Hilda Dilbeck as alleged herein
6 were done for the benefit of her marital community, which includes "John Doe" Dilbeck.

7 5. United States Patent No. 379,893 ('893 patent) entitled "UNITARY HALF
8 SHEET HALF BLANKET", was issued on June 17, 1997, and names Hilda Dilbeck as inventor.
9 A copy of the '893 patent is attached hereto as Exhibit A.

10 FIRST CLAIM FOR RELIEF

11 (Patent Non-Infringement)

12 6. Plaintiff incorporates by this reference each and every averment contained in
13 Paragraphs 1 through 6 of this Complaint as though fully set forth in this claim for relief.

14 7. Defendants have asserted by letter that the '893 patent has been infringed by Split
15 the Sheets' manufacture and sale of Split the Sheets' bed coverings. The letter is attached hereto
16 as Exhibit B.

17 8. Plaintiff has not and is not now infringing any of the claims of the '893 patent
18 because the bed coverings sold by Plaintiff are not encompassed within the scope of any claim of
19 the '893 patent.

20 9. By virtue of the matters alleged in the foregoing paragraphs of this Complaint, a
21 justiciable controversy with respect to the infringement and validity of the '893 patent has arisen
22 and does now exist between Plaintiff and Defendants.

23 SECOND CLAIM FOR RELIEF

24 (Patent Invalid and Unenforceable)

1 10. Plaintiff incorporates by this reference each and every averment contained in
2 paragraphs 1 through 11 of this complaint as though fully set forth in this claim for relief.

3 12.4. The '893 patent and each and every claim thereof is invalid and unenforceable
4 for one or more of the following reasons:

5 (a) the '893 patent is invalid and unenforceable for lack of novelty or loss of right
6 to patent under 35 U.S.C. §102;

7 (b) the '893 patent is invalid and unenforceable under 35 U.S.C. § 103 because
8 there is little, if any, difference between the subject matter of the patent and the prior art,
9 and such subject matter as a whole would have been obvious to a person having ordinary
10 skill in the art to which said subject matter pertains at the time the alleged invention was
11 made;

12 (c) the '893 patent is invalid and unenforceable under 35 U.S.C. § 112 because it
13 lacks an enabling disclosure and fails to particularly point out and distinctly claim the
14 subject matter the inventor regards as his invention.

15 RELIEF SOUGHT

16 WHEREFORE, Plaintiff requests the entry of a final judgment:

17 (a) Declaring that United States Patent No. Des. 379,893 has not been infringed by
18 Plaintiff;

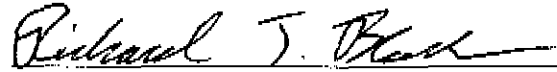
19 (b) Declaring that United States Patent No. Des. 379,893 is invalid and
20 unenforceable.

21 (c) Awarding to Plaintiff its taxable costs, its expenses and its reasonable attorneys'
22 fees incurred in connection with the prosecution of this action; and

23 (d) Granting such other and further relief as this Court may deem just and proper.
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1 RESPECTFULLY SUBMITTED this 13 day of June, 2005.

2 BLACK LOWE & GRAHAM^{PLLC}

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5 Richard T. Black, WSBA No. 20,899
6 David A. Lowe, WSBA No. 24,453
7 Attorneys for Split the Sheets, LLC.
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