Cas	e 8:15-cv-01820-JVS-DFM Document 1 File	d 11/06/15 Page 1 of 5 Page ID #:1	
1 2 3 4 5 6 7	Terrence M. Jones (Cal. Bar No. 256603) jonest@ballardspahr.com BALLARD SPAHR LLP 2029 Century Park East, Suite 800 Los Angeles, CA 90067-2909 Telephone: 424.204.4400 Facsimile: 424.204.4350 Attorneys for Plaintiff OPTIMER PERFORMANCE FIBERS, INC.		
8	UNITED STATES I	DISTRICT COURT	
9	UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA		
10 11			
11 12	OPTIMER PERFORMANCE FIBERS, INC., a Delaware corporation,	Case No. 8:15-cv-1820	
13	Plaintiff,	COMPLAINT FOR PATENT	
14	V.	INFRINGEMENT AND DEMAND	
15	BPS DIRECT, LLC, a Delaware corporation, and BASS PRO OUTDOOR WORLD, LLC, a Missouri corporation,	FOR JURY TRIAL	
16	Defendants.		
17 18	Derendants.		
10 19			
20			
20	Plaintiff OPTIMER PERFORMANCE FIBERS, INC., by and through its		
22	undersigned counsel, hereby brings this Complaint for Patent Infringement against		
23	defendant BPS DIRECT, LLC and defendant BASS PRO OUTDOOR WORLD,		
24	LLC (collectively, "Defendants") demanding a trial by jury, and alleging as follows:		
25	<u>PARTIES</u>		
26	1. Plaintiff OPTIMER PERFORMANCE FIBERS, INC. ("OPTIMER")		
27	is a Delaware corporation with its principal place of business at 300 West Adams		
28	Street, Suite 500, Chicago, Illinois 60606.		
	COMPLAINT FOR PATENT INFRINGEM	IENT AND DEMAND FOR JURY TRIAL	

2. OPTIMER is informed and believes, and on that basis alleges, that 1 Defendant BPS DIRECT, LLC is a Delaware corporation with its principal place 2 of business at 2500 E. Kearney Street, Springfield, Missouri, 65898. BPS DIRECT, 3 LLC is registered to do business in California. Its agent for service of process is 4 CT Corporation System. 5

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3. OPTIMER is informed and believes, and on that basis alleges, that Defendant BASS PRO OUTDOOR WORLD, LLC is a Missouri corporation with 7 its principal place of business at 2500 E. Kearney St., Springfield, Missouri, 65898. 8 BASS PRO OUTDOOR WORLD, LLC is registered to do business in California. 9 Its agent for service of process is CT Corporation System. 10

4. Defendants operate a store in this District at 7777 Victoria Gardens 11 Lane, Rancho Cucamonga, California 91739. OPTIMER is informed and believes, 12 and on that basis alleges, that Defendants transact business in this District, including 13 the selling and offering for sale of infringing products at least, but limited to, at the 14 above-referenced Rancho Cucamonga store, as well as and through the website 15 www.basspro.com. 16

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JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws 18 of the United States, 35 U.S.C. § 1 et seq. 19

6. The Court has jurisdiction over the subject matter of this action 20 pursuant to 28 U.S.C. §§ 1331 and 1338(a). 21

7. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b), (c), 22 and (d), and 1400(b), because: Defendants reside in this District; have committed 23 acts of infringement in this District; have a regular and established place of business 24 in this District; and have transacted business in this District, including making, using 25 offering to sell, selling, and/or having sold clothing made with fabric that infringes 26 the Patent-in-Suit. 27

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COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

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PATENT-IN-SUIT

8. United States Patent Number 5,888,914, entitled "Synthetic Fiber
 Fabrics With Enhanced Hydrophilicity And Comfort" (hereinafter, "the '914
 Patent") was duly and legally issued by the United States Patent and Trademark
 Office on March 30, 1999. A true and correct copy of the '914 Patent is attached
 hereto as Exhibit 1.

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9. OPTIMER is the assignee of all rights in the '914 Patent.

8 10. The '914 Patent covers, *inter alia*, a spun yarn consisting essentially
9 of about 85 to 90 weight % of a single hydrophobic fiber component and about
10 to 15 weight % of hydrophilic fiber.

11 11. To the extent necessary, OPTIMER has complied with the marking
12 requirements of 35 U.S.C. § 287 for all time periods relevant to Defendants'
13 infringement.

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DEFENDANTS' WILLFUL INFRINGEMENT

15 12. OPTIMER is informed and believes, and on that basis alleges, that
16 Defendants make, use, sell, offer for sale, and import clothing made from fabric that
17 infringes the '914 Patent.

18 13. By way of example, Defendants make, use, sell, offer for sale, and,
19 on information and belief, import products such as the "Ascend Long-Sleeve Trail
20 T-Shirt for Ladies," which is available at — http://www.basspro.com/Ascend21 LongSleeve-Trail-TShirt-for-Ladies/product/15021808221411/ — that infringe the
22 '914 Patent.

14. Defendants have been on notice of their infringement of the '914 Patent
since at least October 1, 2015, when counsel for OPTIMER sent a letter to
Defendants informing them of the same.

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COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

1 15. In good faith, and demonstrating considerable patience, OPTIMER
 2 has communicated with Defendants in an effort to reach an amicable resolution to
 3 this matter on very reasonable terms. Defendants have refused to license the '914
 4 Patent.

FIRST CAUSE OF ACTION

Infringement of United States Patent Number 5,888,914

7 16. OPTIMER repeats and realleges the allegations of paragraphs 1-15,
8 above, as if fully set forth herein.

9 17. OPTIMER is the assignee and owner of all rights, title, and interests
10 in and to the '914 Patent, now and for the entire period of, and relevant to,
11 the infringement, including the right to assert all causes of action arising under
12 the '914 Patent.

13 18. Defendants are, and have been, on notice of the '914 Patent since prior14 to the filing of this lawsuit.

15 19. Defendants have been, and continue to, directly infringe, literally
and/or under the doctrine of equivalents, the '914 Patent under 35 U.S.C. § 271.

20. Defendants' infringement of the '914 Patent has been willful.

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PRAYER FOR RELIEF

WHEREFORE, OPTIMER respectfully requests that the Court enter ajudgment in its favor as follows:

a. Declaring that Defendants have infringed United States Patent
Number 5,888,914;

b. Awarding OPTIMER damages adequate to compensate for
Defendants' infringing activities, including supplemental damages for any postverdict infringement up until entry of the final judgment with an accounting as
needed, together with prejudgment and post-judgment interest on the damages
awarded; all of these damages to be enhanced in an amount up to treble the amount
of compensatory damages as justified under 35 U.S.C. § 284;

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1	b. Declaring that this case is exceptional under 35 U.S.C. § 285	
2	and awarding OPTIMER its reasonable costs and expenses of litigation, including	
3	attorneys' and experts' fees; and	
4	d. Awarding OPTIMER such other and further relief as the Court	
5	may deem just and proper.	
6	JURY DEMAND	
7	OPTIMER demands a trial by jury as to all claims and all issues properly	
8	triable thereby.	
9	DATED: November 6, 2015 BALLARD SPAHR LLP	
10	/s/Tamanaa M. Janas	
11	/s/ Terrence M. Jones Terrence M. Jones	
12	Attorneys for Plaintiff OPTIMER PERFORMANCE FIBERS,	
13	INC.	
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