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6 Attorneys for Plaintiff Privacy Pop, LLC

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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION**

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11 **Privacy Pop, LLC, a California**  
**Limited Liability Company**

12  
13 **Plaintiff,**

14 **vs.**

15 **Marketfleet, Inc, a Delaware**  
**Corporation**  
16 **d/b/a Winterial; and Does 1- 10,**

17 **Defendants.**

**Case No.: 8:17-cv-00299**

**Plaintiff’s Complaint for Patent  
and Trademark Infringement**

**Jury Trial Demanded**

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19 Plaintiff Privacy Pop, LLC (“Plaintiff”) complains and alleges as follows  
20 against Defendant Marketfleet, Inc., d/b/a Winterial.com (“Defendant”).  
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**THE PARTIES**

1  
2 1. Plaintiff Privacy Pop, LLC is a California limited liability company  
3 having an address at 1919 Alton Parkway, Irvine, CA 92606. Plaintiff is a  
4 manufacturer and seller of bed tents. See [privacypop.com](http://privacypop.com).

5  
6 2. Upon information and belief, Defendant Marktetfleet, Inc. is a  
7 corporation organized under the laws of the State of Delaware, having an address at  
8 411 Main Street, Suite 101, Chico CA 95928. Defendant sells outdoor products,  
9 including tents at [www.winterial.com](http://www.winterial.com).

10  
11 3. Plaintiff is ignorant of the true names and capacities of Doe Defendants  
12 1-10, inclusive, and therefore sues them by such fictitious names. Plaintiff will amend  
13 this complaint to allege their true names and capacities when they are ascertained.

14  
15 **JURISDICTION AND VENUE**

16 4. This action arises under the patent and trademark laws of the United  
17 States, 35 USC § 271 *et seq* and 15 USC § 1051 *et seq*.

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19 5. This Court also has subject matter jurisdiction for this action under 28  
20 USC § 1331 and 28 USC § 1338(a), in that it raises federal questions and relates to  
21 patents and trademarks.

22  
23 6. Venue is proper in this district under 28 USC §§ 1391(b) (2) and 1400(b),  
24 because a substantial part of the events giving rise to the claim occurred here and  
25 because Defendant committed acts of infringement in this district.





1 18. Plaintiff is being irreparably damaged by Defendant infringing the  
2 D681,146 patent, entitling Plaintiff to injunctive relief.

3  
4 19. Defendant's willful infringement of the D681,146 patent, among other  
5 factors, renders this case exceptional within the meaning of 35 U.S.C. § 285.

6  
7 **SECOND CAUSE OF ACTION**

8 **Federal Trademark Infringement Under Lanham Act 15 USC §1114**

9 20. Plaintiff repeats and re-alleges the allegations set forth in paragraphs 1-19  
10 as though set forth herein.

11  
12 21. Defendant's use of the PRIVACY POP® mark constituted trademark  
13 infringement, including using the registered mark in connection with the sale, offering  
14 for sale and distribution of essentially identical goods, that is likely to cause confusion  
15 or mistake.

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17 22. Upon information and belief, Defendant's acts were willful and in  
18 conscious disregard of Plaintiff's trademark rights in the PRIVACY POP® mark.

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20 23. As a proximate result of Defendant's conduct, as alleged herein, Plaintiff  
21 was damaged in an amount to be proven at trial.

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23 24. Any continued use of the PRIVACY POP® mark will cause irreparable  
24 harm to Plaintiff and its rights.

25  
26 25. Defendant's willful infringement , and other facts, render this an  
28 exceptional case pursuant to 15 USC § 1117(a).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that the Court enter Judgment against Defendant including:

A. a finding that Defendant infringed the D681,146 patent;

B. a finding Defendants infringed the PRIVACY POP® mark;

C. an order permanently enjoining and prohibiting Defendant and its owners, officers, directors, agents, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns, from further acts of infringement of the asserted design patent, including sales, offers to sell and/or importing of the Winterial Privacy Bed Tent or colorable imitations;

D. a preliminary and permanent injunction enjoining and prohibiting Defendant and its owners, officers, directors, agents, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns, from using the PRIVACY POP® trademark, or the words “privacy pop” or colorable imitations thereof in relation to bed tents, in connection with the marketing, promotion or sale of any such products;

E. awarding Plaintiff all damages adequate to compensate for Defendant’s infringement of the asserted patent, and lost profits if available;

F. awarding Plaintiff all damages adequate to compensate for Defendant’s infringement of the PRIVACY POP® trademark, and lost profits if available;

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G. awarding Plaintiff treble damages, based on any infringement found to be willful, pursuant to 35 USC § 284 and/or 15 USC § 1117(b), together with prejudgment interest;

H. declaring this case to be exceptional and awarding Plaintiff its reasonable attorneys fees pursuant to 35 USC § 285 and/or 15 USC § 1117(a); and

J. such other and further relief as this Court deems just and proper.

DATED: February 17, 2017

Respectfully Submitted,

LAUSON & TARVER LLP

By: /s/ Robert J. Lawson  
Robert J. Lawson, Esq.  
Attorney for Plaintiff  
Privacy Pop, LLC

**DEMAND FOR JURY TRIAL**

Plaintiff hereby requests a trial by jury on all claims so triable.

DATED: February 17, 2017

Respectfully Submitted,

LAUSON & TARVER LLP

By: /s/ Robert J. Lawson  
Robert J. Lawson, Esq.  
Attorney for Plaintiff  
Privacy Pop, LLC

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