

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

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Magnolia and Vine Inc.

Plaintiff,

Civil No. 17-cv-04382 JNE/DTS

v.

Tapestry, Inc. and Kate Spade, LLC

Defendants

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**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

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Plaintiff Magnolia and Vine Inc. (“M&V”), pursuant to Fed. R. Civ. P. 15(a)(1)(B) for its First Amended Complaint against Defendants Tapestry, Inc., formerly known as Coach, Inc. (“Coach”) and Kate Spade, LLC (“Kate Spade”) states and alleges as follows:

1. Plaintiff M&V is a Minnesota corporation with its principal place of business at 15300 Minnetonka Industrial Road, Minnetonka, MN 55343. M&V designs and sells a variety of fashion accessories including jewelry, sunglasses, footwear, caps, mittens and gloves. M&V also sells purses, handbags, wallets and a collection of handbags adapted to be used with a wide variety of accent covers, tassels and straps purchased by M&V’s customers to customize the look of the handbags.

2. Defendant Coach is a Maryland corporation having its principal place of business at 10 Hudson Yards, New York, NY 10001. Coach sells premium handbags and lifestyle accessories.

3. Defendant Kate Spade is a Delaware limited liability company having its principal place of business at 2 Park Avenue, New York, NY 10016.

4. According to a Form 10-K filed by Coach with the United States Securities and Exchange Commission for the fiscal year ending July 1, 2017 (“the Coach SEC Filing”), a true and correct copy of which is attached as Exhibit 1, on July 11, 2017, Coach, Inc. completed its acquisition of Kate Spade for \$18.50 per share in cash for a total of \$2.4 billion.” Exhibit 1, p. 3. “Coach owns all of the material worldwide trademark rights used in connection with the production, marketing, distribution and sale of all branded products for Coach, Stuart Weitzman and Kate Spade, which Coach acquired on July 11, 2017.” Exhibit 1, p. 9. (Emphasis added).

5. Coach is currently integrating Kate Spade with Coach and, as stated in the Coach SEC Filing:

- “estimates that it will incur costs in the range of \$150 - \$200 million related to Kate Spade integration in fiscal 2018, which include severance, store closure costs and inventory realignment”;
- “continues to fully develop its integration plan”;
- “expects to incur approximately \$60 million of severance and other costs related to agreements with certain Kate Spade executives”;

- “These contractual obligations were created subsequent to July 1, 2017.”

Exhibit 1, p. 48.

6. Kate Spade is now operated by and under the managerial control of Coach.

According to the Coach SEC Filing:

As a result, Kate Spade has become a wholly owned subsidiary of Coach, Inc. The combination of Coach, Inc. and Kate Spade & Company creates a leading New York based luxury lifestyle company with a more diverse multi-brand portfolio supported by significant expertise in handbag design, merchandising, supply chain and retail operations as well as solid financial acumen.

Exhibit 1, p. 93. Kate Spade and Coach are collectively referred to herein as “Defendants”.

### **JURISDICTION AND VENUE**

7. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281-285.

8. This Court has jurisdiction over the subject matter of M&V’s claims pursuant to 28 U.S.C. §§ 1331 and 1338.

9. This Court has personal jurisdiction over Coach because Coach regularly conducts business in Minnesota at its retail stores in Roseville, MN; Edina, MN; Minnetonka, MN; Bloomington, MN; Eagan, MN; and at other retail locations in Minnesota. Coach has also engaged in acts of patent infringement in violation of patent rights held by M&V in the United States and in the District of Minnesota. Coach has purposely and intentionally subjected itself to the privileges of doing business in the State

of Minnesota by placing its goods in the stream of commerce with the intent that they would be sold in Minnesota. Coach has exercised control over the offering for sale and sale, and has participated in the promotion and sale, in the State of Minnesota of products which infringe patents owned by M&V.

10. Venue is proper under 28 U.S.C. § 1400, as to Coach, because Coach has committed acts of infringement in this district, and has a regular and established place of business in this district.

11. This Court has personal jurisdiction over Kate Spade because Kate Spade regularly conducts business in Minnesota at its retail stores in Edina, MN; Bloomington, MN; Albertville, MN; and at other retail locations in Minnesota. Kate Spade has also engaged in acts of patent infringement in violation of patent rights held by M&V in the United States and in the District of Minnesota. Kate Spade has purposely and intentionally subjected itself to the privileges of doing business in the State of Minnesota by placing its goods in the stream of commerce with the intent that they would be sold in Minnesota. Kate Spade has offered for sale and sold products in the State of Minnesota which infringe patents owned by M&V.

12. Venue is proper under 28 U.S.C. § 1400, as to Kate Spade, because Kate Spade has committed acts of infringement in this district and has a regular and established place of business in this district.

### **THE PATENTS-IN-SUIT**

13. On or about April 6, 2010, U.S. Design Patent No. D613,062 S, entitled “Interchangeable Handbag Cover” (“the ‘062 Patent”) was granted by the United States

Patent and Trademark Office (“USPTO”) to Miche Bag, LLC based upon an invention made by Michelle Romero, Annette B. Cavaness, and Christian J. Seegmiller and disclosed in U.S. Patent Application Serial No. 29/350,547. A true and correct copy of the ‘062 Patent is attached as Exhibit 2.

14. On or about May 10, 2011, U.S. Design Patent No. D637,399 S, entitled “Interchangeable Handbag Cover”, (“the ‘399 Patent”) was granted by the USPTO to Miche Bag, LLC based upon an invention made by Michelle Romero, Annette B. Cavaness, and Christian J. Seegmiller and disclosed in U.S. Patent Application Serial No. 29/367,212. A true and correct copy of the ‘399 Patent is attached as Exhibit 3.

15. On or about March 16, 2010, U.S. Design Patent No. D611,705 S, entitled “Handbag”, (“the ‘705 Patent”) was granted by the USPTO to Miche Bag, LLC based upon an invention made by Michelle Romero, Annette B. Cavaness, and Christian J. Seegmiller and disclosed in U.S. Patent Application Serial No. 29/350,549. A true and correct copy of the ‘705 Patent is attached as Exhibit 4.

16. On or about May 3, 2011, U.S. Design Patent No. D636,988 S, entitled “Handbag With Interchangeable Handbag Cover”, (“the ‘988 Patent”) was granted by the USPTO to Miche Bag, LLC based upon an invention made by Michelle Romero, Annette B. Cavaness, and Christian J. Seegmiller and disclosed in U.S. Patent Application Serial No. 29/367,225. A true and correct copy of the ‘988 Patent is attached as Exhibit 5.

17. On or about May 17, 2011, U.S. Design Patent No. D637,810 S, entitled “Handbag With Interchangeable Handbag Cover”, (“the ‘810 Patent”) was granted by the USPTO to Miche Bag, LLC based upon an invention made by Michelle Romero, Annette

B. Cavaness, and Christian J. Seegmiller and disclosed in U.S. Patent Application Serial No. 29/367,232. A true and correct copy of the '810 Patent is attached as Exhibit 6.

18. On or about May 31, 2011, U.S. Design Patent No. D638,627 S, entitled "Handbag With Interchangeable Handbag Cover", ("the '627 Patent") was granted by the USPTO to Miche Bag, LLC based upon an invention made by Michelle Romero, Annette B. Cavaness, and Christian J. Seegmiller and disclosed in U.S. Patent Application Serial No. 29/367,215. A true and correct copy of the '627 Patent is attached as Exhibit 7.

19. On or about October 15, 2014, Miche Bag, LLC executed an Intellectual Property Assignment Agreement assigning its entire right, title and interest in and to the '062 Patent, the '399 Patent, the '705 Patent, the '988 Patent, the '810 Patent, and the '627 Patent to Fifth Street Finance Corp. A true and correct copy of this Intellectual Property Assignment Agreement is attached as Exhibit 8. This Intellectual Property Assignment Agreement was recorded in the U.S. Patent and Trademark Office on or about November 7, 2014 beginning at REEL 034193/FRAME 0195.

20. Also on or about October 15, 2014, Fifth Street Finance Corp. executed an Intellectual Property Assignment Agreement assigning its entire right, title and interest in and to the '062 Patent, the '399 Patent, the '705 Patent, the '988 Patent, the '810 Patent, and the '627 Patent to Miche Properties, LLC. A true and correct copy of this Intellectual Property Assignment Agreement is attached as Exhibit 9. This Intellectual Property Assignment Agreement was recorded in the U.S. Patent and Trademark Office on or about November 8, 2014 beginning at REEL 034131/FRAME 0606.

21. On or about December 1, 2015, U.S. Patent No. 9,198,489 B2, entitled “Systems and Methods for Customizing Handbags”, (“the ‘489 Patent”) was granted by the USPTO to Miche Properties, LLC based upon an invention made by Michelle Romero, Annette B. Cavaness, and Christian J. Seegmiller. A true and correct copy of the ‘489 Patent is attached as Exhibit 10.

22. On or about April 7, 2016, Miche Properties, LLC sold, assigned and transferred to M&V the ‘062 Patent, the ‘399 Patent, the ‘705 Patent, the ‘988 Patent, the ‘810 Patent, the ‘627 Patent, and the ‘489 Patent, together with other patents and then pending patent applications. A true and correct copy of the “Assignment of Patent Rights” reflecting this sale, assignment and transfer is attached as Exhibit 11. This “Assignment of Patent Rights” was recorded in the USPTO on or about April 14, 2016 at REEL 038283/FRAME 0126. M&V is now the owner of the ‘062 Patent, the ‘399 Patent, the ‘705 Patent, the ‘988 Patent, the ‘810 Patent, the ‘627 Patent, and the ‘489 Patent.

### **DEFENDANTS’ INFRINGING PRODUCTS**

23. Defendants are offering for sale and selling in, importing into the United States, and otherwise distributing convertible handbags and covers that infringe the ‘062 Patent, the ‘399 Patent, the ‘705 Patent, the ‘988 Patent, the ‘810 Patent, the ‘627 Patent, and the ‘489 Patent. Defendants are doing so without the permission or consent of M&V. By way of example and without limitation, Defendants sell products infringing each of these patents as part of their “Make it Mine Candace” collection offered under the Kate Spade trademark. On information and belief, the sales are made by Kate Spade, but

controlled by Coach because Coach, as the owner of the trademark, now controls the products advertised and sold under that trademark. Sales of such infringing products are being made by Defendants via Defendants' websites, and more specifically the website [www.katespade.com](http://www.katespade.com) which is linked to the website [www.coach.com](http://www.coach.com). Such links are present on the very webpages where the infringing products are advertised and sold. The infringing products are also sold in Kate Spade physical stores located in Minnesota. Management of these physical stores is now ultimately under the control of Coach.

24. On or about August 2, 2017, counsel for M&V sent a first letter to both Kate Spade and to Coach advising Defendants of M&V's patent rights, specifically identifying the convertible handbags and covers offered by Defendants under the "Make it Mine Byrdie" and "Make it Mine Candace" collection names, and providing in an attachment a comparison of claim 1 of the '489 Patent to products from the "Make it Mine Candace" collection. The letter requested a meeting "to explore ... further the mutually beneficial opportunities surrounding M&V's patent rights." Attached as Exhibit 12 is a true and correct copy of this first letter, together with the attachment comparing claim 1 of the '489 Patent to products from the "Make it Mine Candace" collection. The letter was delivered the next day to both Coach and Kate Spade.

Attached as Exhibits 13 and 14 are true and correct copies of the delivery confirmations received from Federal Express. No response to this letter was received so a second letter was sent to both Coach and Kate Spade on August 22, 2017. A true and correct copy of this second letter is attached as Exhibit 15. To date, no response has been received related to either the first or the second letter.



25. Claim 1 of the '489 Patent is directed to "A handbag kit configured for customizing a handbag." The photos below show some of the components of such a kit sold by Defendants as part of the "Make it Mine Candace" collection.



26. Claim 1 of the '489 Patent further requires "a base handbag having a substantially triangular cross section, the base handbag having two opposing ends and two opposing sides, the two opposing sides being able to pivotally extend toward or away from each other". The photos below show such a base handbag from the "Make it Mine Candace" collection.



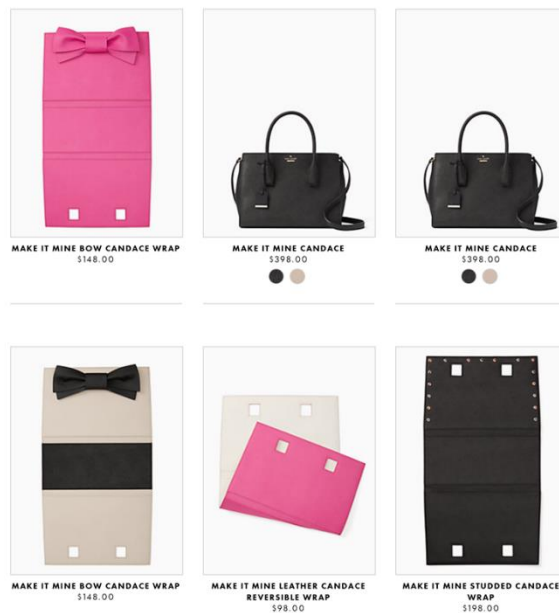
27. Claim 1 of the '489 Patent further requires “a plurality of releasable clips attached to an upper portion of the base handbag”. Such clips are shown in the photo below of a base handbag from the “Make it Mine Candace” collection.



28. Claim 1 of the '489 Patent next requires “a plurality of handles configured for releasable attachment to the releasable clips”. The photos below show such handles used in conjunction with a base handbag from the “Make it Mine Candace” collection.



29. Claim 1 of the ‘489 Patent further requires “a plurality of tri-fold handbag covers, each handbag cover being configured to fold about and attract to the base handbag as each cover is moved toward contact with the base handbag, wherein each of the handbag covers comprises at least one surface with a different aesthetic design, each handbag cover also being configured to be able to lie substantially flat.” The photo below shows a plurality of such covers included in the “Make it Mine Candace” collection. Others are also offered by Defendants.



The photos below show one such cover folded about and attracted to the base handbag (left) and the same cover lying flat (right).



30. Claim 1 of the '489 Patent continues by requiring “a plurality of magnet fastener elements attached to at least one of the base handbag and each handbag cover”. At least four magnetic fastener elements are attached to the base handbag from the “Make it Mine Candace” collection shown in the photo below. And at least four magnetic fastener elements are attached to the handbag cover also shown in the photo below.



31. Claim 1 of the '489 Patent next requires “wherein attachment of any of the plurality of handbag covers changes the aesthetic design of the base handbag from one handbag cover to the next.” Substitution of one cover for another cover of the “Make it Mine Candace” collection changes the aesthetic design of the base handbag.

32. Claim 1 of the '489 Patent concludes by requiring “wherein each of the magnet fastener elements is hidden from view after attachment of a handbag cover to the base handbag.” The magnetic fastener elements of the base handbag shown below from the “Make it Mine Candace” collection are sandwiched between layers of material forming the sides of the base handbag and are, thus, hidden from view. Likewise, the magnetic fastener elements of the handbag covers of the “Make it Mine Candace” collection are sandwiched between the material forming the sides of the handbag covers and are, thus, hidden from view.



**COUNT 1: INFRINGEMENT OF THE '489 PATENT**

33. The allegations of Paragraphs 1-32 of the Complaint are realleged and incorporated herein by reference.

34. M&V is the sole owner of the '489 Patent.

35. Defendants have directly infringed and continue to directly infringe the '489 Patent by offering for sale and selling in the United States and within this judicial district and either making within the United States or importing into the United States, without authorization from M&V, convertible handbags and covers they offer for sale and sell comprising kits covered by the '489 Patent.

36. Defendants' actions of direct infringement have caused and will continue to cause irreparable harm to M&V unless enjoined.

37. Defendants have also actively induced infringement under 35 U.S.C. §271(b). Defendants intended their customers to infringe the '489 patent, and knew that the acts of their customers who purchased and then used the "Make it Mine Candace" collection products constituted infringement of the '489 patent.

38. At least as early as about August 3, 2017 Defendants had knowledge of the '489 because on that day each of them received a copy of the letter of Exhibit 12 together with the attachment to that letter comparing claim 1 of the '489 Patent to products from the "Make it Mine Candace" collection. See Exhibits 13 and 14. Based at least upon the contents of that letter, Defendants knew that the use of the "Make it Mine Candace" collection by Defendants' customers constitutes infringement of the '489 patent.

39. Despite receipt of Plaintiff's August 3, 2017 letter, the Defendants continued (and still continues) to advertise, promote and sell products in the "Make it Mine Candace" collection with the intent and knowledge that use by Defendants' customers of such products constitutes infringement of the '489 patent by Defendants' customers.

40. Defendants had specific intent to encourage infringement of the '489 patent by Defendants' customers. This specific intent is demonstrated by Defendants' (a) failure to stop its infringing conduct after receipt of the letter Exhibit 12, (b) failure to provide any response to the letter of Exhibit 12, (c) adding products to the "Make it Mine Candace" collection after receipt of the letter of Exhibit 12, (d) maintaining on and adding to a website (<https://www.katespade.com>) after receipt of the letter of Exhibit 12 photos and other images showing how to make infringing use of products from the "Make it Mine Candace" collection, (e) maintaining on and adding to this website after receipt of the letter of Exhibit 12 instructions encouraging infringing use of products from the "Make it Mine Candace" collection, (f) maintaining on and adding to this website after receipt of the letter of Exhibit 12 numerous links to a video showing how to make infringing use of products from the "Make it Mine Candace" collection, (g) maintaining on the YouTube website (at <https://youtu.be/qzLqwcF7S5w>) a video adjacent the heading "*how to customize your bag: the candace satchel #makeitmine | kate spade new york*" demonstrating infringing use of products from the "Make it Mine Candace" collection. These and other acts of Defendants were undertaken with knowledge of the patents, that use of the products by the customers as instructed by Defendants, and with

the specific intent that the customers buy the products and use them in a manner that infringes.

41. The “Make it Mine Candace” collection products are highly profitable. When advertising and promoting the “Make it Mine Candace” collection on their webpages and elsewhere, Defendants encouraged their customers to buy at least one of the satchels in the collection and purchase a few easy-to-use magnetized wraps. (“...purchase a few of our easy-to-use magnetized wraps (available in colored leather, chic patterns and luxe textures) and one bag can feel like an entire accessory wardrobe.”) This, together with Defendants’ knowledge of the ‘489 patent and how it covers the products, is further indicia of specific intent on the part of Defendants to knowingly induce infringement and that Defendants possessed specific intent to encourage their customers to infringe.

42. Since at least as early as about August 3, 2017, Defendants infringing activities related to the ‘489 Patent have been willful because they were aware of the ‘489 Patent, but nonetheless acted despite an objectively high likelihood that that their actions constituted infringement of a valid patent.

43. Defendants had knowledge of M&V’s patent rights at least as early as August 3, 2017. Counsel for M&V sent a letter to both Defendants advising them of M&V’s patent rights, and specifically identifying the convertible handbags and covers offered by Defendants under the “Make it Mine Byrdie” and “Make it Mine Candace” collection names, and providing a comparison of claim 1 of the ‘489 Patent to products from the “Make it Mine Candace” collection.” Plaintiff sent a follow-up letter to



Defendants on August 22, 2017. No response to either letter was received by Plaintiff from Defendant.

44. Despite receiving the aforementioned letters, Defendants did not abate their infringement. Instead, they continued their infringing activities both in terms of direct infringement and in terms of inducing their customers to infringe.

45. After receipt of Plaintiff's August 2, 2017 letter, Defendants continued to infringe, and induce their customers to infringe, despite an objectively high likelihood that their actions constituted infringement of a valid patent. Such actions have continued, unabated, in callous disregard of Plaintiff's rights, both before the filing and service of the Complaint in this case and thereafter.

#### **COUNT 2: INFRINGEMENT OF THE '062 PATENT**

46. The allegations of Paragraphs 1-45 of the Complaint are realleged and incorporated herein by reference.

47. M&V is the sole owner of the '062 Patent.

48. Defendants have infringed and continue to infringe the '062 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from M&V, interchangeable handbag covers substantially the same as the design illustrated in the '062 Patent. The resemblance between Defendants' interchangeable handbag covers and the patented design shown in the '062 Patent is such to permit an ordinary observer to purchase Defendants' unauthorized handbag covers, supposing them to be the patented handbag covers.

49. Defendants' actions have caused and will continue to cause irreparable harm to M&V unless enjoined.

**COUNT 3: INFRINGEMENT OF THE '399 PATENT**

50. The allegations of Paragraphs 1-49 of the Complaint are realleged and incorporated herein by reference.

51. M&V is the sole owner of the '399 Patent.

52. Defendants have infringed and continue to infringe the '399 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from M&V, interchangeable handbag covers substantially the same as the design illustrated in the '399 Patent. The resemblance between Defendants' interchangeable handbag covers and the patented design shown in the '399 Patent is such to permit an ordinary observer to purchase Defendants' unauthorized handbag covers, supposing them to be the patented handbag covers.

53. Defendants' actions have caused and will continue to cause irreparable harm to M&V unless enjoined.

**COUNT 4: INFRINGEMENT OF THE '705 PATENT**

54. The allegations of Paragraphs 1-53 of the Complaint are realleged and incorporated herein by reference.

55. M&V is the sole owner of the '705 Patent.

56. Defendants have infringed and continue to infringe the '705 Patent by offering for sale and selling in the United States and within this judicial district and

importing into the United States, without authorization from M&V, handbags substantially the same as the design illustrated in the '705 Patent. The resemblance between Defendants' handbags and the patented design shown in the '705 Patent is such to permit an ordinary observer to purchase Defendants' unauthorized handbags, supposing them to be the patented handbags.

57. Defendants' actions have caused and will continue to cause irreparable harm to M&V unless enjoined.

#### **COUNT 5: INFRINGEMENT OF THE '988 PATENT**

58. The allegations of Paragraphs 1-57 of the Complaint are realleged and incorporated herein by reference.

59. M&V is the sole owner of the '988 Patent.

60. Defendants have infringed and continue to infringe the '988 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from M&V, handbags with interchangeable handbag covers substantially the same as the design illustrated in the '988 Patent. The resemblance between Defendants' handbags with interchangeable handbag covers and the patented design shown in the '988 Patent is such to permit an ordinary observer to purchase Defendants' unauthorized handbags with interchangeable handbag covers, supposing them to be the patented handbags with interchangeable handbag covers.

61. Defendants' actions have caused and will continue to cause irreparable harm to M&V unless enjoined.

**COUNT 6: INFRINGEMENT OF THE '810 PATENT**

62. The allegations of Paragraphs 1-62 of the Complaint are realleged and incorporated herein by reference.

63. M&V is the sole owner of the '810 Patent

64. Defendants have infringed and continue to infringe the '810 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from M&V, handbags with interchangeable handbag covers substantially the same as the design illustrated in the '810 Patent. The resemblance between Defendants' handbags with interchangeable handbag covers and the patented design shown in the '810 Patent is such to permit an ordinary observer to purchase Defendants' unauthorized handbags with interchangeable handbag covers, supposing them to be the patented handbags with interchangeable handbag covers.

65. Defendants' actions have caused and will continue to cause irreparable harm to M&V unless enjoined.

**COUNT 7: INFRINGEMENT OF THE '627 PATENT**

66. The allegations of Paragraphs 1-65 of the Complaint are realleged and incorporated herein by reference.

67. M&V is the sole owner of the '627 Patent.

68. Defendants have infringed and continue to infringe the '627 Patent by offering for sale and selling in the United States and within this judicial district and importing into the United States, without authorization from M&V, interchangeable handbag covers substantially the same as the design illustrated in the '627 Patent. The resemblance between Defendants' handbags with interchangeable handbag covers and the patented design shown in the '627 Patent is such to permit an ordinary observer to purchase Defendants' unauthorized handbags with interchangeable handbag covers, supposing them to be the patented handbags with interchangeable handbag covers.

69. Defendants' actions have caused and will continue to cause irreparable harm to M&V unless enjoined.

#### **DEMAND FOR JUDGEMENT**

WHEREFORE, Plaintiff M&V prays for judgment as follows:

- (a) In favor of M&V and against Defendants on all counts of the Complaint.
- (b) Preliminarily and permanently enjoining and restraining Defendants, their officers, directors, agents, servants, employees, attorneys, affiliated companies and all others acting under or through them, from directly infringing or inducing others to infringe the '062 Patent, the '399 Patent, the '705 Patent, the '988 Patent, the '810 Patent, the '627 Patent, and the '489 Patent.
- (c) That all infringing articles be delivered to M&V for destruction.
- (e) Awarding M&V damages under 35 U.S.C. §§ 284 and 289, including Defendants' profits and treble damages for willful infringement.

(f) Awarding M&V it's reasonable attorneys' fees, costs, expenses, and interest pursuant to 35 U.S.C. § 285 and other applicable law as the Court deems just and equitable, together with such other relief as the Court may deem just and proper.

**JURY DEMAND**

M&V demands a trial by jury of all issues so triable.

**Date:** January 16, 2018

/s/James T. Nikolai  
James T. Nikolai (#144,101)  
Peter G. Nikolai (#322,052)  
NIKOLAI & MERSEREAU, P.A  
900 Second Avenue South, Suite 1550  
Minneapolis, MN 55402  
Telephone: (612) 339-7461  
Facsimile: (612) 349-6556

**ATTORNEYS FOR PLAINTIFF  
MAGNOLIA AND VINE, INC.**