

1 TREVOR Q. CODDINGTON, PH.D. (CSB NO. 243042)

2 trevorcoddington@sandiegoiplaw.com

3 CODY R. LEJEUNE (CSB NO. 249242)

4 codylejeune@sandiegoiplaw.com

5 DONNY K. SAMPORNA (CSB NO. 316456)

6 donnysamporna@sandiegoiplaw.com

7 SAN DIEGO IP LAW GROUP LLP

8 12526 High Bluff Drive, Suite 300

9 San Diego, CA 92130

10 Telephone: (858) 792-3446

11 Facsimile: (858) 408-4422

12 Attorneys for Plaintiff,
13 EVOLUSION CONCEPTS, INC.

14
15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 EVOLUSION CONCEPTS, INC., a
18 California corporation,

19 *Plaintiff,*

20 vs.

21 ISAAC LAY, an individual residing in
22 California, d.b.a., CA COMPLIANCE
23 KITS, and DOES 1-10, inclusive,

24 *Defendant.*

25 CASE NO. 8:18-CV-00792

26 **COMPLAINT FOR PATENT
27 INFRINGEMENT**

28 **DEMAND FOR JURY TRIAL**

1 Plaintiff Evolusion Concepts, Inc., d.b.a., AR Maglock (hereinafter, “AR
2 Maglock” or “Plaintiff”) hereby complains of Isaac Lay (hereinafter, “Lay”), d.b.a.,
3 CA Compliance Kits (hereinafter, “Lay” or “Defendant”) and alleges as follows:

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement under the patent laws of the
6 United States, 35 U.S.C. § 271, *et seq.*

7 **THE PARTIES**

8 2. Evolution Concepts, Inc. is a California corporation with its principal
9 place of business located at 1658 Law Street, San Diego, CA 92109.

10 3. AR Maglock is informed and believes and based thereon alleges that
11 Isaac Lay is a California resident, residing in Orange County, CA.

12 4. AR Maglock is informed and believes and based thereon alleges that
13 Lay operates CA Compliance Kits, an unincorporated and unregistered business
14 that operates the websites, <https://ca-compliance-kits.myshopify.com> and
15 <https://www.calcompliancekits.com>, with its principal place of business located at
16 411 W. Lambert Rd., Suite 404, Brea, CA 92821.

17 5. AR Maglock is ignorant of the true names and capacities of the parties
18 sued herein as DOES 1 through 10, inclusive, whether individual, corporate or
19 otherwise, and therefore sues these defendants by such fictitious names. AR
20 Maglock will seek leave to amend the complaint to assert their true names and
21 capacities when they have been ascertained. AR Maglock is informed and believes
22 and based thereon alleges that all defendants sued herein as DOES 1 through 10
23 are in some manner responsible for the acts and omissions alleged herein.

24 **JURISDICTION AND VENUE**

25 6. This Court has original and exclusive subject matter jurisdiction over
26 this action under 28 U.S.C. §§ 1331 and 1338(a) because AR Maglock’s claims for
27 patent infringement arise under 35 U.S.C. § 271.

28 7. This Court has personal jurisdiction over the Defendant because he

1 resides, has his principal place of business, and has a continuous, systematic and
2 substantial presence in this District, because he regularly conducts business and/or
3 solicits business within this District, because he has committed and continues to
4 commit patent infringement in this District, including, without limitation, by selling
5 and offering for sale infringing products to consumers in this District and by
6 purposefully directing activities at residents of this District, and by placing
7 infringing products into the stream of commerce with the knowledge that such
8 products would be sold in California and this District, which acts form a substantial
9 part of the events giving rise to AR Maglock's claims.

10 8. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b)
11 because the Defendant resides in this District and Defendant has committed acts of
12 infringement and has a regular and established place of business in this District.

13 **GENERAL ALLEGATIONS**

14 9. AR Maglock designs and sells, among other innovative products, the
15 patented AR Maglock device. The AR Maglock device allows firearm enthusiasts
16 to use and enjoy Armalite Rifle-style rifles without the rifle falling within
17 California's definition of an "assault weapon." Armalite Rifle-style rifles are
18 commonly referred to as Modern Sporting Rifles ("MSRs"). MSRs include the
19 ubiquitous AR-15- and AR-10-type rifles. Some estimates predict there are
20 approximately 10 million MSRs owned by Californians and as many as 50 million
21 owned nation-wide. Courtney Harris ("Harris"), President of AR Maglock, co-
22 invented the AR Maglock device in 2013. The AR Maglock device prevents the
23 MSR on which it is installed from becoming an "assault weapon" under California
24 law by forcing the user to disassemble the rifle's action prior to removing the
25 magazine. Otherwise, under California Penal Code section 12280, possession of an
26 MSR that falls within California's definition of "assault weapon" is a felony.

27 10. In 2016, California voters passed legislation changing California's
28 definition of an "assault weapon." Under current California law, an "assault

1 weapon” is defined as a semiautomatic, centerfire rifle that does not have a fixed
2 magazine, and has any one of the following: a pistol grip that protrudes
3 conspicuously beneath the action of the weapon, a thumbhole stock, a folding or
4 telescoping stock, a grenade launcher or flare launcher, a flash suppressor, or a
5 forward pistol grip. Cal. Penal Code § 30515(a). As pertinent here, California
6 recently expanded the Penal Code to specifically define how a magazine is to be
7 fixed to the firearm such that it does not qualify as an “assault weapon.” Under
8 California’s new law, a “fixed magazine” is an ammunition feeding device
9 contained in, or permanently attached to, a firearm in such a manner that the device
10 cannot be removed without disassembly of the firearm action. Cal. Penal Code §
11 30515(b). Conceptually, the AR Maglock device legally fixes a magazine to a rifle,
12 thereby keeping the rifle out of the purview of “assault weapons.”

13 11. AR Maglock manufactures and sells its patented AR Maglock device
14 directly to consumers through its website, <https://www.armaglock2.com>, to various
15 distributors, various retail outlets, and to original equipment manufacturers. Over
16 the past three years, AR Maglock has generated significant revenue from marketing
17 and selling its patented AR Maglock device, and is able to meet all demand in the
18 United States for sales usurped by the Defendant’s infringing products. Because
19 California’s recent change to its “assault weapon” law, AR Maglock initially
20 targeted consumers in California. However, because other states such as
21 Connecticut, Hawaii, Maryland, Massachusetts, New Jersey, and New York have
22 passed, or are in the process of passing, laws similar to California’s “assault
23 weapon” law, AR Maglock also targets and sells to consumers in those states. In
24 addition, AR Maglock sells its products to citizens and residents in other states so
25 that the MSRs can be converted and taken to states having laws similar to those of
26 California. Given the legislative climate in other states, the demand for the AR
27 Maglock will dramatically increase.

28 12. On June 24, 2014, the United States Patent & Trademark Office

1 (“PTO”) duly and lawfully issued United States Patent No. 8,756,845, entitled
2 “Method and Device for Converting Firearm with Detachable Magazine to a
3 Firearm with Fixed Magazine” (“the ‘845 patent”). A copy of the ‘845 patent is
4 attached hereto as Exhibit A. The ‘845 patent issued from United States Patent
5 Application No. 13/803,966 (hereinafter, the “Maglock patent application”), which
6 was filed on March 14, 2013. The Maglock patent application was published on
7 October 17, 2013, as United States Patent Application Publication No.
8 2013/0269232 (the “Maglock published patent application”), a copy of which is
9 attached hereto as Exhibit B. AR Maglock owns all rights to the ‘845 patent via an
10 Assignment, which was recorded at the PTO on December 11, 2017, at Reel
11 044357, Frame 0383. A Notice of Recordation is attached hereto as Exhibit C.

12 13. Defendant is and has been infringing by making, using, selling,
13 offering for sale, and/or importing a number of magazine release products that are
14 covered by one or more claims of the ‘845 patent, including, without limitation to,
15 Defendant’s “AR-15 Complete CA Compliance Kit,” “Complete AR California
16 Compliance Kit,” and the “CA Compliant Magazine Lock” (collectively, the
17 “Accused Products”). The Accused Products may be purchased directly from the
18 Defendant online through its websites (<https://ca-compliance-kits.myshopify.com>
19 and <https://www.calcompliancekits.com/kit-complete-29-fixed>), third-party
20 websites, and from various retailers in this District.

21 14. Defendant publishes that he has sold over 8,237 of the Accused
22 Products.¹

23 15. On July 22, 2015, or shortly thereafter, Defendant received actual
24 notice of the Maglock published patent application and AR Maglock’s pending
25 patent rights.

26 16. On November 16, 2017, via electronic and First Class United States
27

28 ¹ This statement is displayed on CA Compliance’s website at <https://www.calcompliancekits.com/kit-complete-29-fixed>, retrieved on April 8, 2018.

1 Mail, AR Maglock informed Defendant of the ‘845 patent, AR Maglock’s patent
2 rights, and Defendant’s infringement liability. A copy of the letter is attached as
3 Exhibit D. AR Maglock has not received any response from Lay regarding the
4 aforesaid letter.

5 **FIRST CLAIM FOR RELIEF**

6 **(Infringement of U.S. Patent No. 8,756,845)**

7 17. AR Maglock repeats, realleges, and incorporates by reference the
8 preceding allegations above as though set forth fully herein.

9 18. Since June of 2014, AR Maglock has and continues to mark the AR
10 Maglock device to include “U.S. Patent 8,756,845 B2” or the like on its packaging
11 and on its website. Since its inception, “patent pending” has appeared on AR
12 Maglock’s website and packaging up until around the issue date of the ‘845 patent
13 when the website was revised to note “US Patent #: 8,756,845” in connection with
14 the AR Maglock device. *See, e.g.*, <https://www.armaglock2.com>.

15 19. The Defendant, by and through its agents, officers, directors, resellers,
16 retailers, employees and servants, have been and are currently infringing the ‘845
17 patent by making, using, offering to sell, selling, exporting, and/or importing into
18 the United States the Accused Products, which embody one or more claims set forth
19 in the ‘845 patent.

20 20. For example, the accused AR-15 CA Compliance Kit product meets all
21 the limitations set forth in claim 8 of the ‘845 patent. A chart identifying
22 specifically where each limitation of claim 8 is found in the AR-15 CA Compliance
23 Kit is attached hereto as Exhibit E. This infringement chart is based on AR
24 Maglock’s current understanding of the AR-15 CA Compliance Kit, which only
25 considers publicly available information. The chart does not set forth all of AR
26 Maglock’s infringement theories – the AR-15 CA Compliance Kit embodies other
27 claims set forth in the ‘845 patent. The AR-15 CA Compliance Kit is a
28 representative of all the Accused Products, each having all the limitations recited in

1 claim 8. The chart analyzes the AR-15 CA Compliance Kit as an exemplary
2 iteration of the Accused Products. A chart of the Accused Products currently sold
3 by the Defendant through its website that infringe the '845 patent is attached hereto
4 as Exhibit F.

5 21. In addition, Defendant, its distributors, and its customers who purchase
6 an Accused Product infringe claim 15 of the '845 patent by performing the claimed
7 method. Defendant provides installation instructions, available in a video², for the
8 Accused Products. A chart identifying specifically where each limitation of claim
9 15 is found in Defendant's publications and products is attached hereto as Exhibit
10 G. The chart does not set forth all of AR Maglock's infringement theories – the
11 AR-15 CA Compliance Kit embodies other claims set forth in the '845 patent.

12 22. By way of their installation instructions, Defendant induces its
13 customers to infringe the '845 patent.

14 23. Furthermore, the accused AR-15 CA Compliance Kit, when installed
15 on an AR-15-type rifle, its intended use, meets all the limitations set forth in claim
16 1 of the '845 patent. A chart identifying specifically where each limitation of claim
17 1 is found in Defendant's AR-15 CA Compliance Kit as installed on an AR-15-type
18 rifle is attached hereto as Exhibit H. The chart does not set forth all of AR
19 Maglock's infringement theories – the AR-15 CA Compliance Kit embodies other
20 claims set forth in the '845 patent.

21 24. Defendant and its customers directly infringe claim 1 of the '845
22 patent after installing an Accused Product on a respective firearm. Each Accused
23 Product has no substantial, non-infringing use and constitutes a material part of the
24 firearm defined in claim 1 of the '845 patent. Defendant was and is aware of that
25 the combination of an Accused Product with a respective firearm infringes claim 1
26 of the '845 patent.

27 _____
28 ² On its website, Defendant provides a video that shows and describes the installation and functionality of the AR-15
CA Compliance Kit. See <https://ca-compliance-kits.myshopify.com/pages/install>.

1 25. AR Maglock reserves the right to amend or supplement its
2 infringement theories upon more information becoming available through formal
3 discovery and/or this Court completing its claim construction proceedings. In due
4 course, AR Maglock will serve a Disclosure of Asserted Claims and Infringement
5 Contentions (that may alter and/or supplement the infringement charts submitted
6 herewith).

7 26. One or more of the Accused Products embody one or more claims set
8 forth in the Maglock published patent application. The invention claimed in the
9 '845 patent is identical to the invention claimed in the Maglock published patent
10 application. For example, claims 1, 8, and 15 of the '845 patent are identical to
11 those in the Maglock published patent application. Pursuant to 35 U.S.C. § 154(d)
12 and by reason of the Defendant's pre-issuance infringing acts, AR Maglock is
13 entitled to at least a reasonable royalty for Lay's infringing activities occurring
14 between October 17, 2013, and the issue date of the '845 patent, *i.e.*, June 24, 2014,
15 if any.

16 27. The Defendant's acts of infringement were undertaken without
17 permission or license from AR Maglock. After receiving actual notice of the
18 Maglock patent and/or the Maglock published patent application, the Defendant
19 continued its commercialization of the Accused Products despite an objectively
20 high likelihood that its actions constituted infringement of a valid patent (or soon-
21 to-be-issued patent) and/or AR Maglock's provisional patent rights under the
22 Maglock's published patent application. Accordingly, the Defendant's acts
23 constitute willful infringement in violation of 35 U.S.C. § 271.

24 28. AR Maglock is informed and believes and based thereon alleges that
25 the Defendant's infringement of the '845 patent will continue unless enjoined by
26 this Court.

27 29. Sales of the Accused Products drive sales of other products of the
28 Defendant including, but not limited to Defendant's Enhanced Rear Take Down Pin

SAN DIEGO IP LAW GROUP LLP | 12526 HIGH BLUFF DR., SUITE 300, SAN DIEGO, CA 92130 | (858) 792-3446

1 (collectively, the “Collateral Products”). The Collateral Products are sold and
2 marketed together with the Accused Products. Many, if not all, of the Collateral
3 Products form a single assembly, functional unit, or operate in conjunction with one
4 or more of the Accused Products. The Collateral Products also have a marketing
5 and financial dependence on the Accused Products.

6 30. But for the Defendant’ infringement, AR Maglock would have sold its
7 AR Maglock device and other unpatented products (*e.g.*, Patriot-Pin and AR
8 Tether) to all of the Defendant’s customers, and AR Maglock is entitled to its lost
9 profits.

10 31. By reason of the foregoing infringing acts, AR Maglock has been
11 damaged, continues to be damaged, and is entitled to no less than a reasonable
12 royalty in accordance with 35 U.S.C. § 284 in an amount to be determined at trial.
13 In addition, pursuant to 35 U.S.C. § 284, AR Maglock is entitled to enhanced and
14 treble damages against Lay together with interest at the maximum legal rate and
15 costs as fixed by the Court.

16 32. In addition, AR Maglock is entitled to reasonable attorneys’ fees
17 incurred in this action under 35 U.S.C. § 285.

18 33. Because of the aforesaid infringing acts, AR Maglock has suffered and
19 continues to suffer great and irreparable injury for which there is no adequate
20 remedy at law.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, AR Maglock prays for judgment against the Defendant as
23 follows:

24 (a) an Order adjudging the Defendant to have infringed the ‘845 patent
25 under 35 U.S.C. § 271;

26 (b) an Order adjudging the Defendant to have willfully infringed the ‘845
27 patent under 35 U.S.C. § 271;

28 (c) a preliminary injunction enjoining the Defendant, its officers,

SAN DIEGO IP LAW GROUP LLP | 12526 HIGH BLUFF DR., SUITE 300, SAN DIEGO, CA 92130 | (858) 792-3446

1 directors, agents, servants, resellers, retailers, employees and attorneys, and those
2 persons acting in concert or participation with them, from making, using, selling,
3 offering for sale, and importing the Accused Products until a trial on the merits has
4 been completed;

5 (d) a permanent injunction under 35 U.S.C. § 283 enjoining the
6 Defendant, its officers, directors, agents, servants, resellers, retailers, employees
7 and attorneys, and those persons acting in concert or participation with them, from
8 infringing the '845 patent in violation of 35 U.S.C. § 271;

9 (e) a permanent injunction enjoining the Defendant, its officers, directors,
10 agents, servants, resellers, retailers, employees and attorneys, and those persons
11 acting in concert or participation with them, from making, using, selling, offering
12 for sale, and importing the Accused Products;

13 (f) an accounting of all gains, profits, and advantages the Defendant
14 derived by its infringement of the '845 patent, and for damages adequate to
15 compensate AR Maglock for such infringement of the '845 patent;

16 (g) an award to AR Maglock of its lost profits or a reasonably royalty for
17 the Defendant's sales of the Accused Products and Collateral Products;

18 (h) an order for a trebling of damages and/or enhanced damages due to the
19 Defendant's willful infringement under 35 U.S.C. § 284;

20 (i) compensatory, punitive, and exemplary damages against the
21 Defendant;

22 (j) an Order adjudicating that this is an exceptional case;

23 (k) an award to AR Maglock of all attorneys' fees and costs incurred by
24 AR Maglock in connection with this action under 35 U.S.C. § 285;

25 (l) an award of pre-judgment and post-judgment interest and costs of this
26 action against the Defendant; and

27 (m) for such other and further relief as the Court deems just and proper.
28

SAN DIEGO IP LAW GROUP LLP | 12526 HIGH BLUFF DR., SUITE 300, SAN DIEGO, CA 92130 | (858) 792-3446

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,

Dated: May 4, 2018

By: /s/ Trevor Coddington

Trevor Q. Coddington, Ph.D.
Cody R. LeJeune
Donny K. Samporna
SAN DIEGO IP LAW GROUP LLP
12526 High Bluff Dr., Suite 300
San Diego, CA 92130
Phone: (858) 792-3446
Fax: (858) 405-4422

Attorneys for Plaintiff,
EVOLUTION CONCEPTS, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Evolusion Concepts, Inc. hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

Dated: May 4, 2018

By: /s/ Trevor Coddington
Trevor Q. Coddington, Ph.D.
Cody R. LeJeune
Donny K. Samporna
SAN DIEGO IP LAW GROUP LLP
12526 High Bluff Dr., Suite 300
San Diego, CA 92130
Phone: (858) 792-3446
Fax: (858) 405-4422

Attorneys for Plaintiff,
EVOLUSION CONCEPTS, INC.

SAN DIEGO IP LAW GROUP LLP | 12526 HIGH BLUFF DR., SUITE 300, SAN DIEGO, CA 92130 | (858) 792-3446