

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Scott H. Kaliko (SK 1163)  
Kaliko & Associates, LLC  
500 North Franklin Turnpike  
Ramsey, NJ 07446  
Tel: 201-962-3570  
Fax: 201-962-3572

Attorneys for Plaintiff  
The Turtle Company, Inc.

THE TURTLE COMPANY INC.,  
Plaintiff,  
v.  
PRO SPECIALTIES GROUP INC.,  
THE NATIONAL FOOTBALL LEAGUE,  
NFL ENTERPRISES LLC,  
NFL PROPERTIES, LLC,  
TSA STORES, INC.,  
DICK'S SPORTING GOODS, INC., and  
HENRY MODELL & COMPANY, INC.  
ABC CORPS 1-10  
Defendants.

**Case No.:**

**COMPLAINT FOR  
PATENT INFRINGEMENT  
DEMAND FOR JURY TRIAL**

The Turtle Company, Inc. demands a jury trial and complains against the Defendants as follows:

**I. PARTIES**

1  
2           1.       The Turtle Company, Inc. (hereinafter referred to as “TURTLE CO”), is  
3 corporation organized and existing under the laws of the State of New Jersey having a principal  
4 place of business located at 64 East Midland Avenue, Paramus, New Jersey 07652.

5           2.       Upon information and belief, Pro Specialties Group, Inc. (hereinafter referred to  
6 as “PSG”) is a business organized under the laws of the State of California having a place of  
7 business located at 445 Godwin Avenue, Midland Park, NJ 07432. PSG makes, uses, and/or  
8 sells advertising specialties products in interstate commerce and in this judicial district.

9           3.       Upon information and belief, The Nation Football League (hereinafter referred to  
10 as the “NFL”) is an unincorporated association of thirty-two member teams, with its principal  
11 place of business located at 280 Park Avenue, 15<sup>th</sup> Floor, New York, New York, 10017. The  
12 NFL may be served through its appointed Commissioner, currently Roger Goodell, at 280 Park  
13 Avenue, 15<sup>th</sup> Floor, New York, New York, 10017. The NFL is in the business of  
14 commercializing American rules football games in interstate commerce in this judicial district.

15           4.       Upon information and belief, NFL Enterprises, LLC (hereinafter referred to as  
16 “NFL Enterprises”) is a corporation organized and existing under the laws of the State of  
17 Delaware, with its principal place of business located at 280 Park Avenue, 15<sup>th</sup> Floor, New York,  
18 New York, 10017. NFL Enterprises may be served through its registered agent, The Corporation  
19 Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.  
20 NFL Enterprises is in the business of commercializing American rules football games in  
21 interstate commerce in this judicial district.

22           5.       Upon information and belief, NFL Properties, LLC (hereinafter referred to as  
23 “NFL Properties”) is a corporation organized and existing under the laws of the State of  
24 Delaware, with its principal place of business located at 280 Park Avenue, 15<sup>th</sup> Floor, New York,  
25 New York, 10017. NFL Properties may be served through its registered agent, The Corporation  
26 Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.  
27 NFL Enterprises is in the business of commercializing and policing use of NFL-related  
28 intellectual property in interstate commerce in this judicial district.

1           6.       Upon information and belief, TSA Stores, Inc. (hereinafter referred to as “TSA”)  
2 (sometimes referred to as “The Sports Authority”) is a corporation organized and existing under  
3 the laws of the State of Delaware, with its principal place of business located at 1050 West  
4 Hampden Ave, Englewood, Colorado 80110. TSA operates retail stores within this judicial  
5 district.

6           7.       Upon information and belief, Dick’s Sporting Goods, Inc. (hereinafter referred to  
7 as “DICK’S”) is a corporation organized and existing under the laws of the State of Delaware,  
8 with its principal place of business located at 300 Industry Drive, RIDC Park West, Pittsburgh,  
9 Pennsylvania 15275. DICK’S operates retail stores within this judicial district.

10          8.       Upon information and belief, Henry Modell & Company, Inc. is a corporation  
11 organized under the laws of the State of New York with its principal office at 498 Seventh Ave.,  
12 New York City, New York, 10018. Under the name Modell's Sporting Goods, Defendant Henry  
13 Modell & Company, Inc. and its affiliates operate over 135 stores throughout New York, New  
14 Jersey, Pennsylvania, Connecticut, Delaware, Maryland, Massachusetts, New Hampshire,  
15 Virginia, Rhode Island and the District Of Columbia. Defendant ABC Corps 1-10, being  
16 fictitious names, are affiliates of Defendant Henry Modell & Company, Inc. Defendant Henry  
17 Modell & Company, Inc. and ABC Corps 1-10 are hereinafter collectively referred to as  
18 “Modell’s.” Modell’s operates retail stores within this judicial district.

## 19 20                                   **II. JURISDICTION AND VENUE**

21          9.       This action arises under the patent laws of the United States of America, Title 35  
22 of the United States Code. This Court has jurisdiction of this action under including 35 U.S.C.  
23 §271 *et seq.*, and 28 U.S.C. §§1331 and 1338(a).

24          10.       Personal jurisdiction exists generally over each Defendant because each  
25 Defendant is located within or has sufficient minimum contacts with the forum as a result of  
26 business regularly conducted within the State of New Jersey. Personal Jurisdiction also  
27 specifically exists over Defendants as a result of, at least, Defendants’ distribution network  
28 wherein Defendants, individually and/or collectively, placed instrumentalities that practice the

1 claimed inventions of United States Patent No. 5,470,109, owned by the Plaintiff, within the  
2 stream of commerce, which stream is directed at this district, and by committing the tort of  
3 patent infringement within the District of New Jersey

4 11. Venue is proper in this Court under 28 U.S.C. §§ 1391 as well as 28 U.S.C.  
5 § 1400(b).

### 6 **III. PATENT INFRINGEMENT**

7 12. On November 28, 1995, U.S. Patent No. 5,470,109 (hereinafter referred to as the  
8 “109 patent”) duly and legally issued to Dennis Grande for an invention entitled “Adjustable  
9 book Jacket and Method for Making the Same” (the “Patent”). The Patent is in full force and  
10 effect and a copy of the ‘109 patent is attached hereto as Exhibit 1.

11 13. TURTLE CO is the assignee of the ‘109 Patent and the owner of all right title,  
12 and interest in and to the ‘109 patent.

13 14. In contravention to 35 U.S.C. §§271(a)(b) and (c), Defendants have infringed  
14 and/or willfully and deliberately infringed the ‘109 Patent by making, using, selling, and/or  
15 offering to sell, or inducing others to make, use sell, and/or offer to sell products including but  
16 limited to the “NFL TEAM BOOK COVER.” Such acts of infringement have occurred and  
17 continue to occur without the authority or license of Plaintiff.

18 15. TURTLE CO has and is being damaged and will continue to be damaged by the  
19 infringing activities of Defendants complained of herein.

### 20 **IV. PRAYER FOR RELIEF**

21 WHEREFORE, TURTLE CO prays for judgment against Defendants as follows:

22 A. That one or more of the claims of ‘109 patent have been infringed, wither  
23 literally and/or under the doctrine of equivalents, by Defendants and or by  
24 others to whose infringement as been contributed to by Defendants and/or by  
25 others whose infringement has been induced by Defendants;

26 B. That, pursuant to 35 U.S.C. §283, preliminary and final injunctions be issued  
27 enjoining Defendants, its officers, agents, servants, employees and all those  
28

persons in active concert or participation with them from further infringement of the Patent;

C. That, pursuant to 35 U.S.C. §284, Defendants account for damages for all past infringement, including treble damages because of the willful nature of such infringement;

D. That Plaintiff's be granted pre-judgment and post-Judgment interest at the maximum rate allowable by law on the damages caused by reason of defendants infringing activities complained herein;

E. That, pursuant to 35 U.S.C. §285, TURTLE CO be awarded costs and attorney's fees incurred in connection with this action; and

F. That TURTLE CO be granted such other and further relief as this Court deems just and proper, and equitable.

#### **V. DEMAND FOR JURY TRIAL**

The Plaintiff, TURTLE CO, demands a trial by jury of all issues property triable by jury in this action.

By: s/ Scott H Kaliko /  
Scott H. Kaliko (SK1163)  
Kaliko & Associates, LLC  
500 North Franklin Turnpike  
Ramsey, NJ 07446  
Tel: 201-962-3570  
Fax: 201-962-3572  
Attorneys for The Turtle Company

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Ramsey, NJ