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21 Attorneys for Plaintiff  
22 NATIONAL PRODUCTS INC.

23 **UNITED STATES DISTRICT COURT**  
24 **CENTRAL DISTRICT OF CALIFORNIA**  
25 **WESTERN DIVISION**

26 NATIONAL PRODUCTS INC.,  
27  
28 Plaintiff,  
29 v.  
30 SCOSCHE INDUSTRIES, INC.,  
31 Defendant.

Case No.: 2:20-cv-11478

**COMPLAINT FOR**  
**[1] PATENT INFRINGEMENT;**  
**[2] TRADEMARK**  
**INFRINGEMENT; AND**  
**[3] UNFAIR COMPETITION.**

**DEMAND FOR JURY TRIAL**

1 Plaintiff National Products Inc. (“NPI”) brings this action against Defendant  
2 Scosche Industries, Inc. (“Scosche”) for an injunction, damages, and other  
3 appropriate relief to stop Scosche from violating NPI’s patent and trademark rights.  
4 NPI alleges as follows:

5 **PARTIES**

6 1. NPI is a corporation organized and existing under the laws of the State  
7 of Washington, having its principal place of business at 8410 Dallas Ave S.,  
8 Seattle, Washington 98108.

9 2. NPI is a market leader in the design, manufacture, and sale of  
10 innovative mounting systems, including mounts for tablets, cellular phones, and  
11 other portable devices, which are used, for example, in cars, trucks, bikes, planes,  
12 boats and motorcycles.

13 3. Upon information and belief, Scosche Industries, Inc. is a corporation  
14 organized and existing under the laws of the State of California, having its principal  
15 place of business at 1550 Pacific Avenue, Oxnard, California 93033.

16 4. Upon information and belief, Defendant (a) is a manufacturer and  
17 distributor of mounting systems for consumer electronics, and (b) advertises,  
18 markets, and sells its products, including the products that are the subject of the  
19 patent and trademark infringement alleged in this lawsuit, to the public throughout  
20 the United States, including within this judicial district.

21 **NATURE OF THE ACTION**

22 5. This is a civil action for (1) infringement of United States Patent No.  
23 6,585,212 (“**the ’212 patent**”) under the patent laws of the United States, including,  
24 without limitation, 35 U.S.C. § 1 *et seq*; (2) Trade Dress infringement pursuant to  
25 15 U.S.C. § 1114; and (3) Unfair Competition and False Designation of Origin  
26 pursuant to 15 U.S.C. § 1125.

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**JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§ 1114, 1121, and 1125, and 28 U.S.C. §§ 1331 and 1338(a) and (b).

7. This Court has personal jurisdiction over Scosche because, upon information and belief, Scosche maintains its principal place of business in this judicial district and maintains a regular and established place of business in this judicial district. This Court also has personal jurisdiction over Scosche because, upon information and belief, Scosche has committed, aided, abetted, contributed to, and/or participated in the commission of patent infringement in this judicial district and elsewhere that led to foreseeable harm and injury to NPI.

8. Upon information and belief, Scosche sells and offers to sell its infringing products directly through its website to the public throughout the United States, including this judicial district.

9. Upon information and belief, Scosche also sells and offers to sell its infringing products, or otherwise makes its infringing products available, online and through brick and mortar locations throughout the United States, including in this judicial district. This includes, for example, the office location of Scosche at the address 1550 Pacific Avenue, Oxnard, California 93033, located in this judicial district.

10. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b), because Defendant has committed acts of infringement in this District, and upon information and belief, Defendant has a regular and established place of business in this District.

**THE '212 PATENT**

11. On July 1, 2003, the '212 patent, entitled "Quick Release Electronics Platform," was duly and legally issued to Jeffrey D. Carnevali. The '212 patent is generally directed towards a mounting platform for an accessory device, such as,

1 for example, a cellular phone, phablet, tablet, laptop, radar detector, handheld  
2 device, or the like.

3 12. NPI is the owner, by assignment, of all right, title, and interest in the  
4 '212 patent, including the rights to exclude others and to sue and recover damages  
5 for infringement.

6 13. To the extent any marking or notice was required by 35 U.S.C. § 287,  
7 NPI and/or all predecessors in interest and/or implied or express licensees of the  
8 '212 patent, if any, have complied with the marking requirements of 35 U.S.C.  
9 § 287 by fixing the word “patented” together with the address of NPI’s website,  
10 which is accessible to the public without charge and which associates the patented  
11 article with the '212 patent in the “Patent and Trademarks” page of NPI’s website,  
12 on all goods made, offered for sale, sold, and/or imported into the United States that  
13 embody one or more claims of the '212 patent.

14 14. A true and correct copy of the '212 patent is attached as **Exhibit A**.

15 **NPI’S BUSINESS AND TRADEMARK**

16 15. NPI was founded by Jeff Carnevali in Seattle in 1992 and is in the  
17 business of manufacturing and selling, among other things, mounting systems and  
18 device mounting solutions including its highly successful product line of RAM  
19 Mounting Systems. The most innovative product line of its kind, RAM continues to  
20 evolve into one of the most sought-after accessories for electronics. For over two  
21 decades, RAM Mounting Systems have received wide acclaim in the industry and  
22 consumer press and has established an industry-wide reputation for innovation,  
23 quality, and performance. RAM Mounting Systems have become an essential  
24 mounting component for a wide variety of applications including rugged vehicle,  
25 industrial, military and defense, material handling as well as any application  
26 requiring a robust mounting solution.

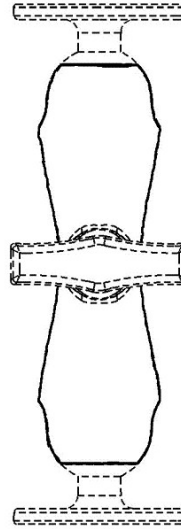
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1           16. NPI has aggressively enforced its trade dress rights related to the  
2 hourglass design (“**hourglass design trade dress**”). For example, in the early  
3 2000s after NPI’s competitor Gamber-Johnson LLC began selling hourglass-shape  
4 double-socket arm mounts, NPI brought a lawsuit against it alleging infringement  
5 of, *inter alia*, the hourglass design trade dress. In an Amended Consent Judgment  
6 entered on October 2, 2006 by the Western District of Washington, the parties  
7 stipulated that “NPI also has a protectable trade dress in the hour-glass shaped  
8 profile of its double-socket RAM Mount products [and] this trade dress is  
9 nonfunctional and has acquired secondary meaning with consumers.” Thus, the  
10 Court “enjoined [Gamber-Johnson] from infringing NPI’s trade dress, comprising  
11 the distinctive hourglass-shaped profile of NPI’s double-socket RAM Mount  
12 devices, for the life of the trade dress.” A true and correct copy of the Amended  
13 Consent Judgment is attached as **Exhibit B**.

14           17. On May 23, 2012, NPI filed an application with the USPTO to register  
15 its hourglass design trade dress on the Principal Register. On December 4, 2012, the  
16 USPTO granted the application as amended for the “MARK CONSIST[ING] OF A  
17 THREE-DIMENSIONAL CONFIGURATION OF A DOUBLE-SOCKET  
18 MOUNT ARM THAT IS TAPERED IN THE MIDDLE LIKE AN HOURGLASS”  
19 registered under U.S. Trademark Reg. No. 4,254,086 and issued to NPI. A true and  
20 correct copy of the registration certificate is attached as **Exhibit C**. The registration  
21 certificate also contained a drawing of the following trade dress shape with the  
22 limitation: “THE DOTTED LINES OUTLINING THE ENDS OF THE MOUNT  
23 AND THE ADJUSTMENT KNOB INDICATE PLACEMENT OF THE MARK  
24 ON THE GOODS AND ARE NOT PART OF THE MARK”:

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The registration is valid and subsisting, and NPI has been the continuous owner of the hour-glass shaped profile of a double-socket mount device trade dress from 1992 to the present. NPI’s website provides notice that “[t]he Hourglass Shape is a registered trademark of National Products Inc.”

18. On September 30, 2015, NPI brought a lawsuit alleging infringement of the hourglass design trade dress by Arkon Resources, Inc. Following trial, a jury found that NPI’s registered trade dress is valid, and that Arkon Resources had willfully infringed the registered trade dress. On June 7, 2019, the Ninth Circuit affirmed the jury’s finding of willful infringement. *National Products, Inc. v. Arkon Resources, Inc.*, 773 Fed. App’x 377 (9th Cir. June 7, 2019).

19. On April 20, 2020, NPI brought a lawsuit alleging infringement of the hourglass design trade dress by Mamiya America Corporation (“MAC”) and Kupo Co. Ltd. (“Kupo”). In a Consent Judgment entered on July 6, 2020 by the Southern District of New York, the parties stipulated that “the Registered Hourglass Trademark is valid and enforceable.” In light thereof, the court subsequently enjoined both MAC and Kupo from “importing, purchasing, advertising, marketing, selling, or otherwise disposing of” “double-socket mount arm[s] that [are] tapered

1 in the middle like an hourglass.” A true and correct copy of the Consent Judgment  
2 is attached as **Exhibit D**.

3 **SCOSCHE’S UNLAWFUL ACTIONS**

4 20. On information and belief, Scosche has been marketing, distributing,  
5 and selling products containing mount arms that have the appearance of an  
6 hourglass design such that it is confusingly similar to NPI’s hourglass design trade  
7 dress, including but not limited to the following products: MagicMount Elite  
8 Double-Pivot Magnetic Mount for Mobile Devices (MEDPMGD, MEDPMSG,  
9 MEDPMSR) and MagicMount Elite Double-Pivot Adhesive Mount for Mobile  
10 Devices (MEDPAGD, MEDPASG, MEDPASR) (collectively, the “**Trade Dress**  
11 **Infringing Mount Devices**”).

12 21. Upon information and belief, Scosche sells the Trade Dress Infringing  
13 Mount Devices to consumers throughout the United States, including this district  
14 and the State of California.

15 **COUNT I**

16 **INFRINGEMENT OF UNITED STATES PATENT NO. 6,585,212**

17 22. NPI realleges and incorporates by reference the allegations in  
18 paragraphs 1-21 above.

19 23. Scosche has directly infringed and continues to directly infringe at  
20 least claim 21 of the ’212 patent by making, using, offering to sell, and selling  
21 within the United States and/or importing into the United States products that  
22 infringe the ’212 patent, including all products that incorporate the mount used in  
23 the Scosche Universal Car Mount for Mobile Devices, including without limitation,  
24 Model No. VWDSM2 (collectively, the “**Car Mount Products**”).

25 24. Inspection of the Car Mount Products demonstrates that each meets  
26 each and every element of claim 21, either literally or by the doctrine of  
27

1 equivalents. For example, Defendant’s catalog depicts the Car Mount Product as  
2 comprising the mounting device of claim 21:



(available at [https://issuu.com/kbringelson/docs/2019\\_scoschemounts-catalog?fr=sZTUxZTQ2NjQ2Mg](https://issuu.com/kbringelson/docs/2019_scoschemounts-catalog?fr=sZTUxZTQ2NjQ2Mg))

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18 25. The Car Mount Product depicted above is exemplary. The Car Mount  
19 Product includes, for example, a clamping mechanism, which comprises a jaw  
20 portion extending at an obtuse angle from one end of the base portion and a resilient  
21 compressible pad fixed to a surface of the jaw portion. The clamping mechanism  
22 also comprises the claimed base portion including a mounting structure for  
23 mounting on an external member (i.e., a frame member), or an equivalent thereof.  
24 For example, the Car Mount Product comprises a base portion that performs  
25 substantially the same function (i.e., connecting the clamping mechanism’s jaw  
26 portion to the frame member), in substantially the same way (i.e., through a  
27 structure that connects the clamping mechanism with the frame member), to obtain  
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1 the same result (i.e., secure attachment to the frame member). Moreover, the Car  
2 Mount Product comprises first and second slidably interconnected frame members  
3 to secure a mobile device, as well as a biasing member mechanically coupled  
4 between the first and second frame members for biasing the first and second frame  
5 members together. The first frame member also comprises a device mounting  
6 surface, as well as a clamp mounting surface or an equivalent thereof. For example,  
7 the Car Mount Product comprises a first frame member that performs substantially  
8 the same function (i.e., connecting the slidably interconnected frame members to  
9 the clamping mechanism), in substantially the same way (i.e., through a structure  
10 that connects the slidably interconnected frame members with the clamping  
11 mechanism), to obtain the same result (i.e., secure attachment of the frame  
12 members to the clamping mechanism).

13 26. As a direct and proximate consequence of Defendant's infringement of  
14 the '212 patent, NPI has suffered irreparable harm, and NPI will continue to suffer  
15 irreparable harm in the future unless Defendant is enjoined from infringing the '212  
16 patent.

17 27. Defendant has had actual knowledge of the '212 patent and its  
18 infringement thereof since at least the filing of this Complaint. Upon information  
19 and belief, Defendant's continued infringement of the '212 patent is willful.

20 **COUNT II**

21 **FEDERAL TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1114**

22 28. NPI realleges and incorporates by this reference each and every  
23 allegation set forth in paragraphs 1 through 27 above.

24 29. NPI owns all rights, title, and interests in and to, and holds the first,  
25 superior, and exclusive rights to use the mark identified on the USPTO Principal  
26 Register under Registration No. 4,254,086.

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1           30. Scosche's use in its products of NPI's registered hourglass design  
2 trade dress, or of a confusingly similar variation thereof, is likely to cause  
3 confusion, or mistake, or to deceive others into believing that Scosche's products  
4 are manufactured, offered, sponsored, authorized, licensed, of similar quality to, or  
5 otherwise connected or affiliated with NPI and NPI's RAM Mounting Systems.

6           31. Scosche either had actual notice and knowledge, or had constructive  
7 notice by the USPTO's placement of the mark on the Principal Register and NPI's  
8 notice of ® with the mark on NPI's RAM Mounts website prior to Scosche's  
9 adoption and use of NPI's registered trade dress.

10           32. Upon information and belief, the Scosche's acts are deliberate and  
11 intended to confuse the public as to the source of the Trade Dress Infringing Mount  
12 Devices, to injure NPI, and to reap the benefits of NPI's goodwill associated with  
13 NPI's trade dress.

14           33. As a direct and proximate result of the Scosche's willful and unlawful  
15 conduct, Scosche has damaged and will continue to damage NPI's business,  
16 market, reputation, and goodwill, and may discourage current and potential  
17 customers from dealing with NPI. Such irreparable damage will continue unless  
18 Scosche is enjoined from infringing NPI's registered trade dress.

19           34. Scosche's acts have damaged and will continue to damage NPI, and  
20 NPI has no adequate remedy at law.

21           35. In light of the foregoing, NPI is entitled to injunctive relief prohibiting  
22 Scosche from using NPI's trade dress or any confusingly similar trade dress for any  
23 purpose, and to recover from Scosche all damages that NPI has sustained and will  
24 sustain as a result of such infringing acts, and all gains, profits and advantages  
25 obtained by Scosche as a result, in an amount not yet known well, as well as the  
26 costs of this action pursuant to 15 U.S.C. § 1117(a) and attorneys' fees and treble  
27 damages pursuant to 15 U.S.C. § 1117(b).

28

1 36. Pursuant to 15 U.S.C. § 1118, NPI also asks the Court for an order  
2 forcing Scosche to deliver up for destruction all products, labels, signs, prints,  
3 advertisements, and other articles in Scosche's possession that infringe upon NPI's  
4 rights.

5 **COUNT III**  
6 **FEDERAL UNFAIR COMPETITION AND FALSE DESIGNATION OF**  
7 **ORIGIN UNDER 15 U.S.C. § 1125**

8 37. NPI realleges and incorporates by this reference each and every  
9 allegation set forth in paragraphs 1 through 36 above.

10 38. NPI's distinctive and non-functional registered trade dress is a  
11 designation of origin that identifies NPI as the exclusive source of the RAM Mount  
12 double-socket mount arm devices, and distinguishes NPI's goods from the goods of  
13 others in the marketplace.

14 39. Scosche's use of NPI's trade dress in its goods constitutes false  
15 designation of origin and/or false or misleading representation. Scosche's use of an  
16 identical or confusingly similar variation of NPI's trade dress is likely to cause  
17 confusion, or mistake, or to deceive others into believing that Scosche's products  
18 are manufactured, offered, sponsored, authorized, licensed, of similar quality to, or  
19 otherwise connected or affiliated with NPI and NPI's RAM Mounting Systems.

20 40. Such false designation of origin and/or representation constitutes  
21 unfair competition and is an infringement of NPI's rights in its trade dress in  
22 violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

23 41. Scosche either had actual notice and knowledge, or had constructive  
24 notice by the USPTO's placement of the mark on the Principal Register and NPI's  
25 notice of ® with the mark on NPI's RAM Mounts website prior to Scosche's  
26 adoption and use of NPI's registered trade dress.

27 42. Upon information and belief, Scosche's acts are deliberate and  
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1 intended to confuse the public as to the source of the Trade Dress Infringing Mount  
2 Devices, to injure NPI, and to reap the benefits of NPI’s goodwill associated with  
3 NPI’s trade dress.

4 43. As a direct and proximate result of Scosche’s willful and unlawful  
5 conduct, Scosche has damaged and will continue to damage NPI’s business,  
6 market, reputation, and goodwill, and may discourage current and potential  
7 customers from dealing with NPI. Such irreparable damage will continue unless  
8 Scosche is enjoined from infringing NPI’s registered trade dress.

9 44. Scosche’s acts have damaged and will continue to damage NPI, and  
10 NPI has no adequate remedy at law.

11 45. In light of the foregoing, NPI is entitled to injunctive relief prohibiting  
12 Scosche from using NPI’s trade dress or any trade dress confusingly similar thereto  
13 for any purpose, and to recover from Scosche all damages that NPI has sustained  
14 and will sustain as a result of such infringing acts, and all gains, profits and  
15 advantages obtained by Scosche as a result, in an amount not yet known, as well as  
16 the costs of this action pursuant to 15 U.S.C. § 1117(a) and attorneys’ fees and  
17 treble damages pursuant to 15 U.S.C. § 1117(b).

18 46. Pursuant to 15 U.S.C. § 1118, NPI also asks the Court for an order  
19 forcing Scosche to deliver up for destruction all products, labels, signs, prints,  
20 advertisements, and other articles in Scosche’s possession that infringe upon NPI’s  
21 rights.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff National Products Inc. demands the following relief  
24 against Defendant Scosche Industries, Inc.:

- 25 a. A judgment that Scosche has infringed the ’212 patent;
- 26 b. An order preliminarily and permanently enjoining and restraining
- 27 Scosche, its officers, directors, agents, servants, employees, licensees, attorneys,
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1 and all other persons acting under or through them, directly or indirectly, from  
2 infringing the '212 patent;

3 c. A judgment and order requiring that Scosche pay damages under 35  
4 U.S.C. § 284, with prejudgment and post-judgment interest;

5 d. A judgment that Defendant's infringement has been willful, and a  
6 three-fold increase in damages;

7 e. A judgment and order directing Defendant to pay the costs of this  
8 action, including all disbursements and attorney fees as provided by 35 U.S.C.  
9 § 285, with prejudgment interest;

10 f. An order preliminarily and permanently enjoining and restraining  
11 Scosche, its officers, agents, representatives, servants, employees, attorneys,  
12 successors and assignees, and all others in active concert or participation with  
13 Scosche, from offering for sale, marketing, or selling any product which includes an  
14 hourglass design or any confusingly similar variation of such design;

15 g. A judgment that Scosche's acts complained of are unlawful as  
16 constituting unfair competition, false designation of origin, and trade dress  
17 infringement under the causes of action asserted in this Complaint;

18 h. A judgment and order that Scosche deliver up for destruction all  
19 products, labels, signs, prints, advertisements, and other articles that infringe NPI's  
20 statutory trade dress rights, or are a result of any false designation of origin or  
21 unfair competition by Scosche;

22 i. An order for an accounting of all gains, profits and advantages derived  
23 from Scosche's wrongful acts;

24 j. A judgment and order awarding NPI all gains, profits, and advantages  
25 derived by Scosche for its unlawful acts;

26 k. A judgment and order awarding NPI all damages caused by Scosche's  
27 unlawful acts;

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1 l. A judgment and order awarding NPI treble damages as provided by  
2 law;

3 m. A judgment and order awarding NPI its attorneys' fees and costs  
4 incurred in this action, including prejudgment and post-judgment interest; and

5 n. Such other and further relief as the Court may deem just and equitable.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff National Products Inc. requests a trial by jury pursuant to Rule 38 of  
8 the Federal Rules of Civil Procedure as to all issues so triable.

9  
10 Dated: December 18, 2020

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12  
13 By: /s/Jonathan T. McMichael  
Jonathan T. McMichael

14 Attorneys for Plaintiff  
15 NATIONAL PRODUCTS INC.

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