

# ECF CASE

IN THE UNITED STATES DISTRICT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
WHITE PLAINS DIVISION

FILED  
U.S. DISTRICT COURT  
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S.D. OF N.Y. W.P.

FURNACE BROOK LLC, a New York Corporation, )  
)  
Plaintiff, )  
)  
v. )  
)  
SPIEGEL, INC., a Delaware Corporation; )  
EDDIE BAUER, INC., a Delaware Corporation; and )  
SHARPER IMAGE CORPORATION, a )  
Delaware Corporation, )  
)  
Defendants. )

**05 CV. 3448**

Case No.:  
(Jury Trial Demanded.)

**BRIANT**

## COMPLAINT

Plaintiff, Furnace Brook, LLC ("Furnace Brook"), for its complaint of patent infringement against the defendants, Spiegel, Inc. ("Spiegel"), Eddie Bauer, Inc. ("Eddie Bauer") and Sharper Image Corporation ("Sharper Image") (collectively "the defendants"), hereby alleges as follows:

### PARTIES, JURISDICTION, AND VENUE

1. Furnace Brook is a corporation organized under the laws of New York, with a principal place of business at 204 Furnace Dock Road, Cortland Manor, New York 10567.
2. Spiegel is a corporation organized under the laws of Delaware, having a principal place of business at 3500 Lacey Road, Downers Grove, Illinois 60515-5432.
3. Eddie Bauer is a corporation organized under the laws of Delaware, having a principal place of business at 15010 NE 36<sup>th</sup> Street, Redmond, Washington 98052.

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4. Upon information and belief, Eddie Bauer is a wholly-owned subsidiary of Spiegel.

5. Sharper Image is a corporation organized under the laws of Delaware, having a principal place of business at 650 Davis Street, San Francisco, California.

6. Upon information and belief, the defendants have been, and are, engaged in substantial and continuous business activities in the judicial district.

7. This Complaint arises under the patent laws of the United States (35 U.S.C. § 1, *et seq.*). Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1338(a).

8. Venue in this Court is proper under 28 U.S.C. § 1400(b).

#### **COUNT I – PATENT INFRINGEMENT**

9. Furnace Brook repeats and realleges paragraphs 1-8, *supra*, as if fully set forth in full herein.

10. Furnace Brook is the owner by assignment of U.S. Patent No. 5,721,832, entitled *Method and Apparatus for an Interactive Computerized Catalog System* (“the ‘832 patent”) (Exhibit A).

11. The defendants Spiegel and Eddie Bauer, through the operation of the eddiebauer.com web site, have infringed the ‘832 patent.

12. The defendants Spiegel and Eddie Bauer have induced others to infringe the ‘832 patent through their making available the eddiebauer.com web site to end users.

13. The defendants Spiegel and Eddie Bauer have contributed to the infringement by others of the ‘832 patent through their making available the eddiebauer.com web site to end users.

14. The defendant Sharper Image, through the operation of the sharperimage.com web site, has infringed the '832 patent.

15. The defendant Sharper Image has induced others to infringe the '832 patent through its making available the sharperimage.com web site to end users.

16. The defendant Sharper Image has contributed to the infringement by others of the '832 patent through its making available the sharperimage.com web site to end users.

17. Upon information and belief, the afore-referenced infringement has been willful.

18. The defendants' continued infringing acts will cause continued damage to Furnace Brook's business and property rights, in an amount to be proven at trial.

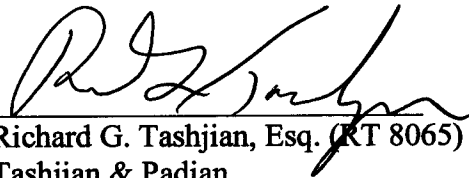
19. The defendants' continued acts of infringement will further cause immediate and irreparable harm to Furnace Brook for which there is no adequate remedy at law, and for which Furnace Brook is entitled to injunctive relief under 35 U.S.C. § 283.

WHEREFORE, Furnace Brook respectfully requests an entry of judgment from this Court:

- A) Declaring that the defendants have infringed, and continue to infringe, the '832 Patent under 35 U.S.C. §§ 271(a) & (b);
- B) Declaring that the defendants have willfully infringed, and continue to willfully infringe, the '832 Patent;
- C) Permanently enjoining the defendants from further infringement of the '832 Patent;

- D) Awarding Furnace Brook adequate monetary damages consistent with 35 U.S.C. § 284 to compensate Furnace Brook for the defendants' past and continuing infringement, together with costs and prejudgment interest, but in no event less than a reasonable royalty;
- E) Awarding Furnace Brook enhanced monetary damages pursuant to 35 U.S.C. § 284 as a result of the defendants' willful infringement;
- F) Declaring this to be an "exceptional" case within the meaning of 35 U.S.C. §285, and awarding Furnace Brook reasonable attorneys' fees, expenses and costs; and
- G) Awarding Furnace Brook any additional relief that the Court determines to be appropriate.

Respectfully submitted,



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Date: New York, New York  
April 1, 2005