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11 *Company LLC*

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Cozy Comfort Company LLC,

Plaintiff,

v.

Top Brand LLC; E Star LLC; Flying
Star LLC; John Ngan and Serena Ngan,
husband and wife,

Defendants.

Case No. CV-24-00188-PHX-SRB

**AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

Demand for Jury Trial

Plaintiff Cozy Comfort Company LLC (“Cozy Comfort” or “Plaintiff”), by and through its attorneys, for its Complaint against defendants Top Brand LLC, E Star LLC, Flying Star LLC, and John and Serena Ngan (collectively, “Defendants”) alleges as follows:

INTRODUCTION

1
2 1. This action arises from Defendants’ willful and deliberate copying of
3 Plaintiff’s patented product design for a hooded wearable blanket and Defendants’
4 subsequent importation and distribution of these infringing products within the United
5 States. Defendants’ direct imitation of Plaintiff’s product seeks to cash in on the
6 designs, technology and global market created by Plaintiff in hooded wearable
7 blankets. However, the marketing, importation, and sale of such products within the
8 United States infringes upon the intellectual property rights of Plaintiff. This illegal
9 practice will continue unless, and until, the Court puts an end to it.

10 2. By this action Plaintiff seeks permanent injunctive relief, money
11 damages, exemplary damages and attorneys’ fees arising from Defendants’ patent
12 infringement under the Patent Act, 35 U.S.C. § 271.

PARTIES

13
14 3. Plaintiff is a limited liability company formed under the laws of Arizona
15 with a principal place of business located in Phoenix, Arizona.

16 4. Plaintiff is the owner of intellectual property in relation to its flagship
17 product, a hooded wearable blanket known as “THE COMFY”, as well as other
18 related and associated designs, products, and services.

19 5. Upon information and belief, Defendant Top Brand, LLC (“Top Brand”)
20 is a limited liability company organized under the laws of California in July 2017.

21 6. Upon information and belief, Defendant E Star LLC (“E Star”) is a
22 limited liability company organized under the laws of California in July 2017.

23 7. Upon information and belief, Defendant Flying Star LLC is a limited
24 liability company organized under the laws of Illinois in April 2017.

25 8. Upon information and belief, Defendant John Ngan is an individual with
26 a business address of 17145 Margay Avenue, Carson, California 90746 and residing
27 in Carson, California.
28

1 9. Upon information and belief, Defendants John Ngan and Serena Ngan
2 (collectively, “Ngan’s”) are husband and wife, and the actions of Defendant John
3 Ngan described herein were committed on behalf of, and for the benefit of, the Ngan
4 marital community. The Ngan marital community benefitted from the actions of
5 Defendant John Ngan as alleged herein and is therefore liable to the Plaintiff.

6 10. Upon information and belief, Plaintiff alleges that each of the Defendants
7 were acting as the officer, director, agent, servant, master, employee, representative,
8 or alter ego of each of the other Defendants, and in engaging in the conduct alleged
9 herein, were acting in the course and scope of, and in furtherance of, such relationship,
10 with the full knowledge and consent of each of the other Defendants.

11 11. Upon information and belief, Mr. and Mrs. Ngan control and make all
12 decisions for and on behalf of all the named defendant companies.

13 12. Upon information and belief, Mr. and Mrs. Ngan derive benefits and
14 income or profits from the named defendant companies without record or maintaining
15 separate sales and accounting records for the named defendant companies.

16 13. Upon information and belief, Mr. and Mrs. Ngan comingle funds,
17 expenses, costs, profits, employees, and other business assets between the named
18 defendant companies without recording or maintaining separate sales and accounting
19 records for the named defendant companies.

20 14. Moreover, upon information and belief, each of the Defendants
21 conspired with the others and carried out the conduct alleged herein in the furtherance
22 of such conspiracy.

23 15. Upon information and belief, each Defendant induced, directed, and
24 controlled the activities and conduct of the other Defendants alleged herein to be
25 unlawful.

26 16. In addition, each of the Defendants is liable for the conduct of each of
27 the other Defendants, because, upon information and belief, there is an express or
28 implied agreement between the Defendants to assume the liabilities of the other.

1 24. THE COMFY is a unique oversized blanket. THE COMFY features a
2 hood, cuffs, and large arm coverings, and covers the majority of a person's upper and
3 lower body. THE COMFY is known for its high-quality materials and construction,
4 featuring a layer of fleece microfiber on one side and thick sherpa-type material on
5 the opposite layer. THE COMFY also features a large front pocket designed to allow
6 its wearer to insert his or her hands for comfort, storage, or warmth. A logo of THE
7 COMFY is featured on the lower left side portion of this pocket. The product is sold
8 in a variety of colors. A sample image of the product appears below:



19 25. In April 2017, Plaintiff Cozy Comfort was formed to facilitate the
20 development and distribution of THE COMFY, as well as the growth of the business
21 developing around the product.

22 26. In May 2017, to solicit funds for its expanding business, Plaintiff
23 auditioned for the nationally broadcast television show, *Shark Tank*. *Shark Tank* is a
24 significantly popular and well-known reality show in which businesses and/or product
25 owners showcase their ideas to a panel of investors, referred to on the show as
26 “sharks.” The show is broadcast in the U.S. on the ABC network, is featured on the
27 cable network CNBC, and is available on demand on Hulu and other streaming
28 platforms. The show has won multiple Emmys for Outstanding Structured Reality

1 Program. The format is significantly popular, with licensed versions of the show
2 produced and broadcast in many countries around the world, including Canada,
3 Mexico, China, New Zealand, and Australia.

4 27. After several rounds of successful auditions with the producers of *Shark*
5 *Tank*, Cozy Comfort was approved to appear on the program to pitch and feature THE
6 COMFY on the 2017 end-of-the-year, holiday-themed episode of *Shark Tank*.

7 28. On September 13, 2017, Plaintiff filed a patent application related to its
8 designs, United States Patent and Trademark Office (“USPTO”) Application No.
9 29/617,421. Two years later, on September 17, 2019, that application matured into
10 U.S. Patent No. D859,788 (the “’788 Patent”).

11 29. On December 3, 2017, the episode of *Shark Tank* featuring THE
12 COMFY premiered in the U.S. On the episode, Cozy Comfort discussed the potential
13 success of a business surrounding THE COMFY.

14 30. On the episode, several “shark” panelists displayed significant
15 enthusiasm regarding the product. On air, two of the sharks proposed investing into
16 Plaintiff. Ultimately, Plaintiff agreed to a proposal from one of the show’s sharks to
17 invest into the business.

18 31. Immediately following the airing of the 2017 *Shark Tank* episode
19 featuring THE COMFY, interest in and exposure to THE COMFY skyrocketed. The
20 product was not only featured on a popular, nationally broadcast television program,
21 but there was substantial exposure of THE COMFY through initial orders, positive
22 online reviews, online video clips and social media postings.

23 32. Plaintiff developed several other designs in addition to its original THE
24 COMFY. Plaintiff owns multiple U.S. Patents relating to its designs, as well as
25 multiple U.S. Trademark registrations and other common-law intellectual property
26 assets.

27 33. Plaintiff established and maintains a company website located at
28 <https://thecomfy.com/>, which since 2017 has displayed Plaintiff’s products, and

1 makes its products available for sale in the U.S. and throughout the world through
2 Amazon and other online and brick-and-mortar retailers.

3 34. Through its activities, Plaintiff established itself as an innovator and
4 leader in the wearable blankets market. In response to the success of THE COMFY,
5 online retailer Amazon created a new category of products on its platform(s) labeled
6 Wearable Blanket.

7 35. Cozy Comfort and its resellers have expended millions of dollars since
8 2017, advertising and promoting THE COMFY. Such advertising and promotion
9 have been featured in print and electronic media, over the Internet, and in a variety of
10 other media. THE COMFY has also been advertised, promoted, and sold by and
11 through nationally recognized retail establishments such as Costco, Bed Bath &
12 Beyond, QVC, Sam's Club, Kohl's, Target, and Kroger.

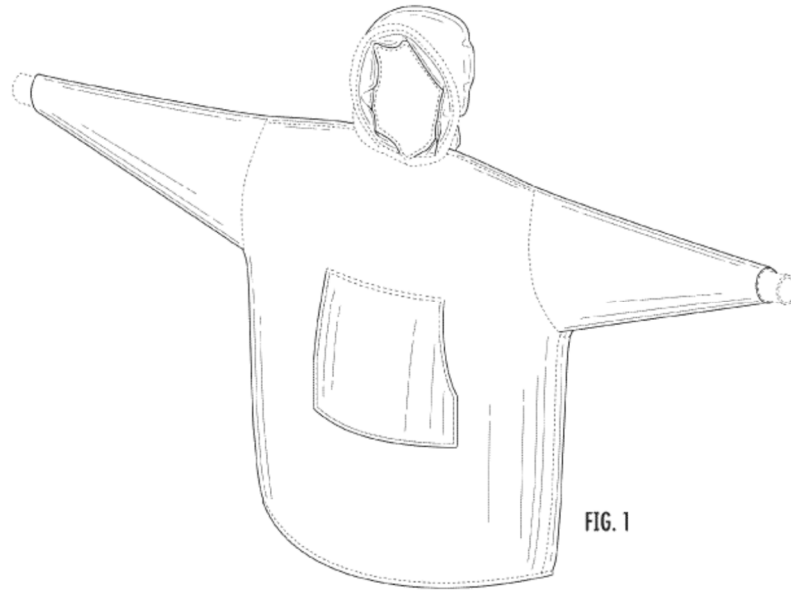
13 36. In addition to *Shark Tank*, THE COMFY has also been seen in streaming
14 videos and numerous other television programs viewed by many millions of
15 Americans, such as Good Morning America. THE COMFY has received extensive
16 unsolicited media coverage and public exposure from celebrities such as Lizzo, Jamie
17 Lynn Spears, Selena Gomez, Cindy Crawford, Kim Kardashian, and Kylie Jenner. In
18 January of 2018, Plaintiff produced and posted a video on THE COMFY that has
19 received over 100 Million views.

20 37. Cozy Comfort has achieved hundreds of millions of dollars in sales of
21 THE COMFY and it is currently the best-selling wearable blanket in the United
22 States.

23 38. Plaintiff is the owner of U.S. Patent No. D969,458 (the "'458 Patent")
24 entitled "Whole body blanket." A true and correct copy of the '458 Patent is attached
25 hereto as **Exhibit 1** and is incorporated by reference.

26 39. Figure 1 of the '458 Patent illustrates the invention with dotted lines
27 indicating optional features.

28 ...



U.S. Patent
Nov. 15, 2022
Sheet 1 of 12
US D969,458 S

(Patent image rotated clockwise by 90 degrees)

40. Defendants have each, and in concert, willfully and deliberately copied the intellectual property embedded within THE COMFY and/or owned by Cozy Comfort to import, market, and sell infringing items within the U.S.

41. Upon information and belief, each of the corporate Defendants share the common control by individual Defendants John and Serena Ngan (“Ngan’s”). The Defendants market and sell products in a manner that makes it confusing to the public as to the actual entity, entities, or individuals responsible for selling particular items. However, in concert, and under the shared direct control of the Ngan’s, each corporate Defendant has engaged and participated in the unlawful use, importation, marketing, distribution, and sale of products which infringe upon the intellectual property rights of Cozy Comfort.

42. Defendant Top Brand is a California LLC organized on July 28, 2017. “John S. Ngan” signed its initial Articles of Organization filed with the Secretary of State of California. The first Statement of Information filed by the company on March 7, 2019, indicates that the company’s managing member is “Shun On Ngan.” In its most recent Statement of Information filed on June 20, 2023, the company indicates

1 that its managing member is “Shun On Ngan”. The principal place of business and
2 agent for service of process listed on the Secretary of State website for the company
3 are located at 17145 Margay Avenue, Carson, California 90746.

4 43. Defendant E Star is a California LLC organized on the same day as Top
5 Brand, July 28, 2017. “John S. Ngan” signed its initial Articles of Organization filed
6 with the Secretary of State of California. In the most recent Statement of Information
7 filed with the Secretary of State of California on February 26, 2021, the company
8 indicates that the company’s CEO is “John Shun On Ngan”. Its listed principal place
9 of business and agent for service of process are also located at 17145 Margay Avenue,
10 Carson, California 90746.

11 44. Defendant Flying Star was organized in Illinois on April 21, 2017. Its
12 listed manager on the Office of the Illinois Secretary of State website is “Ngan, Shun
13 on John Lee”. Its listed principal place of business is 17145 Margay Avenue, Carson,
14 California 90746. The entity registered as a foreign entity to do business in the State
15 of California as Flying Star West, LLC in March 2019. “John Shun On Ngan” is listed
16 as Flying Star West’s agent for service of process and managing member.

17 45. Upon information and belief, Defendant John Ngan is a citizen of the
18 State of California with a business address of 17145 Margay Avenue, Carson,
19 California 90746. Defendant John Ngan is known and has been known by many
20 variations of names including “John Shun On Ngan”, “John Lee Ngan”, “Jack Ngan”
21 and “Shun On Ngan”.

22 46. Upon information and belief, Defendant Serena Ngan is the wife of
23 Defendant John Ngan and is also a citizen of the State of California.

24 47. Upon information and belief, the Ngan’s are the controlling members in
25 the management and control of each of the Defendants, as well as Flying Star West
26 LLC and serve as each entity’s manager and/or managing member.

1 48. Upon information and belief, the Ngan's have also transacted business
2 in the marketing, importation, distribution and selling of products at issue in this
3 action in an individual capacity and/or through other entities.

4 49. Upon information and belief, the Ngan's, Top Brand LLC, E Star LLC,
5 Flying Star LLC, and Flying Star West LLC, are alter egos of each other sharing a
6 common interest and alternatively attributing sales of substantially identical products
7 originating from common sources as being sold or licensed by distinct entities. The
8 purpose of these separate companies is to obfuscate the common ownership of these
9 entities of the Ngan's, avoid responsibility for infringement or other product issues,
10 to forum shop regarding possible disputes such as the instant action, and to give the
11 Ngan's options for relisting products through Amazon and/or other online retailers or
12 platforms in the event one of their product listings gets taken down.

13 50. Upon information and belief, the Ngan's have directed or overseen
14 illusory transactions between entities under their common control, such as intellectual
15 property assignments and licensing, with the intention of obscuring liability for
16 violations of intellectual property rights.

17 51. Among the items purportedly sold by Top Brand, E Star and/or Flying
18 Star, are items Defendants describe as "hoodies" or "blankets." The designs of many
19 of these items either directly replicate the intellectual property of Cozy Comfort or
20 are designed in such a way to bear substantial similarity to the construction and design
21 of the products of Cozy Comfort.

22 52. Defendants sell products under the brands of Catalonia and Tirrinia.

23 53. Despite being sold under different brand names, the Catalonia and
24 Tirrinia products are virtually identical.

25 54. The SKUs for the Catalonia and Tirrinia products use the same naming
26 conventions.

27 55. On occasion Defendants ship Catalonia-branded products when Tirrinia-
28 branded products are ordered.

1 56. Likewise, on occasion, Defendants ship Tirrinia-branded products when
2 Catalonia-branded products are ordered.

3 57. Defendants operate a website at the domain tirrinia.us for their Tirrinia-
4 branded products.

5 58. The domain “tirrinia.us” (<https://tirrinia.us>) states in its footer that the
6 copyrights for the website are owned by Tirrinia (“© 2023 Tirrinia”).

7 59. Upon information and belief, there is no formal entity named Tirrinia in
8 existence.

9 60. Upon information and belief, the tirrinia.us domain is owned and
10 operated by one or more of the Defendants.

11 61. Defendants operate a website at the domain cataloniastore.com for their
12 Catalonia-branded products.

13 62. The domain “cataloniastore.com” (<https://cataloniastore.com/>) states in
14 its footer that the copyrights for the website are owned by Catalonia Fashion
15 (“Copyright © 2023 Catalonia Fashion”).

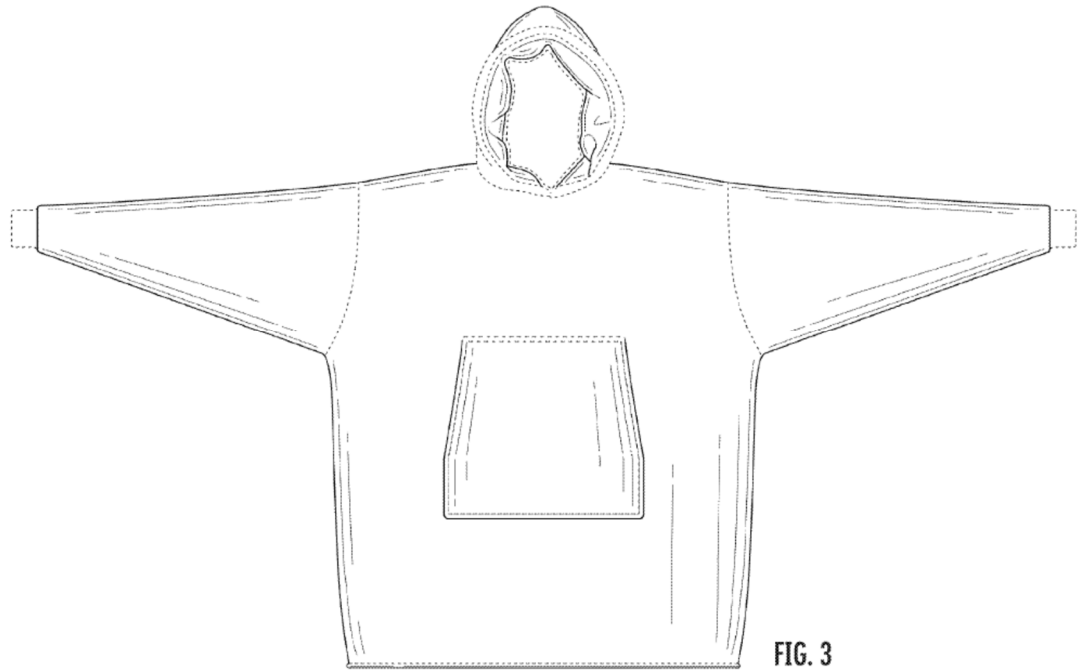
16 63. Upon information and belief, there is no formal entity named Catalonia
17 Fashion in existence.

18 64. Upon information and belief, the cataloniastore.com domain is owned
19 and operated by one or more of the Defendants.

20 65. Defendants each, and in concert, import, distribute and advertise for sale
21 identical products which infringe upon the intellectual property rights of Cozy
22 Comfort. For example, the Defendants sell substantially identical copies of Plaintiff’s
23 THE COMFY through sales of their products marketed as the Tirrinia “Blanket
24 Hoodie” and/or Catalonia “Hoodie Blanket.” These products have been observed for
25 sale on various online marketplaces such as Amazon, Walmart, and Sears, in addition
26 to company websites owned and/or managed by Defendants.

1 66. The differences in appearance and construction between the Tirrinia
2 “Blanket Hoodie” and/or the Catalonia “Hoodie Blanket” products are
3 inconsequential from the ’458 Patent.

4 67. The below comparison shows the similarity between Figure 3 of the ’458
5 Patent, and the Tirrinia and Catalonia products, respectively.





68. Since February 2020, Plaintiff and Defendants have been actively litigating the validity, enforceability, and alleged infringement of some of Plaintiff's other patents and intellectual property rights in a case styled: *Top Brand LLC v. Cozy Comfort Co. LLC*, No. CV-21-00597-PHX-SPL (D. Ariz.).

1 69. During the course of the above litigation, Defendants have been made
2 aware of Plaintiff's intellectual property rights.

3 70. Despite being on notice regarding Plaintiff's various intellectual
4 property rights, Defendants have continued to sell items under various brand names
5 and from various platforms which infringe upon the intellectual property of Cozy
6 Comfort. This includes several hooded products including Tirrinia and Catalonia
7 products which are presently sold in a wide variety of colors and patterns on
8 Defendants' websites identified above, as well as other e-commerce platforms such
9 as Amazon.com and Walmart.com.

10 71. Defendants' website [tirrinia.us](https://www.tirrinia.us) features a page labeled as "Blanket
11 Hoodie" which features similar hooded items in different patterns and colors
12 (<https://www.tirrinia.us/collections/blanket-hoodie>). These products are substantially
13 similar to the intellectual property contained in THE COMFY and infringe the '458
14 Patent. A true and correct copy of a screenshot of
15 <https://www.tirrinia.us/collections/blanket-hoodie>, last accessed October 25, 2023, is
16 attached hereto as **Exhibit 2**.

17 72. Defendants' website cataloniastore.com features a page labeled as
18 "Hoodie Blankets" which features similar hooded items in different patterns and
19 colors (<https://cataloniastore.com/collections/blanket-hoodie>). These products are
20 substantially similar to the intellectual property contained in THE COMFY and
21 infringe the '458 Patent. A true and correct copy of a screenshot of
22 <https://cataloniastore.com/collections/blanket-hoodie>, last accessed October 25,
23 2023, is attached hereto as **Exhibit 3**.

24 73. Defendants also use the brand name "Tirrinia" to sell hooded wearable
25 items which infringe upon the intellectual property of Cozy Comfort on Amazon.com.
26 For example, the product "Tirrinia Oversized Hoodie Blanket Sweatshirt Comfortable
27 Sherpa Giant Pullover Reversible Wearable Blankets for Adults Men Women
28 Teenagers Kids Wife Girlfriend" is sold by seller TopBrandsPlus. The product is

1 described as an oversized hoodie with a giant pocket made with sherpa material. A
2 true and correct copy of a screenshot of a listing page on Amazon.com last accessed
3 October 25, 2023, is attached hereto as **Exhibit 4**.

4 74. Defendants also use the brand name “Catalonia” to sell hooded wearable
5 items which infringe upon the intellectual property of Cozy Comfort on Amazon.com.
6 For example, the product “Catalonia Oversized Blanket Hoodie Sweatshirt, Wearable
7 Fleece Pullover, Gift for Adults Men Women Wife Girlfriend” is sold by seller
8 EStarPlus. A true and correct copy of a screenshot of a listing page on Amazon.com
9 last accessed October 25, 2023, is attached hereto as **Exhibit 5**.

10 75. Defendants have knowingly and willfully sold products which directly
11 replicate the intellectual property of Plaintiff and infringe the ’458 Patent. Defendants
12 have intentionally marketed, offered for sale, imported, used, and sold to U.S. based
13 customers the Tirrinia “Blanket Hoodie” and Catalonia “Hoodie Blanket,” in
14 violation of Plaintiff’s rights.

15 76. THE COMFY is the worldwide industry standard for hooded wearable
16 blankets with millions of units sold per year. Defendants have knowingly and
17 willfully sold products which directly replicate the intellectual property of Plaintiff.
18 Under the direction of Defendants, such products have been intentionally marketed,
19 offered for sale as if they were THE COMFY “as seen on [Shark Tank]”, imported,
20 and sold to U.S. based customers, all in violation of Plaintiff’s rights.

21 **FIRST CLAIM FOR RELIEF**

22 **(Infringement of the ’458 Patent – 35 U.S.C. § 271)**

23
24 77. Plaintiff hereby incorporates and realleges each and every allegation
25 contained in each of the preceding paragraphs of this Complaint as if fully set forth
26 herein.

27 78. Defendants, without authorization from Plaintiff, have used, offered for
28 sale, sold, and/or imported into the U.S., including within this District, a hooded

1 wearable blanket marketed as the Tirrinia “Blanket Hoodie” and/or Catalonia
2 “Hoodie Blanket,” having a design that infringes the ’458 Patent.

3 79. By the foregoing acts, Defendants have directly infringed, infringed
4 under the doctrine of equivalents, contributorily infringed, and/or induced
5 infringement of the ’458 Patent in violation of 35 U.S.C. § 271.

6 80. Upon information and belief, Defendants’ infringement has been, and
7 continues to be, knowing, intentional and willful.

8 81. Defendants’ acts of infringement of the ’458 Patent have caused, and will
9 continue to cause, Plaintiff damages for which Plaintiff is entitled to compensation
10 pursuant to 35 U.S.C. § 284 and/or 35 U.S.C. § 289.

11 82. Upon information and belief, Defendants have gained profits by virtue
12 of their infringement of the ’458 Patent.

13 83. Defendants’ acts of infringement of the ’458 Patent have caused, and will
14 continue to cause, Plaintiff immediate and irreparable harm unless such infringing
15 activities are enjoined by this Court pursuant to 35 U.S.C. § 283 as Plaintiff has no
16 adequate remedy at law.

17 84. The circumstances surrounding Defendants’ infringement are
18 exceptional and, therefore, Plaintiff is entitled to an award of attorneys’ fees pursuant
19 to 35 U.S.C. § 285.

20 **DEMAND FOR JURY TRIAL**

21
22 85. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff respectfully
23 demands a jury trial of all issues triable to a jury in this action.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff prays for judgment against Defendants as follows:

- 26 A. A judgment and order adjudicating and declaring that Defendants have
27 infringed the ’458 Patent;
28

- 1 B. A judgment and order permanently enjoining Defendants, their
2 employees, agents, officers, directors, attorneys, successors, affiliates,
3 subsidiaries, and assigns, and all of those in active concert and
4 participation with any of the foregoing persons or entities from further
5 infringement of the '458 Patent;
- 6 C. A judgment and order that Defendants must account for and pay actual
7 damages (but no less than a reasonable royalty), to Plaintiff for
8 Defendants' infringement of the '458 Patent;
- 9 D. A judgment and order awarding Plaintiff the total profits realized by
10 Defendants from their infringement of the '458 Patent pursuant to 35
11 U.S.C. § 289;
- 12 E. A judgment and order declaring Defendants have willfully infringed the
13 '458 Patent;
- 14 F. A judgment and order awarding Plaintiff enhanced damages up to three
15 times any amount ordered under 35 U.S.C. § 284;
- 16 G. A judgment ordering an accounting for any infringing sales not presented
17 at trial and an award by the court of additional damages for any such
18 infringing sales;
- 19 H. A determination that this case is exceptional under 35 U.S.C. § 285;
- 20 I. A judgment and order awarding Plaintiff its costs, expenses, and interest,
21 including pre-judgment and post-judgment, as provided for by 35 U.S.C.
22 § 284;
- 23 J. A judgment and order awarding Plaintiff its reasonable attorneys' fees
24 and other expenses pursuant to 35 U.S.C. §;
- 25 K. A judgment and order awarding pre-judgment and post-judgment
26 interest on each and every monetary award;
- 27 L. A judgment that the corporate Defendants are nothing more than the alter
28 egos of the Ngan's, that the various corporate forms should be ignored,

1 and that the corporate veils are rightfully pierced, making the Ngan's
2 personally liable for any judgment against any of the corporate
3 Defendants; and

4 M. Granting Plaintiff any such other and further relief as this Court deems
5 just and proper, or that Plaintiff may be entitled to as a matter of law or
6 equity.

7 DATED: February 15, 2024

MESSNER REEVES LLP

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9
10 /s/ Gregory P. Sitrick

Gregory P. Sitrick

11 Isaac S. Crum

12 Attorneys for Plaintiff Cozy Comfort
13 Company LLC
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