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ATTORNEYS FOR Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

MMI, INC., an Arizona corporation,) Case No. _____

Plaintiff,)

v.)

**COMPLAINT FOR PATENT
INFRINGEMENT**

BAJA, INC., a Delaware corporation d/b/a)
BAJA MOTOR SPORTS; DICK'S)
SPORTING GOODS, INC., a Delaware)
corporation; THE PEP BOYS MANNY MO &)
JACK OF CALIFORNIA, a California)
corporation; NORTHERN TOOL &)
EQUIPMENT COMPANY, INC., a Minnesota)
corporation; TRACTOR SUPPLY, INC., an)
Arizona corporation; RURAL KING)
HOLDING COMPANY, an Illinois)
corporation; CENTRAL PURCHASING, LLC,)
d/b/a HARBOR FREIGHT TOOLS, a)
California limited liability company;)
O'REILLY AUTOMOTIVE, INC., a Missouri)
corporation; HENSIM USA CORPORATION,)
a California corporation; SEARS ROEBUCK)
& CO., a New York corporation; RECON)
ENTERPRISES, LLC, d/b/a RECON)
MOTOR SPORTS, an Arizona limited liability)
company; and BLAIN SUPPLY, INC., a)
Wisconsin corporation,)

Defendants.)

_____)

1 Plaintiff MMI, Inc. (“MMI”), by and through undersigned counsel, for its
2 Complaint, alleges as follows:

3 **PARTIES, JURISDICTION AND VENUE**

4 1. MMI is an Arizona corporation duly authorized to transact business
5 in Arizona.

6 2. Baja, Inc. (“Baja”) is a Delaware corporation, having a regular and
7 established place of business in Phoenix, Arizona, and doing business in Arizona
8 as Baja Motor Sports.

9 3. Dick’s Sporting Goods, Inc. (“Dick’s”) is a Delaware corporation.
10 Dick’s is in the business of selling and supplying goods, including motorbikes, to
11 the public.

12 4. The Pep Boys Manny Mo & Jack of California (“Pep Boys”) is a
13 California corporation. The Pep Boys is in the business of selling and supplying
14 goods, including motorbikes, to the public.

15 5. Northern Tool & Equipment Company, Inc. (“Northern Tool”) is a
16 Minnesota corporation. Northern Tool & Equipment Company is in the business
17 of selling and supplying goods, including motorbikes, to the public.

18 6. Tractor Supply, Inc. (“Tractor Supply”) is an Arizona corporation.
19 Tractor Supply is in the business of selling and supplying goods, including
20 motorbikes, to the public.

21 7. Rural King Holding Company (“Rural King”) is an Illinois corporation.
22 Rural King is in the business of selling and supplying goods, including motorbikes,
23 to the public.

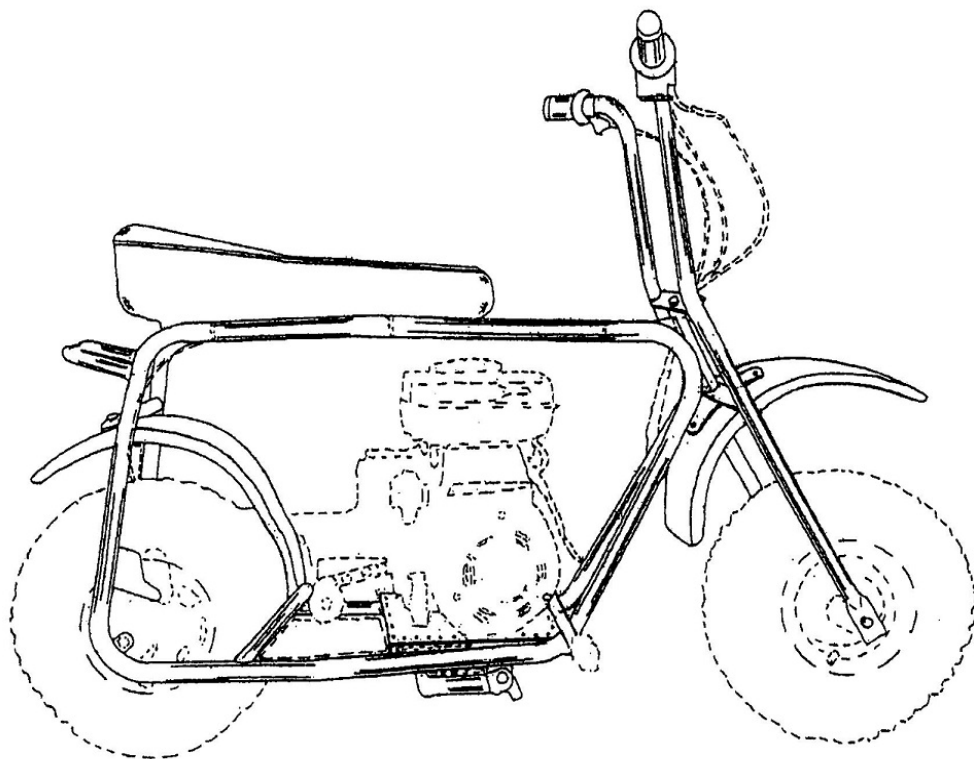
24 8. Central Purchasing, LLC d/b/a Harbor Freight Tools (“Central
25 Purchasing”) is a California limited liability company. Central Purchasing is in the
26 business of selling and supplying goods, including motorbikes, to the public.

1 2009 from Chris Martin. The Mini Bike contains numerous original features,
2 including an asymmetrical frame, an ornamental steel hoop for retention of the
3 rear fender, an ornamental steel hoop for the rear lift handle, and a unique frame
4 configuration which allows a wide range of uses and applications.

5 19. On November 15, 2007, Chris Martin filed a patent application in the
6 United States Patent Office ("USPTO") on certain unique features of his Mini Bike
7 design. The USPTO subsequently granted Chris Martin a patent on April 28,
8 2009: U.S. Patent No. D591,203S ("the '203 patent").

9 20. The '203' patent is valid and enforceable. MMI owns the patent by
10 way of assignment from Chris Martin.

11 21. Set forth below is a copy of a figure taken from the '203' patent that
12 schematically illustrates the unique design elements of the minibike:



1 or use of American ports or American transportation systems
2 in connection with importing, exporting or shipping infringing
3 mini bikes;

4 (ii) all advertising of infringing mini bikes in any way that is
5 accessible to United States customers or the consuming
6 public in the United States, including internet websites; and

7 (iii) all television broadcasts that can be received by television
8 viewers in the United States, regardless of source or location
9 of the broadcast, in which an infringing mini bike is used.

10 C. That Defendants, and those acting in concert with Defendants, be
11 ordered to pay to MMI damages adequate to compensate MMI, pursuant to 35
12 U.S.C. § 284, in an amount to be proven at trial, but in any event no less than a
13 reasonable royalty for all infringing mini bikes imported into the United States, sold
14 in the United States, or imported and exported through the use of American ports,
15 or transported through the United States in any way;

16 D. That Defendants, and those acting in concert with Defendants, be
17 ordered to pay MMI applicable costs, pre-judgment and post-judgment interest on
18 all damages proven by MMI at trial, pursuant to 35 U.S.C. § 284;

19 E. That Defendants, and those acting in concert with Defendants, be
20 found to have engaged in willful acts of infringement and be required to pay MMI
21 an increased damages award of three (3) times the amount proven by MMI at trial,
22 pursuant to 35 U.S.C. § 284;

23 F. That Defendants, and those acting in concert with Defendants, be
24 found to have engaged in willful acts of infringement and be required to pay MMI's
25 attorney's fees pursuant to 35 U.S.C. § 284 and 285; and
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G. For such other and further relief as the Court deems just and proper.

DATED this ____ day of March, 2010.

BURCH & CRACCHIOLO, P.A.

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