

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE LAUGHLIN PRODUCTS, INC., : MDL Docket No. 1498
PATENT LITIGATION :
: ALL CASES

FOURTH AMENDED COMPLAINT

Plaintiffs Laughlin Products, Inc. and Thomas J. Laughlin allege the following:

1. This is an action for patent infringement, brought under the patent laws of the United States, 35 U.S.C. § 1 *et seq.* and, more particularly, under 35 U.S.C. §§ 271, 281, 283, 284, and 285, and for defamation, disparagement, Lanham Act violations, and unfair competition.

PARTIES

2. Plaintiff, Laughlin Products, Inc. ("LPI"), is a Texas corporation having its principal place of business at 3506 Blueberry, Grapevine, Texas 76051.

3. Plaintiff, Thomas J. Laughlin ("Dr. Laughlin"), is an individual residing at 3506 Blueberry Hill, Grapevine, Texas 76051.

4. Defendant, Hollywood Tanning Systems, Inc. ("HTS"), is a New Jersey corporation having a principal place of business at CSC Plaza, Suite 400, 1120 Route 73 South, Mount Laurel, New Jersey, 08054, and having Hollywood Tans salons at Pembroke Commons Shopping Center, 712 University Drive, Pembroke Pines, Florida 33024 and at Centre Court Shopping Center, 6030 Sandy Springs Circle, Atlanta, Georgia 30328.

5. Defendant, Hollywood Tans, Inc., is a Pennsylvania corporation having Hollywood Tans salons at 2101 Walnut Street, Philadelphia, Pennsylvania, 19103 and at River Exchange Shopping Center, 2150 Riverside Parkway, Lawrenceville, Georgia 30043.

6. Defendant, Heartland Tanning, Inc. ("Heartland"), is a Missouri corporation having its principal place of business at 4251 N.E. Port Drive, Lakewood Business Park, Lee's Summit, Missouri 64064.

7. Defendant, FALA, LLC, is a Pennsylvania limited liability company having a Hollywood Tans salon at Ardmore Shopping Center, 44 Greenfield Avenue, Ardmore, Pennsylvania 19003.

8. Defendant, TNA Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Center Square Plaza, 1301 Skippack Pike, Blue Bell, Pennsylvania 19422.

9. Defendant, H.T. Lansdale, Inc., is a Pennsylvania corporation having a principal place of business at Towamencin Shopping Village, 1758 Allentown Road, Lansdale, Pennsylvania 19446.

10. Defendant, Unlimited Tans of PA, LLC, is a Pennsylvania limited liability company having a Hollywood Tans salon at Langhorn Square Shopping Center, 1415 East Lincoln Highway, Levittown, Pennsylvania 19056.

11. Defendant, Delco Tans Inc., is a Pennsylvania corporation having a Hollywood Tans salon at 515 East Baltimore Pike, Media, Pennsylvania 19063.

12. Defendant, SAK Enterprises, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Exeter Plaza, 3925 Perkiomen Avenue, Reading, Pennsylvania 19606.

13. Defendant, Herman Pappas Ltd, is a Pennsylvania limited company having a Hollywood Tans salon at Paoli Shopping Center, 29 Leopard Road, Paoli, Pennsylvania 19301.

14. Defendant, Roxborough Hollywood Tans, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at 6511 Ridge Avenue, Philadelphia, Pennsylvania 19128.

15. Defendant, Hollywood Tans Warminster, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Center Point Place, 760 West Street Road, Warminster, Pennsylvania 18974.

16. Defendant, Szumwell, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Lower Makefield Shopping Center, 680 Stoney Hill Road, Yardley, Pennsylvania 19067.

17. Defendant, HT of Pottstown Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Marketplace at Collegeville, Route 29, 301 Second Avenue, Collegeville, Pennsylvania 19426.

18. Defendant, Soleil Tanning, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Henderson Square Shopping Center, 314 South Henderson Road, King of Prussia, Pennsylvania 19406.

19. Defendant, H.T. Tans, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Loehmann's at Pilgrim Gardens Shopping Center, 1049 Pontiac Road, Store 5A, Drexel Hill, Pennsylvania 19026.

20. Defendant, H.T. Tans of Montgomeryville, Inc., is a corporation having a Hollywood Tans salon at 411 Doylestown Road, Suite G, Montgomeryville, Pennsylvania 18936.

21. Defendant, Ultra Sun Tanning Salon of Delaware County, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at 3534 West Chester Pike, Newtown Square, Pennsylvania 19073.

22. Defendant, Hollywood Tans of Bethlehem, is a company having a Hollywood Tans salon at Bethlehem Square Shopping Center, 3926 Linden Street, Bethlehem, Pennsylvania 18020.

23. Defendant, Morello Kidz Inc., is a corporation having a Hollywood Tans salon at 3437 Lincoln Highway, Thorndale, Pennsylvania 19372.

24. Defendant, Rose M. Pepper, is an owner of a proprietorship doing business as Riviera Sun Tanning Salon at 53 Oak Spring Rd., Washington, Pennsylvania 15301.

25. Defendant, Terry L. Pepper, is an owner of a proprietorship doing business as Riviera Sun Tanning Salon at 53 Oak Spring Rd., Washington, Pennsylvania 15301.

26. Defendant, Terra Real Estate, Inc., is a Pennsylvania corporation and an owner of a proprietorship doing business as Riviera Sun Tanning Salon at 53 Oak Spring Rd., Washington, Pennsylvania 15301.

27. Defendant, HT of Brooklyn, Inc., is a corporation having a Hollywood Tans salon at 1219 Quentin Road, Brooklyn, New York 11229.

28. Defendant, Cugia, LLC, is a New Jersey limited liability company having a Hollywood Tans salon at 27 Great Neck Road, Great Neck, New York 11021.

29. Defendant, RCV Partners, LLC, is a New York limited liability company having a Hollywood Tans salon at 1870 East Jericho Turnpike, Units 10-11, Huntington, New York 11743.

30. Defendant, Staten Island HT Inc., is a New Jersey corporation having a Hollywood Tans salon at Hyland Plaza, 2600 Hylan Boulevard, Stores 24-26, Staten Island, New York 10306.

31. Defendant, HT of Hicksville, Inc., is a New Jersey corporation having a Hollywood Tans salon at Delco Plaza, 17 East Old Country Road, Hicksville, New York 11801.

32. Defendant, LI Tanning, LLC, is a limited liability company having a Hollywood Tans salon at Great South Bay Shopping Center, 767 West Montauk Highway, West Babylon, New York 11704.

33. Defendant, Sun Chasers, LLC, is a limited liability company having a Hollywood Tans salon at North Ridge Shopping Center, 77 Quaker Ridge Road, New Rochelle, New York 10804.

34. Defendant, J & R Shaker, LLC, is a New York limited liability company having a Hollywood Tans salon at 250 West Route 59, Nanuet, New York 10954.

35. Defendant, 750 6th Avenue Tans, LLC, is a limited liability company having a Hollywood Tans salon at 750 6th Avenue, New York, New York 10011.

36. Defendant, Sunseeker of Sunrise, Inc., is a Florida corporation having a Hollywood Tans salon at Universal Plaza Shopping Center, 5417 N. University Drive, Lauderhill, Florida 33351.

37. Defendant, Jacques Penny III, Inc., is a Florida corporation having a Hollywood Tans salon at 579 North State Road, #7, Royal Palm Beach, Florida 33411.

38. Defendant, HT Chisholm Inc., is a corporation having a Hollywood Tans salon at Glendale Plaza, 1128 Pulaski Highway, Bear, Delaware 19701.

39. Defendant, Good Sun Inc., is a corporation having a Hollywood Tans salon at Shoppes at Naamans, 3100 Naamans Road, Units 3-4, Wilmington, Delaware 19810.

40. Defendant, Buonadonna LLC, is a limited liability company having a Hollywood Tans salon at Harmony Shopping Center, 4144 Stanton Ogleton Road, Newark, Delaware 19713.

41. Defendant, Eden Sun of Kirkwood, Inc., is a business having a Hollywood Tans salon at Milcreek Shopping Center, 4575 Kirkwood Highway, Wilmington, Delaware 19808.

42. Defendant, Sherrie Tanning, Inc., is a corporation having a Hollywood Tans salon at Tollgate Market Place, 615 Bel Air Road, Bel Air, Maryland 21014.

43. Defendant, Hollywood Tans of Gaithersburg, Inc., is a corporation having a Hollywood Tans salon at Walnut Hill Shopping Center, 16565 S. Frederick Road, Gaithersburg, Maryland 20877.

44. Defendant, Tans R Us Enterprises, Inc., is a Maryland corporation having a Hollywood Tans salon at Hurandale Plaza, 7708 Gov. Richie Highway, Glen Burnie, Maryland.

45. Defendant, Sunseeker of Essex, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Middlesex Shopping Center, 1348 Eastern Boulevard, Essex, Maryland 21221.

46. Defendant, Sunseeker of Parkville, Inc., is a Pennsylvania corporation having a Hollywood Tans salon at Parkville Shopping Center, 7637 Hartford Road, Baltimore, Maryland 21234.

47. Defendant, Virginia Tanning LLC, is a limited liability company having a Hollywood Tans salon at Garrison Village Center, 395 Garrisonville Road, Stafford, Virginia 22554.

48. Defendant, Gulli Parkin, LLC, is a limited liability company having a Hollywood Tans salon at Fair City Mall, 9650 Little River Turnpike, Fairfax, Virginia 22031.

49. Defendant, House of Tan, Inc., is a corporation having a Hollywood Tans salon at Prince William Commons Shopping Center, 14007 Noblewood Plaza Drive, Woodbridge, Virginia 22191.

50. Defendant, TBJ Enterprises, Inc., is a corporation having a Hollywood Tans salon at Greenbriar Center, 13063-E Lee Jackson Highway, Fairfax, Virginia 22033, and at Springfield Town Center, 6813 Bland Street, Springfield, Virginia 22150.

51. Defendant, The Malerman Group, LLC, is a limited liability company having a Hollywood Tans salon at Strawberry Hill Shopping Center, 440 Westport Avenue, Norwalk, Connecticut 06856, and at 1345 Barnum Avenue, Stratford, Connecticut 06614.

52. Defendant, Hoff & Associates, is a Georgia corporation having a Hollywood Tans salon at 2085 Woodlake Boulevard, Monroe, Georgia.

53. Defendant, EPHB, LLC, is a Georgia limited liability company having a Hollywood Tans salon at 640 West Crossville Road, Roswell, Georgia 30075.

54. Defendant, Segler Enterprises, Inc., d/b/a Darque Tan, is a Texas corporation having its principal place of business at 2550 North Loop West, Suite 400, Houston, Texas 77092.

55. Defendant, Alan Taylor Communications, Inc. ("Alan Taylor"), is a corporation that is incorporated in the State of New York having a principal place of business at 225 W. 34th St., 14 Penn Plaza, New York, New York 10122.

JURISDICTION AND VENUE

56. This Court has jurisdiction over the subject matter of this controversy under 28 U.S.C. §§ 1331 (federal question), 1332 (diversity of citizenship; the matter in controversy well exceeds the sum or value of \$75,000), and 1338(a) (patents), as well as pendant jurisdiction over the state law defamation, disparagement, and unfair competition claims which arise out of a common nucleus of operative fact.

57. This Court has personal jurisdiction over the Defendants, and venue in this district is proper, under 28 U.S.C. § 1407 and the Transfer Order of the Judicial Panel on Multidistrict Litigation. In addition, venue is conferred on this Court by 28 U.S.C. §§ 1391 and 1400(b).

COUNT ONE - PATENT INFRINGEMENT of U.S. Patent No. 5,922,333 (Against all Defendants except Alan Taylor ('the Patent Defendants'))

58. LPI incorporates herein paragraphs 2, 4-54 and 56-57 by reference.

59. LPI is the owner of U.S. Patent No. 5,922,333 ("the '333 patent") titled "System for Automatically Coating the Human Body." The '333 patent describes and claims a system for spray applying self-tanning solutions and other compositions onto the human body. LPI licenses others to

manufacture and sell the system of the '333 patent to businesses and individuals, and said businesses and individuals place the required statutory notice on all systems sold under the '333 patent pursuant to 35 U.S.C. § 287. A true and correct copy of the '333 patent is attached hereto as Exhibit A.

60. The Patent Defendants make, use, sell, or offer for sale a system for spray applying self-tanning solutions and other compositions onto the human body ("The System").

61. The Patent Defendants' manufacture, use, sale, or sale offer of The System constitutes infringement of the '333 patent under 35 U.S.C. § 271. Upon information and belief, the Patent Defendants' infringement of the '333 patent will continue unless the Patent Defendants are enjoined from doing so by the Court.

62. LPI has suffered damages as a direct result of the Patent Defendants' infringement. Under 35 U.S.C. § 284, LPI is entitled to damages adequate to compensate for the infringement including lost profits, but not less than a reasonable royalty.

63. The Patent Defendants' infringement of the '333 patent is willful. LPI filed original patent infringement complaints against the Patent Defendants or the Patent Defendants' owners beginning in June 2002, and during the intervening twenty three months the Patent Defendants have continued to make, use, sell, or offer for sale The System. LPI is therefore entitled to enhanced damages under 35 U.S.C. § 284. LPI also requests that the Court hold this to be an exceptional case.

64. LPI will be irreparably harmed if the Patent Defendants' patent infringement continues.

COUNT TWO - PATENT INFRINGEMENT of U.S. Patent No. 6,298,862
(Against the Patent Defendants)

65. LPI incorporates herein paragraphs 2, 4-54, 56-57, and 60 by reference.

66. LPI is the owner of U.S. Patent No. 6,298,862 ("the '862 patent") titled "Method and Apparatus for Automatically Coating the Human Body: Fogging Technology." The '862 patent describes and claims a method and apparatus for spray applying self-tanning solutions and other compositions onto the human body. LPI licenses others to manufacture and sell the system of the '862 patent to businesses and individuals, and said businesses and individuals place the required statutory notice on all systems sold under the '862 patent pursuant to 35 U.S.C. § 287. A true and correct copy of the '862 patent is attached hereto as Exhibit B.

67. The Patent Defendants' manufacture, use, sale, or sale offer of The System constitutes infringement of the '862 patent under 35 U.S.C. § 271. Upon information and belief, the Patent Defendants' infringement of the '862 patent will continue unless the Patent Defendants are enjoined from doing so by the Court.

68. LPI has suffered damages as a direct result of the Patent Defendants' infringement. Under 35 U.S.C. § 284, LPI is entitled to damages adequate to compensate for the infringement including lost profits, but not less than a reasonable royalty.

69. Upon information and belief, the Patent Defendants' infringement of the '862 patent is willful. LPI is therefore entitled to enhanced damages under 35 U.S.C. § 284. LPI also requests that the Court hold this to be an exceptional case.

70. LPI will be irreparably harmed if the Patent Defendants' patent infringement continues.

COUNT THREE - PATENT INFRINGEMENT of U.S. Patent No. 6,474,343
(Against the Patent Defendants)

71. LPI incorporates herein paragraphs 2, 4-54, 56-57, and 60 by reference.

72. LPI is the owner of U.S. Patent No. 6,474,343 ("the '343 patent") titled "Method of and Apparatus for Automatically Coating the Human Body." The '343 patent describes and claims

a method and apparatus for spray applying self-tanning solutions and other compositions onto the human body. LPI licenses others to manufacture and sell the system of the '343 patent to businesses and individuals, and said businesses and individuals place the required statutory notice on all systems sold under the '343 patent pursuant to 35 U.S.C. § 287. A true and correct copy of the '343 patent is attached hereto as Exhibit C.

73. The Patent Defendants' manufacture, use, sale, or sale offer of The System constitutes infringement of the '343 patent under 35 U.S.C. § 271. Upon information and belief, the Patent Defendants' infringement of the '343 patent will continue unless the Patent Defendants are enjoined from doing so by the Court.

74. LPI has suffered damages as a direct result of the Patent Defendants' infringement. Under 35 U.S.C. § 284, LPI is entitled to damages adequate to compensate for the infringement including lost profits, but not less than a reasonable royalty.

75. Upon information and belief, the Patent Defendants' infringement of the '343 patent is willful. LPI is therefore entitled to enhanced damages under 35 U.S.C. § 284. LPI also requests that the Court hold this to be an exceptional case.

76. LPI will be irreparably harmed if the Patent Defendants' patent infringement continues.

COUNT FOUR - PATENT INFRINGEMENT of U.S. Patent No. 6,468,508
(Against the Patent Defendants)

77. LPI incorporates herein paragraphs 2, 4-54, 56-57, and 60 by reference.

78. LPI is the owner of U.S. Patent No. 6,468,508 ("the '508 patent") titled "Method, Apparatus, and Composition for Automatically Coating the Human Body and Skin Preconditioning System for Use Therewith." The '508 patent describes and claims a method and apparatus for spray applying self-tanning solutions and other compositions onto the human body, and a skin

preconditioning system for use therewith. LPI licenses others to manufacture and sell the system of the '508 patent to businesses and individuals, and said businesses and individuals place the required statutory notice on all systems sold under the '508 patent pursuant to 35 U.S.C. § 287. A true and correct copy of the '508 patent is attached hereto as Exhibit D.

79. The Patent Defendants' manufacture, use, sale, or sale offer of The System constitutes infringement of the '508 patent under 35 U.S.C. § 271. Upon information and belief, the Patent Defendants' infringement of the '508 patent will continue unless the Patent Defendants are enjoined from doing so by the Court.

80. LPI has suffered damages as a direct result of the Patent Defendants' infringement. Under 35 U.S.C. § 284, LPI is entitled to damages adequate to compensate for the infringement including lost profits, but not less than a reasonable royalty.

81. Upon information and belief, the Patent Defendants' infringement of the '508 patent is willful. LPI is therefore entitled to enhanced damages under 35 U.S.C. § 284. LPI also requests that the Court hold this to be an exceptional case.

82. LPI will be irreparably harmed if the Patent Defendants' patent infringement continues.

COUNT FIVE - INDUCEMENT OF PATENT INFRINGEMENT
(Against HTS and Heartland)

83. LPI incorporates herein paragraphs 2, 4-54, 56-57, 59-61, 66-67, 72-73, and 78-79 by reference.

84. HTS manufactures The System for others, and HTS and Heartland sell The System to others. When The System as manufactured and sold by HTS and Heartland is used by others as intended it infringes the '333, the '862, the '343, and the '508 patents.

85. HTS's manufacture of The System for others and HTS and Heartland's sale of The System to others therefore constitute inducement of patent infringement under 35 U.S.C. § 271(b).

86. As a direct and proximate result of HTS and Heartland's acts of inducing patent infringement, LPI has been and continues to be injured and has sustained and will continue to sustain substantial damages in an amount not presently known.

COUNT SIX - DEFAMATION AND DEFAMATION PER SE
(Against HTS and Alan Taylor)

87. Plaintiffs incorporate herein paragraphs 2-4, 55-57, 59, and 66 by reference.

88. Dr. Laughlin is the sole owner and president of LPI, and inventor of the '333, the '862, the '343, and the '508 patent.

89. LPI and Dr. Laughlin and HTS are currently involved in litigation in the United States District Court for the Eastern District of Pennsylvania regarding, among other things, LPI's claims of infringement of the '333 and the '862 patent ("the U.S. litigation").

90. Shortly after the U.S. litigation began LPI, on February 12, 2003, requested that the United States Patent and Trademark Office ("the PTO") reexamine the '333 patent. The Court then partially stayed the U.S. litigation until at least December 1, 2003 to allow the PTO time to conduct the reexamination.

91. On September 17, 2003, HTS, acting through Alan Taylor, a public relations firm, issued a press release ("the reexam release") which includes: 1) patently false statements regarding LPI and Dr. Laughlin's statements regarding the reexamination; 2) unsupported and false statements about LPI and Dr. Laughlin's finances; and 3) misrepresentations about the reexamination proceedings. See Press Release entitled "Laughlin Patent Under Serious Scrutiny" contained in email attached hereto as Exhibit E.

92. LPI and Dr. Laughlin and HTS were previously involved in litigation in the United Kingdom regarding, among other things, HTS' s request that the court make a declaration that HTS did not infringe the then-existing claims of LPI' s European Patent Application No. EP1175164 (" the U.K. litigation").

93. LPI and Dr. Laughlin and HTS reached a settlement in the U.K. litigation, and the court entered an Order (" the Order") that detailed the settlement.

94. On September 17, 2003 HTS, acting through Alan Taylor issued a press release (" the UK release") which includes: 1) patently false statements and misrepresentations about the effect of the Order on LPI and Dr. Laughlin, LPI and Dr. Laughlin' s customers and licensees, and HTS; and 2) malicious and false statements regarding Dr. Laughlin' s actions in the United Kingdom. *See* Press Release entitled " Laughlin Loses in the United Kingdom," also contained in email attached hereto as Exhibit E.

95. On information and belief HTS and Alan Taylor or agents of HTS and Alan Taylor submitted the press releases referred to in paragraphs 91 and 94, as well as other false and misleading statements, to a website devoted to the artificial tanning industry called www.tantoday.com. *See* Tan Today forum threads attached hereto as Exhibits F, G, and H.

96. On numerous occasions, HTS and Alan Taylor made defamatory statements to third parties concerning the LPI and Dr. Laughlin, their products and business. These statements were made either intentionally or negligently or with reckless disregard as to their truth or falsity. The statements have harmed LPI and Dr. Laughlin and caused them damages, exposing them to public contempt and ridicule and financial injury. Further, on information and belief, the statements were made with the intention of harming Plaintiffs' reputation and business and with

the object of enriching HTS and Alan Taylor by allowing HTS to unlawfully secure a larger share of the tanning market. Accordingly, LPI and Dr. Laughlin are entitled to damages, including consequential damage and punitive damages, as well as reasonable and proper attorneys' fees, costs and pre- and post-judgment interest. In addition, LPI and Dr. Laughlin are entitled to temporary and permanent injunctive relief since they will suffer irreparable harm if the unlawful conduct that is the subject of this Complaint is not restrained.

COUNT SEVEN - TRADE DISPARAGEMENT
(Against HTS and Alan Taylor)

97. Plaintiffs incorporate herein paragraphs 2-4, 55-57, 59, 66, and 88-95 by reference.

98. The foregoing conduct further constitutes the tort of trade disparagement. HTS and Alan Taylor published with malice disparaging words which were false, which were made without privilege and which caused LPI and Dr. Laughlin damage. This conduct was committed either intentionally or negligently or with reckless disregard as to the consequences. The disparaging conduct has harmed LPI and Dr. Laughlin and caused them damage, exposing them to public contempt and ridicule and financial injury. Further, on information and belief, the conduct was committed with the intention of harming LPI and Dr. Laughlin's reputation and business and with the object of enriching HTS and Alan Taylor by enabling HTS to unlawfully secure a larger share of the tanning market. Accordingly, LPI and Dr. Laughlin are entitled to damages, including consequential damage and punitive damages, as well as reasonable and proper attorneys' fees, costs and pre- and post-judgment interest. In addition, LPI and Dr. Laughlin are entitled to temporary and permanent injunctive relief since they will suffer irreparable harm if the unlawful conduct that is the subject of this Complaint is not restrained.

COUNT EIGHT - LANHAM ACT VIOLATIONS
(Against HTS and Alan Taylor)

99. Plaintiffs incorporate herein paragraphs 2-4, 55-57, 59, 66, and 88-95 by reference.

100. The foregoing conduct further violates Section 1125 of the Lanham Act because HTS and Alan Taylor made false and/or misleading representations concerning the products and services of LPI and Dr. Laughlin. The statements were calculated to deceive others concerning the quality of LPI and Dr. Laughlin's products and services and, on information and belief, did deceive such others. These statements were made either intentionally or negligently or with reckless disregard as to their truth or falsity. The statements have harmed LPI and Dr. Laughlin and caused them damages and injury. Further, on information and belief, the statements were made with the intention of harming LPI and Dr. Laughlin's reputation and business and with the object of enriching HTS and Alan Taylor by enabling HTS to unlawfully secure a larger share of the tanning market. Accordingly, LPI and Dr. Laughlin are entitled to damages, including consequential damage and punitive damages, as well as reasonable and proper attorneys' fees, costs and pre- and post-judgment interest. In addition, LPI and Dr. Laughlin are entitled to temporary and permanent injunctive relief since they will suffer irreparable harm if the unlawful conduct that is the subject of this Complaint is not restrained.

COUNT NINE - UNFAIR COMPETITION
(Against HTS and Alan Taylor)

101. Plaintiffs incorporate herein paragraphs 2-4, 55-57, 59, 66, and 88-95 by reference.

102. The foregoing acts of the HTS and Alan Taylor constitutes unfair competition,

unjust enrichment, and misappropriation of LPI and Dr. Laughlin's rights in that such acts permit, and will continue to permit the defendants to use and benefit from the goodwill and reputation earned by LPI and Dr. Laughlin to obtain a ready customer acceptance for goods sold by HTS on the basis of a reputation not established in HTS's own right, and to give HTS's services a saleability they otherwise would not have, all at the expense of LPI and Dr. Laughlin. On information and belief, the HTS and Alan Taylor committed these acts knowingly and with intent to harm LPI and Dr. Laughlin. The continuing sale of goods and services by HTS will continue to constitute acts of unfair competition, unjust enrichment, and misappropriation by HTS and Alan Taylor against LPI and Dr. Laughlin, thereby causing LPI and Dr. Laughlin irreparable harm. Accordingly, LPI and Dr. Laughlin are entitled to damages, including consequential damage and punitive damages, as well as reasonable and proper attorneys' fees, costs and pre- and post-judgment interest. In addition, LPI and Dr. Laughlin are entitled to temporary and permanent injunctive relief since it will suffer irreparable harm if the unlawful conduct that is the subject of this Complaint is not restrained.

COUNT TEN - TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS
RELATIONS (Against HTS and Alan Taylor)

103. Plaintiffs incorporate herein paragraphs 2-4, 55-57, 59, 66, and 88-95 by reference.

104. The foregoing conduct further constitutes tortious interference with business relations. On information and belief, HTS and Alan Taylor's unlawful conduct, set forth in more detail above, has prevented LPI and Dr. Laughlin from entering into potentially lucrative business and contractual relationships with prospective clients. This conduct was not privileged and included the use of unlawful acts, including, but not limited to, making defamatory statements

and misrepresentations. Further, on information and belief, HTS and Alan Taylor acted knowingly and with intent to harm LPI and Dr. Laughlin. This conduct has harmed LPI and Dr. Laughlin and caused it damages. In addition, LPI and Dr. Laughlin are entitled to temporary and permanent injunctive relief since they will suffer irreparable harm if the unlawful conduct that is the subject of this Complaint is not restrained.

COUNT ELEVEN - TORTIOUS INTERFERENCE WITH EXISTING CONTRACTS
(Against HTS and Alan Taylor)

105. Plaintiffs incorporate herein paragraphs 2-4, 55-57, 59, 66, and 88-95 by reference.

106. The foregoing conduct further constitutes tortious interference with existing contracts. On information and belief, the foregoing conduct constituted and included intentional and willful acts that interfered with existing contracts between LPI and Dr. Laughlin and their clients and/or customers; the conduct was calculated to cause damage to LPI and Dr. Laughlin; and HTS and Alan Taylor had no legally justifiable cause or excuse for committing those acts. The unlawful conduct that interfered with the contracts included, but is not limited to, making defamatory statements and misrepresentations. Further, on information and belief, HTS and Alan Taylor acted knowingly and with intent to harm LPI and Dr. Laughlin. This conduct has harmed LPI and Dr. Laughlin and caused them damages. In addition, LPI and Dr. Laughlin are entitled to temporary and permanent injunctive relief since they will suffer irreparable harm if the unlawful conduct that is the subject of this Complaint is not restrained.

COUNT TWELVE - INJUNCTIVE RELIEF
(Against the Patent Defendants)

107. LPI incorporates herein paragraphs 2, 4-54, 56-57, 60, 61, 67, 73, 79, and 84-85.

108. LPI will be irreparably harmed if the Patent Defendants' patent infringement and inducement of patent infringement continues. The balance of equities favors a preliminary injunction in favor of LPI. LPI therefore requests a preliminary injunction prohibiting the Patent Defendants, their directors, officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert with them, from making, using, selling, or offering for sale The System or taking any other actions that would directly or indirectly infringe the '333, the '862, the '343, and the '508 patents.

JURY DEMAND

109. Plaintiffs request a jury trial of all issues in this action so triable.

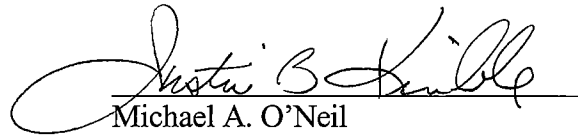
WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment:

- A. that the Patent Defendants have infringed the '333 patent;
- B. that the Patent Defendants have infringed the '862 patent;
- C. that the Patent Defendants have infringed the '343 patent;
- D. that the Patent Defendants have infringed the '508 patent;
- E. that Hollywood Tanning Systems, Inc. and Heartland Tanning Systems, Inc. have induced infringement of the '333, the '862, the '343, and the '508 patents;
- F. preliminarily and, ultimately, permanently enjoining, as requested above, the Patent Defendants and their directors, officers, employees, agents, parents, subsidiaries, affiliates, and anyone else in active concert with them, from using, making, selling, or offering for sale The System or taking any other actions that would directly or indirectly infringe the '333, the '862, the '343, and the '508 patents;

- G. awarding actual damages, consequential damages, incidental damages, and interest;
- H. awarding enhanced damages under 35 U.S.C. § 284;
- I. awarding punitive and exemplary damages;
- J. that HTS and Alan Taylor be temporarily and permanently enjoined from publishing false and misleading statements about the Plaintiffs;
- K. that this case is exceptional, and that LPI therefore shall recover reasonable costs, expenses, and attorney's fees under 35 U.S.C. § 285;
- L. that Plaintiff recover such other and further relief as this court may deem appropriate.

Dated: October 12, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael A. O'Neil", is written over a horizontal line.

Michael A. O'Neil

TX Bar No. 15285000

Kevin Nash

TX Bar No. 14811100

Justin B. Kimble

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