

U.S. DISTRICT COURT
EASTERN DISTRICT
OF TEXAS
2008 FEB 26 AM 12:01

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FURMINATOR, INC.)
)
Plaintiff,)
v.)
)
MUNCHKIN, INC. AND)
KIM LAUBE & CO., INC.)
)
Defendants.)
_____)

CASE NO. 2:08cv85

JURY TRIAL DEMANDED

COMPLAINT

This is FURminator, Inc.'s ("FURminator") complaint against Defendants Munchkin, Inc. and Kim Laube & Co., Inc. ("Laube").

JURISDICTION AND VENUE


1. This is an action for patent infringement in which FURminator seeks preliminary and permanent injunctive relief as well as damages.
2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338 (patents, copyrights, trademarks and unfair competition related thereto).

JURY TRIAL DEMANDED

3. Plaintiff hereby demands a jury on all issues so triable.

THE PARTIES

4. FURminator is a Missouri corporation with its principal place of business in St. Louis, Missouri.
5. Munchkin, Inc. is a Delaware corporation with its principal place of business at 16689 Schoenborn Street, North Hills, California 91343. Munchkin, Inc.'s pet products are

A TRUE COPY I CERTIFY
DAVID MALAND, CLERK
U.S. DISTRICT COURT
EASTERN DISTRICT, TEXAS
By: 

marketed under Munchkin's pet products division, Bamboo. Munchkin, Inc. and Bamboo will be referred to collectively herein as Bamboo.

6. On information and belief, Bamboo's infringing products are being offered for sale in the Eastern District of Texas via at least printed advertisements.

7. On information and belief, Bamboo's infringing products are being sold in the Eastern District of Texas.

8. On information and belief, Bamboo's infringing products have been sold and/or offered for sale within this district in violation of FURminator's provisional rights in U.S. Patent Application Serial No. 11/676368 under 35 U.S.C. § 154(d).

9. Laube is a California corporation with its principal place of business at 2221 Statham Blvd., Oxnard, California 93033.

10. On information and belief, Laube's infringing products are offered for sale in the Eastern District of Texas, via at least the interactive website www.kimlaubecoshop.com and printed advertisements.

11. On information and belief, Laube's infringing products are sold in the Eastern District of Texas, through the interactive website www.kimlaubecoshop.com and elsewhere.

12. On information and belief, Laube's infringing products have been sold and/or offered for sale within this district in violation of FURminator's provisional rights in U.S. Patent Application Serial No. 11/676368 under 35 U.S.C. § 154(d)

13. On information and belief, venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1400 because Bamboo and Laube reside within this judicial district as they are subject to personal jurisdiction here.

Statement of Facts

14. FURminator is a St. Louis-based company formed by Angela and David Porter (“Porters”) in 2002. FURminator’s primary business is the promotion and sale of pet grooming tools and other pet products.

15. After starting in the pet grooming business, Angela Porter learned a grooming technique known as “carding,” which removes the pet’s shed hair without damaging the top coat. She was taught to card dogs by using the blade from an electric clipper. These blades come in a variety of sizes, but one common size is referred to as a “40 Blade.” A groomer would hold the 40 Blade in his or her hand and move the 40 Blade repeatedly through the pet’s fur. This method was difficult and tiring. These blades were not designed to be held in the users hand and used in this fashion. Angela Porter’s early experiences with this process and using other available pet grooming tools demonstrated a need for an easy-to-use tool that could remove shedding hair from pets, but did not pull or cut non-loose hair.

16. The Porters invented the FURminator DeShedding™ Tools, and, taking great personal financial risk, pursued a dream to start a business and sell those products. It took several years for the Porters to develop and to get their products to market. Angela Porter, owner of a pet grooming salon, and David Porter, a graphic design artist, worked together during that time to develop the concept, build prototypes, and find others that would help them manufacture their products.

17. On May 30, 2000, the Porters filed an application that eventually issued as U.S. Patent No. 6,782,846 (the ‘846 Patent) on August 31, 2004.

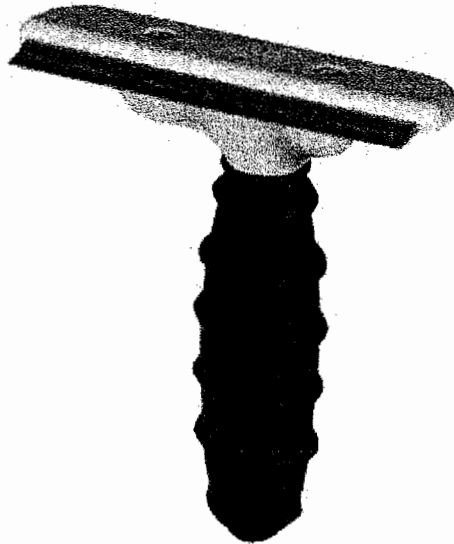
18. After the issuance of the ‘846 Patent, accused infringers, including defendants,

brought to FURminator’s attention materials that they contend are prior art. FURminator filed

several continuation applications from the '846 Patent application, including but not limited to the patent in this suit, U.S. Patent No. 7,334,540 (the '540 Patent). During prosecution of these continuation applications, FURminator submitted to the United States Patent and Trademark Office ("PTO") materials alleged by accused infringers to be prior art. The PTO allowed these continuations and granted patents from them, including the '540 Patent, over the alleged prior art.

19. FURminator is the owner by assignment of the '540 Patent. The '540 Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.

20. FURminator produces several products that are covered by the '540 Patent, including, but not limited to, the FURminator DeShedding™ Tools, an example of which is depicted below:



21. FURminator markets its FURminator DeShedding™ Tools to pet grooming professionals, including pet groomers, veterinarians and animal rescue centers. FURminator also markets these products to the general public through QVC (a televised shopping service), catalogs, the Internet, mass retail outlets (such as PetSmart and Petco), professional pet groomers (who resell the FURminator line), printed advertisements, trade shows, and television advertisements.

22. FURminator DeShedding™ Tools have been and continue to enjoy significant commercial success as well as widespread approval in the pet industry. FURminator DeShedding™ Tools have received numerous accolades, including “Editor’s Choice” by Dog Fancy, Cat Fancy, and Pet Product News in 2005 and was described as one of the best grooming products tested by the Tufts University School of Veterinary Medicine. Since FURminator began widespread sales of its FURminator DeShedding™ Tools in 2003, the FURminator DeShedding™ Tools have enjoyed brisk sales. As a result of these sales, FURminator has been recognized as one of the fastest growing companies in its home city of St. Louis, Missouri and featured on television programs showcasing innovation such as the “Big Idea with Donnie Deutsch.” Sales of FURminator DeShedding™ Tools account for the majority of FURminator’s revenues.

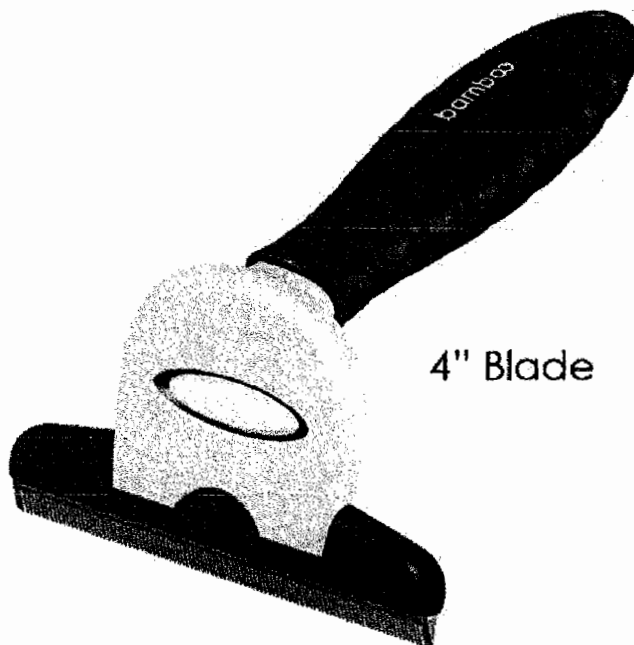
23. FURminator’s success has caused FURminator’s competitors Bamboo and Laube to imitate FURminator’s products. Bamboo and Laube were aware of FURminator’s first patent, the ‘846 Patent, when they developed their products. Indeed, Bamboo intentionally designed its first tool to lack a handle similar to FURminator’s DeShedding™ Tools in an attempt to avoid infringement of FURminator’s ‘846 Patent. On information and belief, Bamboo and Laube have monitored the U.S. Patent Application Serial No. 11/676,368, which matured into the ‘540

Patent, and have been aware of the publication of the application, Publication No. 2007-0119383 A1, published on May 31, 2007. On information and belief, despite knowledge of FURminator's intellectual property rights to the design embodied by its DeShedding™ Tools, these imitators have knocked off FURminator's products by copying aspects of FURminator's designs.

24. On information and belief, Bamboo's first tool, without a "rake type" handle, suffered from poor sales. Also on information and belief, Bamboo responded to these poor sales by redesigning its product with a "rake type" handle, such that its new tool looks very similar to the FURminator DeShedding™ Tool. Bamboo has named its product the FurBuster.

Bamboo's Infringing Activities

25. On information and belief, Bamboo, makes, uses, offers to sell, sells or imports into the United States the FurBuster grooming tool, an example of which is depicted below:



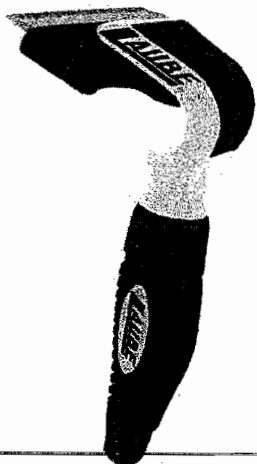
26. The Bamboo FurBuster grooming tools (hereinafter “Bamboo Products”) are sold in a variety of sizes. Bamboo also makes, uses, offers to sell, sells or imports into the United States replacement blades designed specifically for use with the Bamboo Products. The Bamboo Products comes in several colors, including the red and white product depicted above.

27. On information and belief, Bamboo has copied the colors of FURminator’s products in an attempt to make the Bamboo Products more like FURminator’s products. For instance, Bamboo offers for sale a cat FurBuster, which employs a purple and white color scheme despite the fact that nearly all of Bamboo’s products are strictly red and white. FURminator’s cat DeShedding™ tool is purple.

28. On information and belief, Bamboo also employs artwork in its FurBuster marketing similar to that used by FURminator in the marketing of its tools.

Laube’s Infringing Activities

29. On information and belief, Laube, makes, uses, offers to sell, sells or imports into the United States several grooming tools that infringe the ‘540 Patent, including at least the following types of tools:



Laube Quick Change Tool



Laube Adjustable Blade Rake



Laube iVac Tool

30. These tools (hereinafter the “Laube Products”), infringe one or more claims of the ‘540 Patent. Laube also makes, uses, offers to sell, sells or imports into the United States replacement blades specifically designed for use in the Laube Quick Change Tool.

Count I

Bamboo’s Infringement of the ‘540 Patent under 35 U.S.C. § 271(a)

31. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

32. Bamboo has been and is infringing the ‘540 Patent under 35 U.S.C. § 271(a).

33. Bamboo directly infringes the ‘540 Patent by making, using, selling and/or offering to sell the infringing Bamboo Products within the United States and/or importing into the United States the Bamboo Products.

34. Bamboo’s conduct has damaged and will continue to damage FURminator.

35. On information and belief, Bamboo’s infringement of the ‘540 Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

Count II

Bamboo’s Infringement of the ‘540 Patent under 35 U.S.C. § 271(b)

36. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

37. Bamboo has been and is infringing the ‘540 Patent under 35 U.S.C. § 271(b).

38. Others directly infringe the ‘540 Patent by using, selling, and/or offering to sell the infringing Bamboo Products within the United States, and/or importing the infringing Bamboo Products into the United States.

39. Others directly infringe the ‘540 Patent through the practice of the method claimed in the ‘540 Patent using the Bamboo Products.

40. On information and belief, Bamboo knows of the '540 Patent.

41. On information and belief, Bamboo knows that others infringe the '540 Patent by using, selling, and/or offering for sale the infringing Bamboo Products within the United States and intends to so induce others to infringe the '540 Patent.

42. Bamboo's conduct has damaged and will continue to damage FURminator.

43. On information and belief, Bamboo's infringement of the '540 Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

Count III

Bamboo's Infringement of the '540 Patent under 35 U.S.C. § 271(c)

44. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

45. Bamboo has been and is infringing the '540 Patent under 35 U.S.C. § 271(c).

46. Bamboo sells and offers for sale the infringing Bamboo Products within the United States and imports the Bamboo Products into the United States.

47. Bamboo sells and offers for sale replacement blades for use in the Bamboo Products within the United States and imports such replacement blades into the United States.

48. Others directly infringe the '540 Patent by using, selling, and/or offering to sell the infringing Bamboo Products within the United States, and/or importing the infringing Bamboo Products into the United States.

49. Others directly infringe the '540 Patent through the practice of the method claimed in the '540 Patent by using the Bamboo Products.

50. On information and belief, Bamboo knows of the '540 Patent.

51. The Bamboo Products and the replacement blades for use in the Bamboo Products constitute components of a patented article, which may also be used for the practice of a patented process.

52. Such Bamboo Products and the replacement blades for use in the Bamboo Products constitute material parts of the invention and are especially made or adapted for use in an infringement of the '540 Patent. On information and belief, Bamboo is aware that the Bamboo Products and the replacement blades for use in the Bamboo Products constitute material parts of the invention and are especially made or adapted for use in an infringement of the '540 Patent.

53. Such Bamboo Products and the replacement blades for use in the Bamboo Products are not staple articles or suitable for a substantial non-infringing use.

54. Bamboo's conduct has damaged and will continue to damage FURminator.

55. On information and belief, Bamboo's infringement of the '540 Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

Count IV
Bamboo's Infringement of the '540 Patent under 35 U.S.C. § 154(d)

56. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

57. On information and belief, Bamboo monitored U.S Patent Application Serial No. 11/676368, which ultimately issued as the '540 Patent.

58. On information and belief, Bamboo had actual notice of the published patent application of U.S. Patent Application Serial No. 11/676368, Patent Application Publication 2007-0119383A1, published May 31, 2007 (the "Published Application").

59. The invention claimed in the '540 Patent is substantially identical to the invention as claimed in the Published Application.

60. On information and belief, Bamboo infringed the invention as claimed in the Published Application that ultimately issued as the '540 Patent by making, using, selling, or offering for sale within the United States the infringing Bamboo Products or importing the infringing Bamboo Products into the United States.

61. Bamboo's conduct has damaged and will continue to damage FURminator.

Count V
Laube's Infringement of the '540 Patent under 35 U.S.C. § 271(a)

62. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

63. Laube has been and is infringing the '540 Patent under 35 U.S.C. § 271(a).

64. Laube directly infringes the '540 Patent by making, using, selling, offering to sell the infringing Laube Products within the United States and importing into the United States the Laube Products.

65. Laube's conduct has damaged and will continue to damage FURminator.

66. On information and belief, Laube's infringement of the '540 Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

Count VI
Laube's Infringement of the '540 Patent under 35 U.S.C. § 271(b)

67. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

68. Laube has been and is infringing the '540 Patent under 35 U.S.C. § 271(b).

69. Others directly infringe the '540 Patent by using, selling, and/or offering to sell the infringing Laube Products within the United States, and/or importing the infringing Laube Products into the United States.

70. Others directly infringe the '540 Patent through the practice of the method claimed in the '540 Patent using the Laube Products.

71. On information and belief, Laube knows of the '540 Patent.

72. On information and belief, Laube knows that others infringe the '540 Patent by using, selling, and/or offering for sale the infringing Laube Products within the United States and intends to so induce others to infringe the '540 Patent.

73. Laube's conduct has damaged and will continue to damage FURminator.

74. On information and belief, Laube's infringement of the '540 Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

Count VII

Laube's Infringement of the '540 Patent under 35 U.S.C. § 271(c)

75. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

76. Laube has been and is infringing the '540 Patent under 35 U.S.C. § 271(c).

77. Laube sells and offers for sale the infringing Laube Products within the United States and imports the Laube Products into the United States.

78. Laube sells and offers for sale replacement blades for use in the Laube Products within the United States and imports the such replacement blades into the United States.

79. Others directly infringe the '540 Patent by selling, using, and/or offering to sell the infringing Laube Products within the United States, and/or importing the infringing Laube Products into the United States.

80. Others directly infringe the '540 Patent through the practice of the method claimed in the '540 Patent using the Laube Products.

81. On information and belief, Laube knows of the '540 Patent.

82. The Laube Products and the replacement blades for use in the Laube Products constitute components of a patented article, which may also be used for the practice of a patented process.

83. Such Laube Products and the replacement blades for use in the Laube Products constitute material parts of the invention and are especially made or adapted for use in an infringement of the '540 Patent. On information and belief, Laube is aware that the Laube Products and the replacement blades for use in the Laube Products constitute material parts of the invention and are especially made or adapted for use in an infringement of the '540 Patent.

84. Such Laube Products and the replacement blades for use in the Laube Products are not staple articles or suitable for a substantial non-infringing use.

85. Laube's conduct has damaged and will continue to damage FURminator.

86. On information and belief, Laube's infringement of the '540 Patent is and has been willful, making this case exceptional under 35 U.S.C. § 285.

Count VIII

Laube's Infringement of the '540 Patent under 35 U.S.C. § 154(d)

87. FURminator incorporates by reference, as if fully set forth herein, the preceding paragraphs of this Complaint.

88. On information and belief, Laube monitored U.S Patent Application Serial No. 11/676368, which ultimately issued as the '540 Patent.
89. On information and belief, Laube had actual notice of the Published Application.
90. The invention claimed in the '540 Patent is substantially identical to the invention as claimed in the Published Application.
91. On information and belief, Laube infringed the invention as claimed in the Published Application that ultimately issued as the '540 Patent by making, using, selling, or offering for sale within the United States the infringing Laube Product or importing the infringing Laube Products into the United States.
92. Laube's conduct has damaged and will continue to damage FURminator.

PRAYER FOR RELIEF

WHEREFORE, FURminator prays for judgment against the Defendants as follows:

- A. Preliminarily and permanently enjoin Defendants and any person acting in concert with them from further infringement of United States Patent No. 7,334,540;
- B. Award FURminator damages resulting from the Defendants' infringement of U.S. Patent No. 7,334,540;
- C. Treble the damages in accordance with the provisions of 35 U.S.C. § 284;
- D. Find the case to be exceptional under the provisions of 35 U.S.C. § 285;
- E. Award FURminator reasonable attorney fees under 35 U.S.C. § 285;
- F. Order the impounding and destruction of all the Defendants' products that infringe U.S. Patent No. 7,334,540;
- G. Award FURminator interests and costs;

H. Defendants must pay FURminator punitive damages due to their willful infringement;

I. Defendants must pay FURminator a reasonable royalty resulting from Defendants' infringement of FURminator's provisional rights under 35 U.S.C. § 154;

J. Order an accounting of Defendants' profits resulting from sales of their products that infringe U.S. Patent No. 7,334,540;

K. Defendants must report to this Court of their compliance with the foregoing within thirty (30) days of judgment; and

L. For such other and further relief that the Court deems just and proper.

Respectfully submitted,

Patton, Tidwell & Schroeder, LLP

By:  _____

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(314) 552-6000
(314) 552-7000 (fax)

Attorneys for the Plaintiff
FURminator, Inc.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS FURminator, Inc.</p> <p>(b) County of Residence of First Listed Plaintiff <u>St. Louis</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Nicholas H. Patton and J. Kurt Truelove; 4605 Texas Boulevard Texarkana, Texas 75503</p>	<p>DEFENDANTS Munchkin, Inc. and Kim Laube & Co., Inc.</p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:33%;">PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:33%;">PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td>PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)					
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<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p style="text-align: center;">PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p style="text-align: center;">SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p style="text-align: center;">FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	IMMIGRATION	
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V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) _____ 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 271 & 154

Brief description of cause:
Patent Infringement

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** To be determined **CHECK YES only if demanded in complaint:** **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 02/26/2008 SIGNATURE OF ATTORNEY OF RECORD Kurt Truelove

FOR OFFICE USE ONLY

RECEIPT # 5-1-1250 AMOUNT 350.00 APPLYING IFP _____ JUDGE Ward MAG. JUDGE Everingham