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Attorneys for Plaintiff,
 PANAVISE PRODUCTS, INC.

FILED
 2011 APR 15 PM 3:16
 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 SANTA ANA

UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

SACV11 -0590 CJC (CWx)

PANAVISE PRODUCTS, INC., a Nevada
 corporation,

Plaintiff,

v.

BLUEBARGAIN, INC., a California
 corporation d.b.a.
 BARGAINCELL.COM,

Defendant.

Case No.: _____
 Assigned to Hon. _____

COMPLAINT FOR:

1. PATENT INFRINGEMENT;
2. TRADE DRESS INFRINGEMENT
3. VIOLATION UNDER § 43(A) OF
4. STATE AND COMMON LAW
5. STATUTORY UNFAIR COMPETITION
6. PASSING OFF UNDER § 43(A) OF

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, PANAVISE PRODUCTS, INC., a Nevada
 corporation ("PanaVise Products" and/or "Plaintiff"), for claims for
 relief against Defendant, BLUEBARGAIN, INC., a California corporation
 d.b.a. BARGAINCELL.COM ("Bargaincell" and/or "Defendant"), complaining
 and alleging as follows:

/ / /

JURISDICTION AND VENUE

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code; trade dress infringement arising under the Trademark Laws of the United States, 15 U.S.C. §§ 1051, et seq., 15 U.S.C. § 1125(a) and under § 43 of the Lanham Act, and, as such, this Court has jurisdiction over the subject matter of this action under Lanham Act § 39(a), 15 U.S.C. § 1121(a) and 28 U.S.C. § 1338(a). Plaintiff invokes supplemental jurisdiction of this Court under 28 U.S.C. §§ 1338(b) and 1367(a) to consider claims arising under state law.

2. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c).

THE PARTIES

3. PanaVise Products is a Nevada corporation, organized and existing under the laws of the State of Nevada, with its principal place of business located at 7540 Colbert Drive, in the City of Reno, County of Washoe, State of Nevada. PanaVise Products is engaged in the manufacture, distribution, and sale of suction cup mounts under the registered trademark "PANAVISE" and the common law trademark "PV 809".

4. Plaintiff is informed and believes, and upon such information and belief alleges that Defendant is a California corporation, organized and existing under the laws of the State of California, with its principal place of business located at 13800 Live Oak Avenue, in the City of Baldwin Park, County of Los Angeles, State of California. Plaintiff is informed and believes, and upon such

1 information and belief alleges that Defendant also does business as
 2 BARGAINCELL.COM and has filed a fictitious business name record for
 3 same in the County of Los Angeles, State of California. Plaintiff is
 4 informed and believes, and upon such information and belief alleges
 5 that Defendant, through its agents, employees, shareholders, and
 6 attorneys, is engaged in the manufacture, importation, distribution,
 7 and/or sales of suction cup mounts (identified by Defendant as "GTMax
 8 Windshield Car Mount Holder with Large Suction Cup for Cricket Huawei
 9 Ascend" or "Windshield Car Mount Holder with Large Suction Cup for
 10 Samsung SPH-M630 Highnote") on a nationwide basis, including within
 11 the Central District of California, by direct retail sales and/or
 12 shipments directly to consumers.

13 FIRST CLAIM FOR RELIEF

14 (Patent Infringement - United States Patent No. D521850)

15 5. Plaintiff realleges, refers to and herein incorporates by
 16 reference each and every allegation contained in Paragraphs 1 through
 17 4 of this Complaint as though fully set forth herein.

18 6. On May 30, 2006, United States Patent No. D521850 (the "'850
 19 Patent"), for a design entitled "Window Grip," was duly and legally
 20 issued in the names of Inventors, Gary Lee Richter and Bruce Edward
 21 Richter. By virtue of proper assignment, PanaVise Products has
 22 acquired and duly owns all right, title, and interest in the '850
 23 Patent, including the right to sue and recover for infringement
 24 thereof. Attached hereto as **EXHIBIT A** is a true and correct copy of
 25 the '850 Patent, and the assignment which are incorporated herein by
 26 reference as though fully set forth.

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1 7. Since or about November 20, 2003, Window Grips manufactured,
2 distributed, and sold by Plaintiff have been marked to indicate that
3 such products were subject to a pending patent.

4 8. Since or about May 30, 2006, Window Grips manufactured,
5 distributed, and sold by Plaintiff have been marked to indicate that
6 such products are patented under the '850 Patent.

7 9. The Defendant, through its agents, employees, shareholders,
8 and attorneys, has infringed the '850 Patent pursuant to 35 U.S.C.
9 Section 271 by:

10 (a) directly infringing through the acts of manufacturing,
11 importing, distributing, offering to sell, and/or
12 selling suction cup mounts embodying the ornamental
13 design of the Window Grip as shown and described
14 therein;

15 (b) contributorily infringing through the acts of
16 manufacturing, importing, distributing, offering to
17 sell, and/or selling components of suction cup mounts
18 constituting a material part of such design knowing the
19 components to be especially made or adapted for use in
20 infringing the '850 Patent and not commodities suitable
21 for substantial noninfringing use; and/or

22 (c) inducing infringement through the acts of
23 manufacturing, importing, distributing, offering to
24 sell, and/or selling components constituting a material
25 part of such design, knowing the components to be
26 especially made or adapted for use in infringing the
27 '850 Patent and not commodities suitable for
28 substantial non-infringing use.

1 The Defendant, through its agents, employees, shareholders, and
2 attorneys, has committed the above-mentioned acts within this judicial
3 district and throughout the United States of America, and will
4 continue to do so unless enjoined by this Court.

5 10. Plaintiff is informed and believes, and upon such
6 information and belief alleges that the Defendant's acts of
7 infringement have been committed willfully and with knowledge of
8 Plaintiff's patent rights.

9 11. Plaintiff is informed and believes, and upon such
10 information and belief alleges that the Defendant, through its agents,
11 employees, shareholders, and attorneys, is unlikely to cease its
12 infringing acts upon receipt of this Complaint.

13 12. Plaintiff has suffered and is suffering damages, including
14 impairment of the value of the '850 Patent, in an amount yet to be
15 determined.

16 13. Defendant's acts of infringement are causing irreparable
17 harm to Plaintiff and will continue to cause irreparable harm unless
18 enjoined by this Court.

19 14. Plaintiff is informed and believes, and upon such
20 information and belief alleges that the Defendant's acts of
21 infringement have resulted and are currently resulting in substantial
22 unjust profits and unjust enrichment on the part of the Defendant in
23 an amount yet to be determined.

24 **SECOND CLAIM FOR RELIEF**

25 **(Trade Dress Infringement, 15 U.S.C. § 1125(a))**

26 15. Plaintiff realleges, refers to and herein incorporates by
27 reference each and every allegation contained in Paragraphs 1 through
28 14 of this Complaint as though fully set forth herein.

1 16. Plaintiff has been and is engaged in the business of
2 manufacturing, distributing, and selling suction cup mounts. Since at
3 least as early as 2003, Plaintiff has actively advertised, promoted
4 and publicized its products to the trade and the public. Plaintiff
5 has acquired and developed substantial and valuable goodwill for
6 itself and its products among those in the trade and the public as a
7 result of: (a) Plaintiff's extensive sales and distribution throughout
8 the United States of America and internationally of its products; (b)
9 the high quality of Plaintiff's products; and (c) Plaintiff's
10 advertising and publicity of its products.

11 17. Plaintiff began to use a certain size, shape, color, and
12 texture as features in the PanaVise Products' suction cup mounts at
13 least as early as 2003 as a trade dress for its goods.

14 18. Plaintiff is informed and believes, and upon such
15 information and belief alleges that the Defendant's sales of suction
16 cup mounts (identified by Defendant as "GTMax Windshield Car Mount
17 Holder with Large Suction Cup for Cricket Huawei Ascend" or
18 "Windshield Car Mount Holder with Large Suction Cup for Samsung
19 SPH-M630 Highnote") for use with various products are facsimiles of
20 Plaintiff's trade dress for its suction cup mounts (identified by
21 Plaintiff as WINDOWGRIP DELUXE™, model no. PV-809), when considered as
22 a whole (with regard to size, shape, color, and textures).

23 19. The Defendant, through its agents, employees, shareholders,
24 and attorneys, began to use substantially similar sizes, shapes,
25 colors, and textures on his suction cup mounts in an area where
26 Plaintiff was already advertising and selling its suction cup mounts.

27 20. The design and appearance of the trade dress of Plaintiff's
28 suction cup mounts were all original creations developed expressly by

1 and for Plaintiff. Plaintiff is informed and believes, and upon such
2 information and belief alleges that Plaintiff was the first to make
3 use of the design and trade dress.

4 21. The Defendant's use of Plaintiff's design and trade dress
5 was without the consent of Plaintiff.

6 22. Plaintiff's trade dress is non-functional.

7 23. Plaintiff's trade dress has acquired secondary meaning.

8 24. The Defendant's trade dress has caused, and is likely to
9 cause, confusion among ordinary purchasers as to the source of
10 Plaintiff's and the Defendant's goods.

11 25. As a result of the Defendant's actions, Plaintiff has
12 sustained and continues to experience special and general damages in
13 an amount of \$ 100,000.00 or more to be determined according to proof
14 at the time of trial.

15 **THIRD CLAIM FOR RELIEF**

16 **(Violation Under § 43(a) of Lanham Act)**

17 26. Plaintiff realleges, refers to and herein incorporates by
18 reference each and every allegation contained in Paragraphs 1 through
19 25 of this Complaint as though fully set forth herein.

20 27. Plaintiff has caused the trade and public to recognize the
21 product design and trade dress of Plaintiff's suction cup mounts as
22 symbols of Plaintiff's goods by virtue of: (a) its original use of the
23 design and appearance of the trade dress of its suction cup mounts; (b)
24 its advertising, publicity and promotion of its suction cup mounts;
25 and (c) its commercial success of its suction cup mounts throughout
26 the trade and with the public. The design and trade dress which
27 Plaintiff has created symbolizes goodwill of significant value. As a
28 result of the Defendant's actions, Plaintiff has sustained and

1 continues to experience special and general damages in an amount to be
2 determined according to proof at the time of trial.

3 28. The Defendant, through its agents, employees, shareholders,
4 and attorneys, is now manufacturing, importing, distributing,
5 advertising and selling in interstate commerce, including within the
6 State of California and the Central District of California, suction
7 cup mounts which imitate the distinctive design and trade dress of
8 Plaintiff's suction cup mounts in their overall appearance and shape.

9 29. Plaintiff is informed and believes, and upon such
10 information and belief alleges that the Defendant, through its agents,
11 employees, shareholders, and attorneys, have advertised, promoted and
12 publicized their suction cup mounts throughout the trade and with the
13 public.

14 30. Plaintiff learned of the Defendant's appropriation of the
15 appearance and design and Plaintiff's trade dress of its suction cup
16 mounts in or about March 2011.

17 31. Plaintiff is informed and believes, and upon such
18 information and belief alleges that Defendant's distribution and sale
19 of Defendant's suction cup mounts within and outside of this judicial
20 district, and in commerce, continues at present.

21 32. Plaintiff's design and trade dress have come to serve as a
22 designation of origin of Plaintiff's suction cup mounts and as a
23 symbol of the goodwill which Plaintiff has established for its product
24 by virtue of: (a) its original design and appearance of its suction
25 cup mounts; (b) its extensive advertising, publicity and promotion of
26 its suction cup mounts; and (c) its extensive sales of its suction cup
27 mounts.

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1 design, pictures, text, appearance, and trade dress has caused and is
2 likely to cause confusion between the Defendant and his products and
3 Plaintiff and its products, and such use by the Defendant, through its
4 agents, employees, shareholders, and attorneys, infringes the valuable
5 common law right of Plaintiff in its product design and appearance and
6 its trade dress.

7 38. The Defendant's activities also constitute unfair
8 competition with Plaintiff by creating confusion as to the source or
9 sponsorship of the suction cup mounts distributed and sold by the
10 Defendant, and by misappropriating the fine reputation of Plaintiff in
11 its product design, appearance, and trade dress, thereby injuring that
12 reputation and goodwill and diverting from Plaintiff the benefits
13 arising from that reputation and goodwill.

14 39. As a result of the Defendant's acts of infringement, unfair
15 competition, and misappropriation, the Defendant, through its agents,
16 employees, shareholders, and attorneys, has damaged Plaintiff who has
17 sustained and continues to experience special and general damages in
18 an amount to be determined according to proof at the time of trial.

19 40. The Defendant's aforementioned acts of infringement, unfair
20 competition and misappropriation have caused irreparable harm to
21 Plaintiff and, unless enjoined by this Court, will continue to cause
22 such irreparable harm, for which Plaintiff has no adequate remedy at
23 law.

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FIFTH CLAIM FOR RELIEF

**(Statutory Unfair Competition In Violation of California
Business & Professions Code § 17200, et seq.)**

41. Plaintiff realleges, refers to and herein incorporates by reference each and every allegation contained in Paragraphs 1 through 40 of this Complaint as though fully set forth herein.

42. Plaintiff is informed and believes, and upon such information and belief alleges that the above-described conduct of Defendant was (1) an unlawful business practice, (2) an unfair business practice, (3) a fraudulent business practice, and (4) deceptive, unfair, false and misleading advertising, which constitutes unfair competition under California Business & Professions Code § 17200, et seq.

43. As a result of the Defendant's actions, Plaintiff has suffered injury in fact and has lost money.

44. As a result of the Defendant's actions, Plaintiff has sustained and continues to experience damages in an amount to be determined according to proof at the time of trial.

45. By reason of the Defendant's actions alleged herein, Plaintiff has suffered, and will continue to suffer, irreparable harm unless and until the Defendant's conduct is enjoined.

SIXTH CLAIM FOR RELIEF

(Passing Off Under § 43(a)

of Lanham Act, 15 U.S.C. §1125(a))

46. Plaintiff realleges, refers to and herein incorporates by reference each and every allegation contained in Paragraphs 1 through 45 of this Complaint as though fully set forth herein.

/ / /

1 47. Plaintiff is informed and believes, and upon such
2 information and belief alleges that the Defendant, through its agents,
3 employees, shareholders, and attorneys, has distributed, sold,
4 advertised, publicized, and promoted their products in interstate
5 commerce.

6 48. The Defendant's use of Plaintiff's trade dress is a false
7 designation or false representation that has caused and is likely to
8 mislead consumers into believing that the Defendant's suction cup
9 mounts are manufactured by Plaintiff or produced under its supervision
10 and control or with its endorsement or approval. The passing off
11 occurs because there is a likelihood of consumer confusion. As a
12 result of the public acceptance of Plaintiff's suction cup mounts, the
13 Defendant's suction cup mounts have been and will continue to be
14 purchased as, and for, Plaintiff's suction cup mounts.

15 49. Plaintiff's trade dress is non-functional.

16 50. Plaintiff's trade dress has acquired secondary meaning.

17 51. Plaintiff is informed and believes, and upon such
18 information and belief alleges that the Defendant's suction cup mounts
19 are facsimiles of Plaintiff's trade dress for its suction cup mounts,
20 when considered as a whole (with regard to size, shape, color, and
21 textures).

22 52. The aforementioned acts of false designation of origin and
23 false representation by the Defendant, through its agents, employees,
24 shareholders, and attorneys, has damaged Plaintiff in an amount to be
25 determined according to proof at the time of trial.

26 53. By reason of the Defendant's actions alleged herein,
27 Plaintiff has suffered, and will continue to suffer, irreparable harm
28 unless and until the Defendant's conduct is enjoined.

PRAYER FOR RELIEF

WHEREFORE, PanaVise Products prays for judgment as follows:

AS TO ALL CLAIMS FOR RELIEF

A. For preliminary and permanent injunctions enjoining each Defendant, its divisions, subsidiaries, parents, affiliates and their respective officers, agents, servants, employees and attorneys, and those persons in active concert or participation with any of them, from:

1. Making, using, selling, offering for sale, or importing within the United States, its territories and possessions, the Plaintiff's products covered by the '850 Patent;
2. Reproducing, copying, counterfeiting, colorably imitating or otherwise using Plaintiff's trade dress;
3. Offering for distribution, distributing, offering for sale, selling, advertising, publicizing or promoting any suction cup mounts whose design, appearance and trade dress so resemble the distinctive design, appearance, and trade dress of Plaintiff's suction cup mounts as to be likely to cause confusion, mistake, or deception;
4. Using in connection with the Defendant's products any false or deceptive designation, representation or description of it or its products, whether by words, symbols, product design or appearance, or trade dress, which would damage Plaintiff;
5. Using any false designation of origin, false advertising, false impression or false representation that tends to pass off the Defendant's products as those of

/ / /

1 PanaVise Products in a way that is likely to cause
2 confusion, or likely to deceive as to the affiliation;

3 6. Engaging in any acts of state or common law
4 infringement or unfair competition which injure or would
5 tend to injure PanaVise Products;

6 7. Engaging in any acts causing injury to the business
7 reputation of PanaVise Products or dilution of the
8 distinctive quality of its product design and appearance or
9 trade dress;

10 8. Trading upon or appropriating the goodwill and business
11 reputation of PanaVise Products; and/or

12 9. Inducing, encouraging, aiding, abetting or contributing
13 to any of the aforementioned acts.

14 B. That each Defendant file with the Court and serve on
15 PanaVise Products' counsel within thirty (30) days after service on
16 the Defendant of an injunction order, or within such extended period
17 as this Court may direct, a report in writing and under oath, setting
18 forth in detail the manner and form in which the Defendant has
19 complied with the injunction order;

20 C. That all suction cup mounts, in the possession or under
21 control of the Defendant, and all plates, molds, matrices and other
22 means of manufacturing or making the same, which might, if used,
23 violate the order herein granted, be delivered up and destroyed as the
24 Court shall direct;

25 D. That each Defendant be required to account and pay over to
26 PanaVise Products all gains, profits, advantages, benefits derived by
27 the from sales of suction cup mounts that infringe the '850 Patent,
28 and, in addition, pay the damages which PanaVise Products has

1 sustained from or by reason of the Defendant's acts of infringement of
2 the '850 Patent, together with legal interest accrued from the date
3 thereof, and that the total amount of damages be increased to a sum
4 not exceeding three times the amount thereof as provided for by 35
5 U.S.C. Section 284;

6 E. That each Defendant be required to account to Plaintiff for
7 Defendant's profits and the actual damages suffered by Plaintiff as a
8 result of Defendant's acts of trademark infringement, false
9 designation of origin, unfair competition, and unfair and deceptive
10 trade practices, together with interest, and that Plaintiff's recovery
11 be trebled, pursuant to Section 35 of the Lanham Act (15 U.S.C. §
12 1117);

13 F. That each Defendant be required to account and pay over to
14 PanaVise Products all gains, profits, advantages, benefits derived by
15 the and, in addition, the damages which PanaVise Products has
16 sustained from or by reason of the Defendant's acts of unfair
17 competition, unlawful business practice, unfair business practice,
18 fraudulent business practice, deceptive, unfair, false and misleading
19 advertising, false and deceptive designation and description, unlawful
20 trading upon and appropriation of the good will and reputation of
21 PanaVise Products in violation of California Statutes, together with
22 legal interest accrued from the date thereof, and that the total
23 amount of damages be increased to a sum not exceeding three times the
24 amount thereof as provided for by 35 U.S.C. Section 284;

25 G. That each Defendant be required to pay Plaintiff,
26 Plaintiff's lost profits due to Defendant's acts of patent
27 infringement, unfair competition, unlawful business practice, unfair
28 business practice, fraudulent business practice, deceptive, unfair,

1 false and misleading advertising, false and deceptive designation and
2 description, unlawful trading upon and appropriation of the good will
3 and reputation of PanaVise Products in violation of California
4 Statutes, together with legal interest accrued from the date thereof,
5 and that the total amount of damages be increased to a sum not
6 exceeding three times the amount thereof as provided for by 35 U.S.C.
7 Section 284;

8 H. For general damages in the amount of \$100,000.00, or more
9 according to proof;

10 I. For special damages in the amount of \$100,000.00, or more
11 according to proof;

12 J. For punitive damages in an amount according to proof;

13 K. For reasonable attorneys' fees;

14 L. For costs of the suit; and

15 M. That PanaVise Products have such other and further relief as
16 this Court deems just and proper.

17 **AS TO THE FIRST CLAIM FOR RELIEF**

18 N. That the present case be found exceptional and that
19 attorney's fees be awarded to PanaVise Products under 35 U.S.C.
20 Section 285;

21 O. That PanaVise Products be awarded additional remedy for
22 infringement of a design patent, as appropriate, under 35 U.S.C.
23 Section 289; and

24 **AS TO THE THIRD AND SIXTH CLAIMS FOR RELIEF**

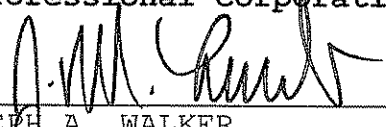
25 P. That the present case be found exceptional and that
26 attorney's fees be awarded to PanaVise Products under Lanham Act §35
27 (15 U.S.C. Section 1117).

28 / / /

1 DATE: April 13, 2011

THE WALKER LAW FIRM,
A Professional Corporation

2
3 By:


JOSEPH A. WALKER
JASON MATTHEW LAMB
Attorneys for Plaintiff, PANAVISE
PRODUCTS, INC.

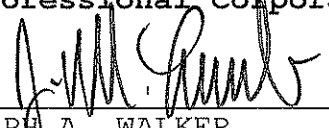
DEMAND FOR A JURY TRIAL

Plaintiff, PANAVISE PRODUCTS, INC., hereby demands trial by jury as provided by Rule 38 of the Federal Rules of Civil Procedure and Local Rule 38-1.

DATE: April 13, 2011

THE WALKER LAW FIRM,
A Professional Corporation

By: _____


JOSEPH A. WALKER
JASON MATTHEW LAMB
Attorneys for Plaintiff, PANAVISE
PRODUCTS, INC.

(12) **United States Design Patent** (10) Patent No.: **US D521,850 S**
Richter et al. (45) Date of Patent: **** May 30, 2006**

(54) **WINDOW GRIP** D439,135 S * 3/2001 Elmer D8/349
6,412,242 B1 * 7/2002 Elmer 52/235
6,467,227 B1 * 10/2002 Elmer 52/235

(75) Inventors: **Gary Lee Richter, Reno, NV (US);**
Bruce Edward Richter, Reno, NV
(US)

* cited by examiner

(73) Assignee: **Panavise Products, Inc., Reno, NV**
(US)

Primary Examiner—Holly H. Baynham
(74) *Attorney, Agent, or Firm*—The Walker Law Firm;
Allan Grant

(**) Term: **14 Years**

(57) **CLAIM**

(21) Appl. No.: **29/194,089**

The ornamental design of a window grip, as shown and as described.

(22) Filed: **Nov. 20, 2003**

DESCRIPTION

(51) **LOC (8) Cl.** **08-05**
(52) **U.S. Cl.** **D8/354**
(58) **Field of Classification Search** **D8/349,**
D8/354; 248/205.4, 205.6; 52/235; 16/406
See application file for complete search history.

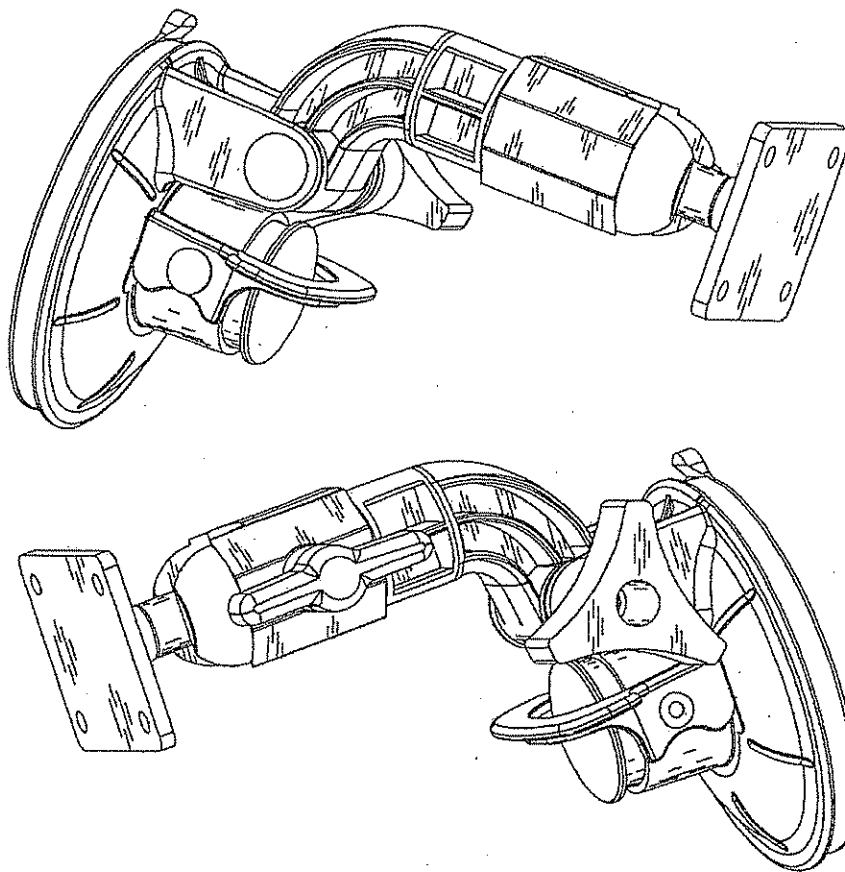
FIG. 1 is a perspective view from the left side of the window grip showing the front, side, and top;
FIG. 2 is a perspective view from the right side of the window grip showing the front, side and top;
FIG. 3 is a side view of the window grip.
FIG. 4 is a top view of the window grip.
FIG. 5 is a bottom view of the window grip.
FIG. 6 is a back view of the window grip; and,
FIG. 7 is a front view of the grip.

(56) **References Cited**

U.S. PATENT DOCUMENTS

5,102,090 A * 4/1992 Farris et al. 248/674
D360,710 S * 7/1995 Colwell D30/121
5,909,758 A * 6/1999 Kitamura 16/406

1 Claim, 3 Drawing Sheets



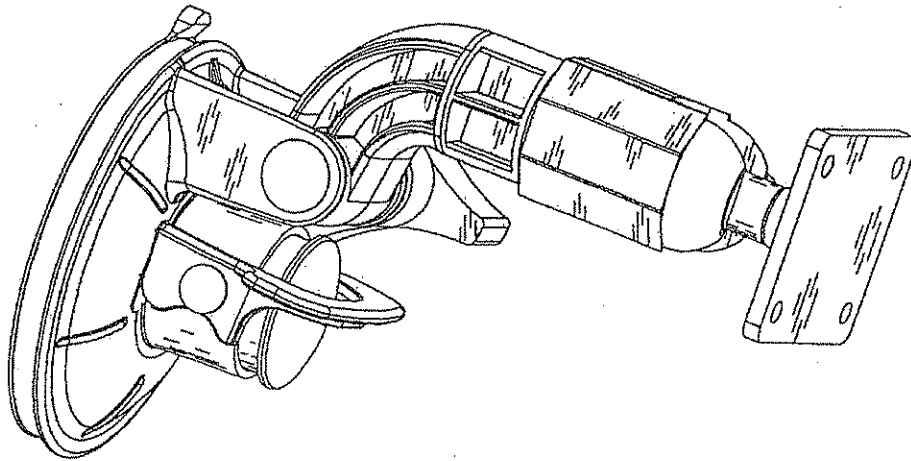


Fig. 1

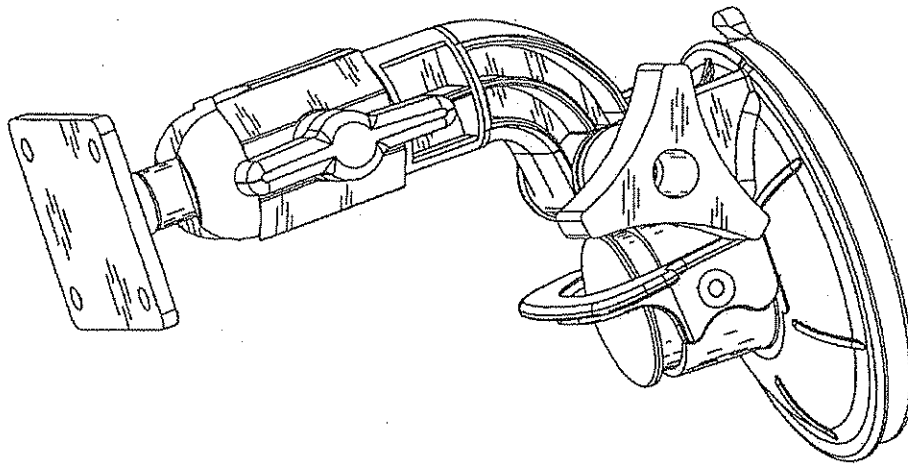


Fig. 2

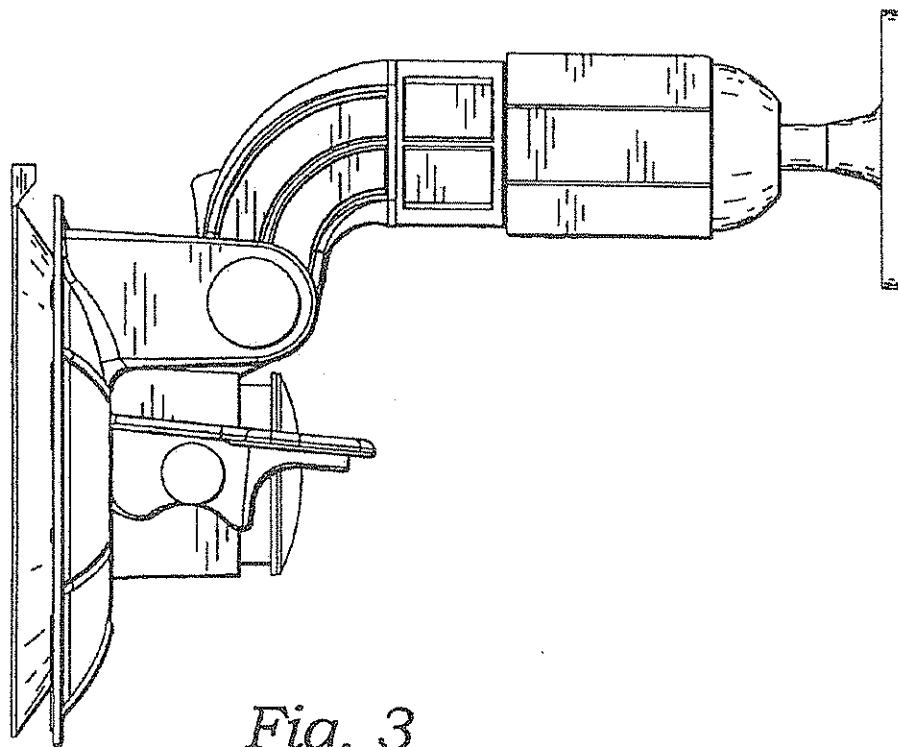


Fig. 3

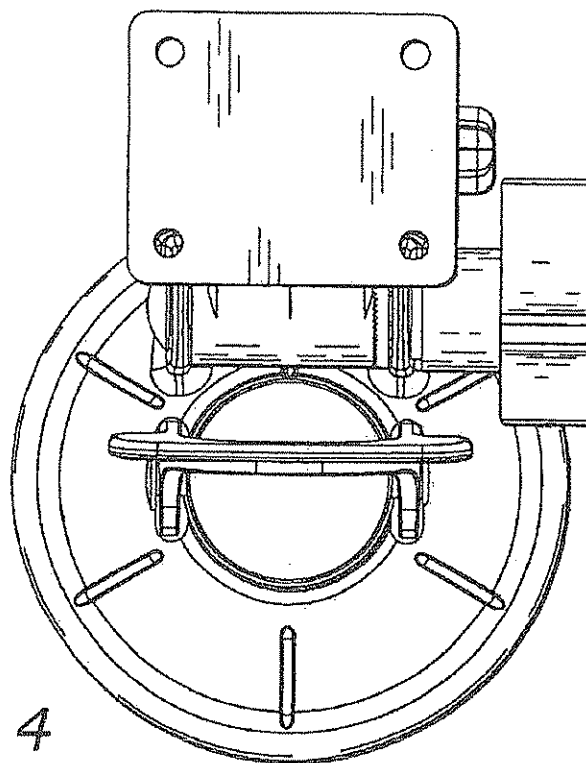


Fig. 4

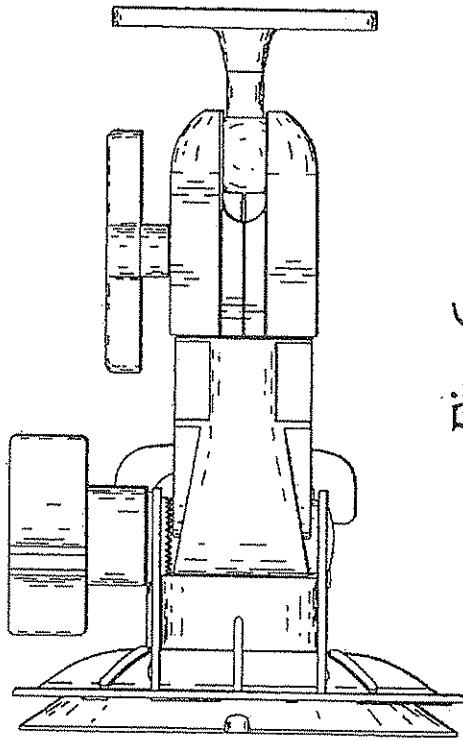


Fig. 6

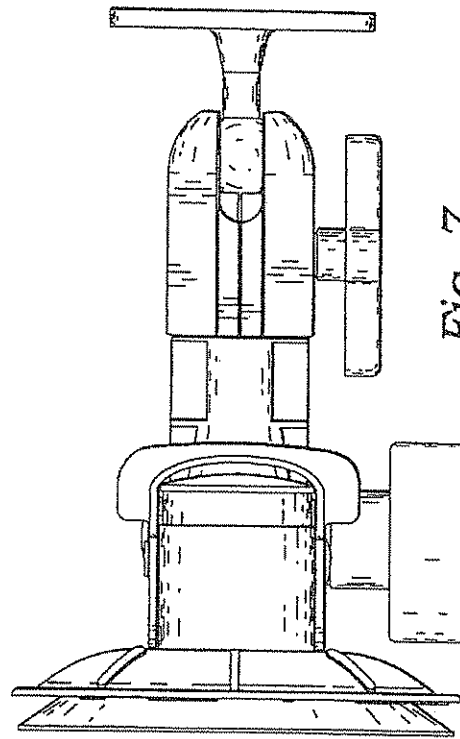


Fig. 7

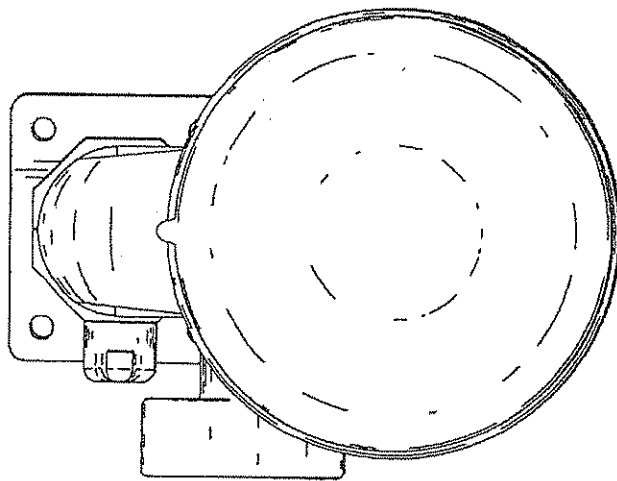


Fig. 5

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Cormac J. Carney and the assigned discovery Magistrate Judge is Carla Woehrle.

The case number on all documents filed with the Court should read as follows:

SACV11- 590 CJC (CWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PANAVISE PRODUCTS, INC., a Nevada corporation,

PLAINTIFF(S)

V.

BLUEBARGAIN, INC., a California corporation d.b.a.
BARGAINCELL.COM,

DEFENDANT(S).

CASE NUMBER


SACV11 -0590 CJC (CWx)**SUMMONS**

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, JOSEPH A. WALKER & JASON MATTHEW LAMB, whose address is THE WALKER LAW FIRM, A Prof. Corp., 1301 Dove Street, Suite 720, Newport Beach, California 92660-2464. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: APR 15 2011By: 
DODJIE LAGMAN
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) PANAVISE PRODUCTS, INC.	DEFENDANTS BLUEBARGAIN, INC.
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) JOSEPH A. WALKER, State Bar No. 47223 JASON MATTHEW LAMB, State Bar No. 222191 THE WALKER LAW FIRM, A Professional Corporation 1301 Dove Street, Suite 720 Newport Beach, California 92660-2464 Telephone: 949.752.2522; Facsimile: 949.752.0439	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> <th style="text-align: left;">PTF</th> <th style="text-align: left;">DEF</th> </tr> <tr> <td>Citizen of This State <input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State <input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country <input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation <input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State <input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State <input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6	<input type="checkbox"/> 6
PTF	DEF	PTF	DEF														
Citizen of This State <input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State <input type="checkbox"/> 4	<input type="checkbox"/> 4														
Citizen of Another State <input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State <input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> MONEY DEMANDED IN COMPLAINT: \$ 100,000
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VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) (1) Patent Infringement; (2) Trade Dress Infringement 15 USC Sec. 1125; (3) Violation of Lanham Act Sec. 43(A); (4) State and Common Law Misappropriation and Unfair Competition; (5) Unfair Competition Cal. Bus. & Prof. Code Sec. 17200, et seq.; and (6) Passing Off Lanham Act Sec. 43(A).
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VII. NATURE OF SUIT (Place an X in one box only.)					
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <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 Act <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 Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <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 Loan (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 REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. 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 <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 IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <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 BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <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	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

SACV11-0590 CJC (CWx)

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). **IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). **RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. **VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	County of Washoe, State of Nevada

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
County of Los Angeles	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
County of Orange	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved.

X. SIGNATURE OF ATTORNEY (OR PRO PER):

JASON MATTHEW LAMB

Date April 13, 2011

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))