



#### IDENTITY OF PARTIES

2. Plaintiff ITEX, INC. (hereinafter “ITEX”) is incorporated under the laws of the State of Colorado having its principal place of business at Englewood, Colorado. Plaintiff ITEX makes and sells products in the field of flame-retardant fabrics.

3. Plaintiff MF & H TEXTILES, INC. (hereinafter “MF & H”) is incorporated under the laws of the State of Georgia, having its principal place of business at Butler, Georgia. Plaintiff MF & H also makes products in the field of flame-retardant fabrics.

4. Upon information and belief, all Defendants conduct business within the Federal District in which this Court is located.

5. Upon information and belief, Defendant MOUNT VERNON MILLS, INC. (hereinafter “MOUNT VERNON”) is incorporated under the laws of the State of South Carolina, having its principal place of business in Greenville, South Carolina. Defendant makes and sells flame resistant fabrics.

6. Upon information and belief, Defendant CARHARTT, INC. (hereinafter “CARHARTT”) is incorporated under the laws of the State of Michigan, having its principal place of business in Dearborn, Michigan. Defendant CARHARTT sells garments made of flame resistant fabric.

7. Upon information and belief, Defendant VF IMAGEWEAR, INC. (hereinafter “VF”) is incorporated under the laws of the State of Delaware, having its principal place of business in Nashville, Tennessee. Defendant VF sells garments made of flame resistant fabric.

### JURISDICTION AND VENUE

8. This is a civil action for patent infringement, injunctive relief, and damages arising under the United States Patent Act, 35 U.S.C. §§ 1331, 1338(a), 1391(b) and (c), and 1400(b). Requiring Defendants to respond to this action will not violate due process. Defendants maintain business operations within this District, or sell, or rent infringing products within this State. Defendants' relationship with the State is therefore sufficient to make it reasonable for Defendants to defend the action in this District pursuant to 28 U.S.C. § 1400(b).

### CASE OR CONTROVERSY

9. Plaintiffs ITEX and MF & H are the owners by valid assignment of U.S. Patent Number 5,468,545 (hereinafter referred to as "the '545 patent"), entitled "Long Wear Life Flame-Retardant Cotton Blend Fabrics," duly and legally issued on November 21, 1995, a copy of which together with its two (2) Reexamination Certificates is attached hereto as Exhibit A, such that they may enforce the '545 patent.

10. On information and belief, Defendant MOUNT VERNON makes and sells fabrics that infringe the patent-in-suit.

11. On information and belief, Defendant CARHARTT makes and sells garments made of fabric that infringe the patent-in-suit.

12. On information and belief, Defendant VF makes and sells garments made of fabric that infringe the patent-in-suit.

13. Defendants were apprised of the existence of the '545 patent months ago, and did not cease their infringing activities. Their infringement is thus willful, and Defendants are liable for treble damages.

WHEREFORE, Plaintiffs pray for judgment as follows:

- A. That Defendants MOUNT VERNON, CARHARTT, and VF be held to have infringed the patent-in-suit.
- B. That the claims of the '545 patent are valid and enforceable.
- C. For the entry of an order preliminarily and permanently enjoining Defendants MOUNT VERNON, CARHARTT, and VF, their subsidiaries, affiliates, parents, successors, assigns, officers, agents, servants, employees, attorneys, and all persons acting in concert or in participation with them, or any of them, from infringing, contributing to the infringement of, and inducing infringement of the patent-in-suit, and specifically from directly or indirectly making, using, importing, selling or offering for sale, any products embodying the inventions of the patent-in-suit during the life of the claims of the patent-in-suit, without the express written authority of Plaintiffs.
- D. That Defendants MOUNT VERNON, CARHARTT, and VF be directed to fully compensate Plaintiffs for all damages attributable to their infringement of the patent-in-suit in an amount according to proof at trial, including, but not limited to, reasonable royalties and lost profits, and that in the event the infringement is found to be willful or in bad faith, that those damages be trebled.
- E. That Defendants MOUNT VERNON, CARHARTT, and VF be ordered to deliver to Plaintiffs for destruction at Plaintiffs' option all products that infringe the patent-in-suit.
- F. That Defendants MOUNT VERNON, CARHARTT, and VF be required to account for all gains, profits, advantages, and unjust enrichment derived from their violations of law.

G. That Defendants MOUNT VERNON, CARHARTT, and VF be required to pay Plaintiffs their costs of suit, including attorneys' fees, pursuant to 35 U.S.C. § 285.

H. That Plaintiffs have such other, further, and different relief as the Court deems proper under the circumstances.

JURY DEMAND

Plaintiffs ITEX and MF & H demand trial by jury.

Respectfully submitted,

Dated: October 3, 2008

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