

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LANDSCAPE FORMS, INC.)	
)	
Plaintiff,)	
)	Civil Action No.:
-against-)	
)	Judge
CREATIVE PIPE, INC.,)	
STEPHANIE E. PAPPAS AND)	JURY TRIAL DEMANDED
MARK T. PAPPAS)	
Defendants.)	

COMPLAINT

Plaintiff, LANDSCAPE FORMS, INC. (“LANDSCAPE FORMS”) as and for its
Complaint against Defendants CREATIVE PIPE, INC., STEPHANIE E. PAPPAS and
MARK T. PAPPAS (hereinafter “Defendants”), alleges the following:

THE PARTIES

1. Plaintiff, LANDSCAPE FORMS, is a corporation organized under the
laws of the State of Michigan having its principal place of business at 431 Lawndale
Avenue, Kalamazoo, MI 49001.

2. Upon information and belief, Defendant CREATIVE PIPE, INC.
 (“CREATIVE PIPE”) is a corporation organized under the laws of California having its
principal place of business at 44100 Monterey Avenue, Suite 204, Palm Desert, CA
92260.

3. Upon information and belief, Defendant STEPHANIE E. PAPPAS is the
President of CREATIVE PIPE and resides at 40283 Desert Creek Lane, Rancho Mirage,
California 92270.

4. Upon information and belief, Defendant MARK T. PAPPAS is the Vice President of CREATIVE PIPE and resides at 40283 Desert Creek Lane, Rancho Mirage, California 92270.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States as set forth in Title 35 of the United States Code Section 271, *et seq.* and for copyright infringement under the Copyright Act, 17 U.S.C. §101, *et seq.*

6. This Court has jurisdiction over the subject matter of this action pursuant under 28 U.S.C. §§1331, 1332 and 1338(a).

7. This Court has personal jurisdiction over the Defendants by virtue of their activities as set forth herein, and by their transacting, doing, and soliciting business in the State of New York and the Northern District of New York and by having committed tortious acts within and without the State of New York and this Northern District of New York causing injury to LANDSCAPE FORMS within the State of New York and this Northern District of New York pursuant to New York CPLR §§ 301 and 302.

8. Venue is proper in the Northern District of New York based upon 28 U.S.C. §§1391(b), (c) and 1400(a), (b).

BACKGROUND

9. Plaintiff, LANDSCAPE FORMS, designs, manufactures and sells furniture.

A. LANDSCAPE FORMS's Patents

(1) U.S. Design Patent No. 385,119

10. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 385,119 (“the ‘119 Patent”) for a design entitled “CHAIR.” A true and correct copy of the ‘119 Patent is attached hereto and incorporated herein as **Exhibit “A.”**

11. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the ‘119 Patent under the designation Catena.

(2) U.S. Design Patent No. 482,550

12. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 482,550 (“the ‘550 Patent”) for a design entitled “BENCH.” A true and correct copy of the ‘550 Patent is attached hereto and incorporated herein as **Exhibit “B.”**

13. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the ‘550 Patent under the designation Sonoma.

(3) U.S. Design Patent No. 451,296

14. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 451,296 (“the 296 Patent”) for a design entitled “SEAT.” A true and correct copy of the ‘296 Patent is attached hereto and incorporated herein as **Exhibit “C.”**

15. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the ‘296 Patent under the designation Arcata.

(4) U.S. Design Patent No. 453,424

16. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 453,424 (the ‘424 Patent”) for a design entitled “SEAT.” A true and

correct copy of the '424 Patent is attached hereto and incorporated herein as **Exhibit "D."**

17. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '424 Patent under the designation Arcata.

(5) U.S. Design Patent No. 450,952

18. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 450,952 (the '952 Patent") for a design entitled "SEAT FRAME." A true and correct copy of the '952 Patent is attached hereto and incorporated herein as **Exhibit "E."**

19. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '953 Patent under the designation Arcata.

(6) U.S. Design Patent No. 455,919

20. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 455,919 ("the '919 Patent") for a design entitled "SEAT FRAME." A true and accurate copy of the '919 Patent is attached hereto and incorporated herein as **Exhibit "F."**

21. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '919 Patent under the designation Arcata.

(7) U.S. Design Patent No. 381,157

22. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 381,157 ("the '157 Patent") for a design entitled "TRASH RECEPTICLE." A true and accurate copy of the '157 Patent is attached hereto and incorporated herein as **Exhibit "G."**

23. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '157 Patent under the designation Presidio.

(8) U.S. Design Patent No. 381,158

24. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 381,158 ("the '158 Patent") for a design entitled "TRASH RECEPTICLE." A true and accurate copy of the '158 Patent is attached hereto and incorporated herein as **Exhibit "H."**

25. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '158 Patent under the designation Presidio.

(9) U.S. Design Patent No. 470,669

26. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 470,669 ("the '669 Patent") for a design entitled "SEAT." A true and accurate copy of the '669 Patent is attached hereto and incorporated herein as **Exhibit "I."**

27. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '669 Patent under the designation Chase Park.

(10) U.S. Design Patent No. 469,619

28. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 469,619 ("the '619 Patent") for a design entitled "SEAT." A true and accurate copy of the '619 Patent is attached hereto and incorporated herein as **Exhibit "J."**

29. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '619 Patent under the designation Chase Park.

(11) U.S. Design Patent No. 472,357

30. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 472,357 (the '357 Patent") for a design entitled "TRASH RECEPTACLE." A true and accurate copy of the '357 Patent is attached hereto and incorporated herein as "**Exhibit K.**"

31. LANDSCAPE FORMS sells commercial embodiments incorporating the patented design of the '357 Patent under the designation Chase Park.

(12) U.S. Design Patent No. 481,210

32. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 481,210 (the '210 Patent") for a design entitled "BENCH." A true and accurate copy of the '210 Patent is attached hereto and incorporated herein as "**Exhibit L.**"

33. LANDSCAPE FORMS sells commercial embodiments incorporating the '210 Patent under the designation Austin.

(13) U.S. Design Patent No. 481,211

34. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 481,211 (the '211 Patent") for a design entitled "BENCH." A true and accurate copy of the '211 Patent is attached hereto and incorporated herein as "**Exhibit M.**"

35. LANDSCAPE FORMS sells commercial embodiments incorporating the '211 Patent under the designation Austin.

(14) U.S. Design Patent No. 482,885

36. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 482,885 (the '885 Patent") for a design entitled "BENCH." A true and accurate copy of the '885 Patent is attached hereto and incorporated herein as "**Exhibit N.**"

37. LANDSCAPE FORMS sells commercial embodiments incorporating the '885 Patent under the designation Austin.

(15) U.S. Design Patent No. 483,960

38. LANDSCAPE FORMS owns the entire right, title and interest to U.S. Design Patent No. 483,960 (the '960 Patent") for a design entitled "BENCH." A true and accurate copy of the '960 Patent is attached hereto and incorporated herein as "**Exhibit O.**"

39. LANDSCAPE FORMS sells commercial embodiments incorporating the '960 Patent under the designation Austin.

40. Each of the aforementioned designs are subject to design patent protection under Title 35 of the United States Code as Plaintiff LANDSCAPE FORMS has duly complied with the provisions of the Patent Laws of the United States in connection with the aforementioned design patents (hereinafter referred to as the "Patents-in-Suit").

B. LANDSCAPE FORMS's Copyrights

(1) U.S. Copyright Registration No. VA 990-622

41. LANDSCAPE FORMS owns U.S. Copyright Registration No. VA 990-622, directed to a technical drawing for the "Catena Design Collection," a copy of which is attached hereto and incorporated herein as "**Exhibit P.**"

(2) U.S. Copyright Registration No. VA 990-626

42. LANDSCAPE FORMS owns U.S. Copyright Registration No. VA 990-626, directed to a technical drawing for the “Gretchen’s Design Collection,” a copy of which is attached hereto and incorporated herein as “**Exhibit Q.**”

(3) U.S. Copyright Registration for the “Gretchen Bench”

43. LANDSCAPE FORMS filed a U.S. Copyright Application on August 23, 2006, directed to a technical drawing for the “Gretchen Bench,” a copy of which is attached hereto and incorporated herein as “**Exhibit R.**”

(4) U.S. Copyright Registration for the “Catena Chair”

44. LANDSCAPE FORMS filed a U.S. Copyright Application on August 23, 2006, directed to a technical drawing for the “Catena Chair,” a copy of which is attached hereto and incorporated herein as “**Exhibit S.**”

45. The aforementioned technical drawings are subject to copyright protection under the U.S. Copyright Laws, 17 U.S.C. § 101 et seq. as Plaintiff LANDSCAPE FORMS has duly complied with the provisions of the Copyright Laws of the United States in connection with the aforementioned technical drawings and has obtained U.S. Copyright Registrations and Applications for the aforementioned technical drawings (hereinafter referred to as the “Copyrights-in-Suit”).

C. Defendant’s Infringing Activities

46. Upon investigation and information, Defendants manufacture, offer for sale and sell outdoor furniture and bicycle racks and lockers throughout the United States and internationally, including in this judicial district.

47. Upon investigation and information, Defendant, STEPHANIE E. PAPPAS, an individual, is the President of Defendant, CREATIVE PIPE.

48. Upon investigation and information, Defendant, MARK T. PAPPAS, an individual, is the Vice President of Defendant, CREATIVE PIPE.

49. Defendants are not authorized dealers of LANDSCAPE FORMS® furniture.

50. Defendants have transacted and continue to transact business in, and regularly have solicited and regularly continue to solicit business in this judicial district.

51. Defendants have offered for sale and sold, and continue to offer for sale and sell furniture that is identical to the designs protected by the Patents-in-Suit, throughout the United States, including in this judicial district.

52. Upon investigation and information, Defendants have copied or directed the copying of substantial portions of the works protected by the Copyrights-in-Suit.

53. On February 20, 2006, Defendants submitted a bid proposal to the Dormitory Authority of the State of New York (“DASNY”) located in Albany, New York in response to DSANY’s Invitation to Bid, #171 (hereinafter referred to as “the Bid Proposal”).

54. The Bid Proposal contained technical drawings that infringe LANDSCAPE FORMS’s Copyrights-in-Suit.

55. Upon investigation and information, Defendant derives substantial revenue from interstate commerce.

56. Defendant’s conduct causes damage to LANDSCAPE FORMS in New York and in the Northern District of New York.

FIRST CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 385,119

57. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 56 above, and incorporates them herein by reference.

58. Defendants have infringed the '119 Patent by, at least, offering for sale and/or selling furniture covered by the claim of the '119 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

59. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

60. Defendants' infringement of the '119 Patent has been knowing and willful.

61. Defendants' infringement of the '119 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

62. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

SECOND CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 482,550

63. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 62 above, and incorporates them herein by reference.

64. Defendants have infringed the '550 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit T** covered by the claim of the '550 Patent, in

the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

65. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

66. Defendants' infringement of the '550 Patent has been knowing and willful.

67. Defendants' infringement of the '550 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

68. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

THIRD CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 451,296

69. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 68 above, and incorporates them herein by reference.

70. Defendants have infringed the '296 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit U** covered by the claim of the '296 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

71. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

72. Defendants' infringement of the '296 Patent has been knowing and willful.

73. Defendants' infringement of the '296 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

74. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

FOURTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 453,424

75. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 74 above, and incorporates them herein by reference.

76. Defendants have infringed the '424 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit V** covered by the claim of the '424 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

77. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

78. Defendants' infringement of the '424 Patent has been knowing and willful.

79. Defendants' infringement of the '424 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

80. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

FIFTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 450,952

81. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 80 above, and incorporates them herein by reference.

82. Defendants have infringed the '952 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit W** covered by the claim of the '952 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

83. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

84. Defendants' infringement of the '952 Patent has been knowing and willful.

85. Defendants' infringement of the '952 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

86. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

SIXTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 455,919

87. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 86 above, and incorporates them herein by reference.

88. Defendants have infringed the '919 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit X** covered by the claim of the '919 Patent, in

the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

89. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

90. Defendants' infringement of the '919 Patent has been knowing and willful.

91. Defendants' infringement of the '919 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

92. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

SEVENTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 381,157

93. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 92 above, and incorporates them herein by reference.

94. Defendants have infringed the '157 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit Y** covered by the claim of the '157 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

95. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

96. Defendants' infringement of the '157 Patent has been knowing and willful.

97. Defendants' infringement of the '157 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

98. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

EIGHTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 381,158

99. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 98 above, and incorporates them herein by reference.

100. Defendants have infringed the '158 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit Z** covered by the claim of the '158 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

101. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

102. Defendants' infringement of the '158 Patent has been knowing and willful.

103. Defendants' infringement of the '158 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

104. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

NINTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 470,669

105. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 104 above, and incorporates them herein by reference.

106. Defendants have infringed the '669 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit AA** covered by the claim of the '669 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

107. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

108. Defendants' infringement of the '669 Patent has been knowing and willful.

109. Defendants' infringement of the '669 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

110. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

TENTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 469,619

111. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 110 above, and incorporates them herein by reference.

112. Defendants have infringed the '619 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit BB** covered by the claim of the '619 Patent, in

the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

113. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

114. Defendants' infringement of the '619 Patent has been knowing and willful.

115. Defendants' infringement of the '619 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

116. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

ELEVENTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 472,357

117. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 116 above, and incorporates them herein by reference.

118. Defendants have infringed the '357 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit CC** covered by the claim of the '357 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

119. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

120. Defendants' infringement of the '357 Patent has been knowing and willful.

121. Defendants' infringement of the '357 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

122. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

TWELFTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 481,210

123. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 122 above, and incorporates them herein by reference.

124. Defendants have infringed the '210 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit DD** covered by the claim of the '210 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

125. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

126. Defendants' infringement of the '210 Patent has been knowing and willful.

127. Defendants' infringement of the '210 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

128. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

THIRTEENTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 481,211

129. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 128 above, and incorporates them herein by reference.

130. Defendants have infringed the '211 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit EE** covered by the claim of the '211 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

131. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

132. Defendants' infringement of the '211 Patent has been knowing and willful.

133. Defendants' infringement of the '211 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

134. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

FOURTEENTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 482,885

135. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 134 above, and incorporates them herein by reference.

136. Defendants have infringed the '885 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit FF** covered by the claim of the '885 Patent, in

the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

137. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

138. Defendants' infringement of the '885 Patent has been knowing and willful.

139. Defendants' infringement of the '885 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

140. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

FIFTEENTH CAUSE OF ACTION
INFRINGEMENT OF U.S. DESIGN PATENT NO. 483,960

141. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 140 above, and incorporates them herein by reference.

142. Defendants have infringed the '960 Patent by, at least, offering for sale and/or selling furniture shown in **Exhibit GG** covered by the claim of the '960 Patent, in the United States and specifically in this Northern District of New York, and will continue such infringement unless enjoined by this Court.

143. As a result of Defendants' acts, LANDSCAPE FORMS has been damaged and will continue to be damaged.

144. Defendants' infringement of the '960 Patent has been knowing and willful.

145. Defendants' infringement of the '960 Patent has damaged LANDSCAPE FORMS in an amount that is unknown and cannot at the present time be fully ascertained.

146. Unless enjoined by this court, Defendants will continue to infringe Plaintiff's patent rights causing irreparable injury. LANDSCAPE FORM's has no adequate remedy at law.

SIXTEENTH CAUSE OF ACTION
INFRINGEMENT OF COPYRIGHT REGISTRATION NO. VA 990-622

147. The Sixteenth Cause of Action is a claim against Defendants, jointly and/or individually, for infringement of Plaintiffs' copyrights and U.S. Copyright Registrations under the Copyright Laws of the United States 17 U.S.C. § 101 et seq.

148. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 146 above, and incorporates them herein by reference.

149. Defendants have reproduced, prepared derivative works and/or distributed copies of LANDSCAPE FORMS's Copyrights-in-Suit without LANDSCAPE FORM's authorization or consent.

150. Defendants, in an attempt to obtain work from DASNY, submitted the Bid Proposal shown in **Exhibit HH**, a substantial portion of which is an unauthorized copy or derivative work of LANDSCAPE FORMS's Copyright Registration No. VA 990-622, entitled: Catena stacking chair.

151. Upon investigation and information, Defendants have had access to LANDSCAPE FORMS's Copyrights-in-Suit.

152. Defendants' above described activities constitute a violation of LANDCAPE FORMS's copyrights under the Copyright Act §17 U.S.C. §§ 101 et seq., and cause harm and injury to LANDCAPE FORMS.

153. Upon investigation and information, the Defendants have engaged and continue to engage in the infringing activities, willfully and with the knowledge of LANDCAPE FORMS's rights in the works.

154. Based upon the above-described wrongful acts of Defendants, LANDCAPE FORMS has incurred monetary damages in an amount presently unknown to LANDCAPE FORMS.

155. By reason of all the foregoing, Plaintiff is being irreparably damaged by Defendants' activities in the manner set forth above and will continue to be irreparably damaged unless said Defendants are enjoined from continuing to commit the aforesaid acts. LANDCAPE FORMS has no adequate remedy at law.

SEVENTEENTH CAUSE OF ACTION
INFRINGEMENT OF COPYRIGHT REGISTRATION NO. VA 990-626

156. The Seventeenth Cause of Action is a claim against Defendants, jointly and/or individually, for infringement of Plaintiffs' copyrights and U.S. Copyright Registrations under the Copyright Laws of the United States 17 U.S.C. § 101 et seq.

157. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 155 above, and incorporates them herein by reference.

158. Defendants have reproduced, prepared derivative works and/or distributed copies of LANDSCAPE FORMS's Copyrights-in-Suit without LANDSCAPE FORM's authorization or consent.

159. Defendants, in an attempt to obtain work from DASNY, submitted the Bid Proposal shown in **Exhibit HH**, a substantial portion of which is an unauthorized copy or derivative work of LANDCAPE FORMS's Copyright Registration No. VA 990-626, entitled: Gretchen's Design Collection.

160. Upon investigation and information, Defendants have had access to LANDSCAPE FORMS's Copyrights-in-Suit.

161. Defendants' above described activities constitute a violation of LANDCAPE FORMS's copyrights under the Copyright Act §17 U.S.C. §§ 101 et seq., and cause harm and injury to LANDCAPE FORMS.

162. Upon investigation and information, the Defendants have engaged and continue to engage in the infringing activities, willfully and with the knowledge of LANDCAPE FORMS's rights in the works.

163. Based upon the above-described wrongful acts of Defendants, LANDCAPE FORMS has incurred monetary damages in an amount presently unknown to LANDCAPE FORMS.

164. By reason of all the foregoing, Plaintiff is being irreparably damaged by Defendants' activities in the manner set forth above and will continue to be irreparably damaged unless said Defendants are enjoined from continuing to commit the aforesaid acts. LANDCAPE FORMS has no adequate remedy at law.

EIGHTEENTH CAUSE OF ACTION
COPYRIGHT INFRINGEMENT

165. The Eighteenth Cause of Action is a claim against Defendants, jointly and/or individually, for infringement of Plaintiffs' copyrights and U.S. Copyright Registrations under the Copyright Laws of the United States 17 U.S.C. § 101 et seq.

166. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 164 above, and incorporates them herein by reference.

167. Defendants have reproduced, prepared derivative works and/or distributed copies of LANDSCAPE FORMS's Copyrights-in-Suit without LANDSCAPE FORM's authorization or consent.

168. LANDSCAPE FORMS has applied for U.S. Copyright Registration of the technical drawings entitled: Gretchen Bench.

169. Defendants, in an attempt to obtain work from DASNY, submitted the Bid Proposal shown in **Exhibit HH**, a substantial portion of which is an unauthorized copy or derivative work of LANDSCAPE FORMS's copyright-protected technical drawings, entitled: Gretchen Bench.

170. Upon investigation and information, Defendants have had access to LANDSCAPE FORMS's Copyrights-in-Suit.

171. Defendants' above described activities constitute a violation of LANDSCAPE FORMS's copyrights under the Copyright Act §17 U.S.C. §§ 101 et seq., and cause harm and injury to LANDSCAPE FORMS.

172. Upon investigation and information, the Defendants have engaged and continue to engage in the infringing activities, willfully and with the knowledge of LANDSCAPE FORMS's rights in the works.

173. Based upon the above-described wrongful acts of Defendants, LANDSCAPE FORMS has incurred monetary damages in an amount presently unknown to LANDSCAPE FORMS.

174. By reason of all the foregoing, Plaintiff is being irreparably damaged by Defendants' activities in the manner set forth above and will continue to be irreparably damaged unless said Defendants are enjoined from continuing to commit the aforesaid acts. LANDCAPE FORMS has no adequate remedy at law.

NINETEENTH CAUSE OF ACTION
COPYRIGHT INFRINGEMENT

175. The Nineteenth Cause of Action is a claim against Defendants, jointly and/or individually, for infringement of Plaintiffs' copyrights and U.S. Copyright Registrations under the Copyright Laws of the United States 17 U.S.C. § 101 et seq.

176. Plaintiff LANDSCAPE FORMS realleges each and every allegation set forth in paragraphs 1 through 174 above, and incorporates them herein by reference.

177. Defendants have reproduced, prepared derivative works and/or distributed copies of LANDSCAPE FORMS's Copyrights-in-Suit without LANDSCAPE FORM's authorization or consent.

178. LANDSCAPE FORMS has applied for U.S. Copyright Registration of the technical drawings entitled: Catena Chair.

179. Defendants, in an attempt to obtain work from DASNY, submitted the Bid Proposal shown in **Exhibit HH**, a substantial portion of which is an unauthorized copy or derivative work of LANDSCAPE FORMS's copyright-protected technical drawings, entitled: Catena stacking chair.

180. Upon investigation and information, Defendants have had access to LANDSCAPE FORMS's Copyrights-in-Suit.

181. Defendants' above described activities constitute a violation of LANDCAPE FORMS's copyrights under the Copyright Act §17 U.S.C. §§ 101 et seq., and cause harm and injury to LANDCAPE FORMS.

182. Upon investigation and information, the Defendants have engaged and continue to engage in the infringing activities, willfully and with the knowledge of LANDCAPE FORMS's rights in the works.

183. Based upon the above-described wrongful acts of Defendants, LANDCAPE FORMS has incurred monetary damages in an amount presently unknown to LANDCAPE FORMS.

184. By reason of all the foregoing, Plaintiff is being irreparably damaged by Defendants' activities in the manner set forth above and will continue to be irreparably damaged unless said Defendants are enjoined from continuing to commit the aforesaid acts. LANDCAPE FORMS has no adequate remedy at law.

DEMAND FOR JURY TRIAL

185. LANDSCAPE FORMS hereby demands a trial by jury.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff, LANDSCAPE FORMS, prays for judgment against the Defendants granting the Plaintiff:

- (A) A preliminary and permanent injunction against Defendants, parent companies, subsidiaries, related companies, and all persons acting in concert or participation with them, or persons acting or purporting to act on their behalf, including, but not limited to their officers, directors, partners, owners, agents, representatives, employees, attorneys,

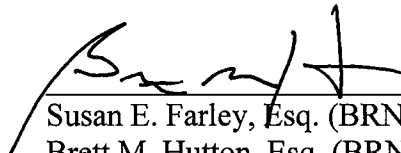
successors, and assigns from infringing the LANDSCAPE FORMS's Patents-in-Suit and Copyrights-in-Suit as provided in 35 U.S.C. § 283 and 17 U.S.C. § 101 et seq.

- (B) A finding that Defendants' infringement of the LANDSCAPE FORMS's Copyrights-in-Suit was willful, wanton and intentional, and an award of actual damages sustained by Plaintiff and any additional profits of Defendants' as a result of Defendants' infringement of the Copyrights-in-Suit, or at the election of Plaintiff, an award of statutory damages pursuant to 17 U.S.C. § 504.
- (C) An award to Plaintiff LANDSCAPE FORMS of an accounting of its damages and any additional profits of Defendants resulting from the infringement of the Patents-in-Suit by Defendants as provided in 35 U.S.C. §§ 271 and 284.
- (D) A finding that Defendants' infringement of the LANDSCAPE FORMS's Patents-in-Suit was willful, wanton and intentional, and an award treble damages, costs and interest under inter alia, 35 U.S.C. §284.
- (E) An award to Plaintiff LANDSCAPE FORMS of any additional remedies from infringement of the LANDSCAPE FORMS's Patents-in-Suit by Defendants as provided in 35 U.S.C. § 289.
- (F) An award of Plaintiff's attorney's fees and costs incurred in this action under, inter alia, 17 U.S.C. § 505 and 35 U.S.C. § 285.
- (G) The recall and destruction of all materials within the control of Defendants, parent companies, subsidiaries, or related companies, and

their agents or distributors, which in any way infringe upon one or more of the LANDSCAPE FORMS's Patents-in-Suit or Copyrights-in-Suit.

- (H) That Defendants be required to cancel any orders for infringing products;
and
- (I) Such other and further relief as the Court may deem just and equitable under the circumstances herein.

Dated: August 23, 2006



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