

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

LUV N' CARE, LTD. and  
ADMAR INTERNATIONAL, INC.,

Plaintiffs,

v.

DOLLAR TREE, INC., DOLLAR  
TREE STORES, INC., DOLLAR  
TREE DISTRIBUTION, INC.,  
DOLLAR TREE MANAGEMENT,  
INC. and GREENBRIER  
INTERNATIONAL, INC.,

Defendants.

Civil Action No.

(JURY TRIAL DEMANDED)

**FIRST AMENDED COMPLAINT**

Plaintiffs Luv n' care, Ltd. and Admar International, Inc. (collectively, "Plaintiffs") by their attorneys, hereby complain of Defendants Dollar Tree, Inc., Dollar Tree Stores, Inc., Dollar Tree Distribution, Inc., Dollar Tree Management, Inc. and Greenbrier International, Inc. (collectively, "Defendants") as follows:

**JURISDICTION AND VENUE**

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §101 *et seq.*, trade dress infringement and dilution and unfair competition under Section 43 of the Lanham Act, 15 U.S.C. §1125; and for unfair competition and trade dress

dilution under the law of the State of Texas. This Court has jurisdiction over the federal claims of this action pursuant to 28 U.S.C. §1331, 28 U.S.C. §1338, and 15 U.S.C. § 1121, and has jurisdiction over the state claims under 28 U.S.C. §1338(b) and further pursuant to its supplemental jurisdiction under 28 U.S.C. §1367. The state claims asserted herein are so related to the Lanham Act claim as to form part of the same case or controversy.

2. This action arises from Defendants' patent infringement, and unfair and deceptive business practices, offer for sale, sale, and distribution of products which are deceptive copies of Plaintiffs' product designs and trade dress.

3. Upon information and belief, this Court has personal jurisdiction over Defendants in that Defendants have engaged in acts constituting doing business in the State of Texas, including in this judicial district and have intentionally directed their tortious activities toward the State of Texas, including this judicial district. Defendants, through ownership, control, management, operation, and/or maintenance of retail stores in Texas, including this judicial district, and/or through association and commercial relationship with said retail stores, have, upon information and belief, committed acts of patent and trade dress infringement in Texas, including this judicial district, and have delivered the accused products into the stream of commerce with the expectation that they will be purchased by

consumers in the State of Texas, including this judicial district. Upon information and belief, Defendants have sold products, including products that are the subject of this Complaint, to consumers in the State of Texas, including this judicial district.

4. Venue is proper in this Court, pursuant to 28 U.S.C. §§ 1391(b) - (d) and 28 U.S.C. §1400(b), in that Defendants are corporations subject to personal jurisdiction within this judicial district and have committed acts of infringement in this judicial district.

### **THE PARTIES**

5. Plaintiff Luv n' care, Ltd. ("Luv n' care") is a corporation organized and existing under the laws of the State of Louisiana having a principal place of business at 3030 Aurora Avenue, Monroe, Louisiana 71201.

6. Plaintiff Admar International, Inc. ("Admar") is a corporation organized and existing under the laws of the State of Delaware having a principal place of business at 3030 Aurora Avenue, Monroe, Louisiana 71201. Admar is an affiliate of Luv n' care.

7. Defendant Dollar Tree, Inc. is a corporation organized and existing under the laws of the State of Virginia, having a principal place of business at 500 Volvo Parkway, Chesapeake, Virginia 23320. Dollar Tree, Inc. operates discount variety stores nationwide under the names "Dollar

Tree”, “Deal\$” and “Dollar Bills.” These stores sell merchandise that includes baby products.

8. Defendant Dollar Tree Stores, Inc. is a corporation organized and existing under the laws of the State of Virginia, having a principal place of business at 500 Volvo Parkway, Chesapeake, Virginia 23320. Dollar Tree Stores, Inc. is a subsidiary of Defendant Dollar Tree, Inc. and is a nationwide retailer of merchandise that, upon information and belief, includes baby products.

9. Defendant Dollar Tree Distribution, Inc. is a corporation organized and existing under the laws of the State of Virginia, having a principal place of business at 500 Volvo Parkway, Chesapeake, Virginia 23320. Dollar Tree Distribution, Inc. is a subsidiary of Defendant Dollar Tree, Inc. and is a nationwide distribution and warehousing company for merchandise that, upon information and belief, includes baby products.

10. Defendant Dollar Tree Management, Inc. is a corporation organized and existing under the laws of the State of Virginia, having a principal place of business at 500 Volvo Parkway, Chesapeake, Virginia 23320. Dollar Tree Management, Inc. is a subsidiary of Defendant Dollar Tree Stores, Inc. and is a management services company.

11. Defendant Greenbrier International, Inc. is a corporation organized and existing under the laws of the State of Delaware, having a

principal place of business at 500 Volvo Parkway, Chesapeake, Virginia 23320. Greenbrier International, Inc. is a subsidiary of Defendant Dollar Tree, Inc. and is a nationwide sourcing company of merchandise that, upon information and belief, includes baby products.

## **FACTS**

### **PLAINTIFFS' PATENTS**

12. Mr. Nouri E. Hakim is the inventor of new technology relating to new feeding utensils, including new feeding spoons and products incorporating such spoons.

13. Mr. Hakim's inventions are particularly suited for feeding babies.

14. His inventions include feeding spoons which are specially constructed of materials of multiple hardnesses, and methods and processes relating to such spoons.

15. In these feeding spoons, the bowl of the spoon includes both a softer material and a harder material on its surface. This construction provides numerous advantages: for example, the softer material provides comfort to a baby's tender gums, mouth and lips while eating, and the harder material provides rigidity to the spoon.

16. On September 24, 2002, United States Patent No. 6,453,562 B1 entitled "Baby Spoons and Methods of Manufacture" was duly and lawfully

issued to Nouri E. Hakim for his inventions by the United States Patent and Trademark Office (hereafter “the ‘562 patent”). A copy of the ‘562 patent is attached as Exhibit 1 hereto.

17. On November 18, 2003, United States Patent No. 6,647,828 B2 entitled “Hard/Soft Spoon Products” was duly and lawfully issued to Nouri E. Hakim for his inventions by the United States Patent and Trademark Office (hereafter “the ‘828 patent”). A copy of the ‘828 patent is attached as Exhibit 2 hereto.

18. On February 1, 2005, United States Patent No. 6,848,339 B2 entitled “Hard/Soft Spoon Products” was duly and lawfully issued to Nouri E. Hakim for his inventions by the United States Patent and Trademark Office (hereafter “the ‘339 patent”). A copy of the ‘339 patent is attached as Exhibit 3 hereto.

19. Plaintiff Luv n’ care is the owner of all right, title and interest in and to the ‘562 patent, the ‘828 patent, and the ‘339 patent (collectively “the patents”).

#### **DEFENDANTS’ INFRINGEMENT OF PLAINTIFFS’ PATENTS**

20. During the term of the patents, Defendants have manufactured, offered for sale, sold, used, and/or imported products embodying the patented inventions of the ‘562, ‘828, and ‘339 patents.

21. Defendants' infringing products include its Soft Tip Spoons. Examples of infringing products are attached as Exhibit 4 hereto.

22. Defendants' acts have been without license or authority of Plaintiffs.

### **PLAINTIFFS' TRADEMARKS AND TRADE DRESS**

23. Plaintiff Luv n' care is one of the leading baby product companies in the world today. Luv n' care and its brands are well known throughout the United States and foreign countries as a result of the popular products that it has designed, introduced, and commercialized in interstate and international commerce for use by babies and young children.

24. Admar is the owner of various United States Trademark Applications and Registrations, under which trademarks Luv n' care sells goods throughout the United States under exclusive rights from Admar.

25. Plaintiffs have used their trademarks on a wide variety of children's and infants' products sold in interstate commerce, including, but not limited to, children's drinking cups, baby bottles, infant pacifiers, cutlery and so forth. Plaintiffs have generated hundreds of millions of dollars in revenue from the sale of goods under their trademarks.

26. Significant time, funds, and effort were expended in designing and developing esthetically appealing and attractive product designs for Plaintiffs' goods.

27. Significant sums of money, time, and effort were also expended in promoting and popularizing Plaintiffs' goods.

28. As a result of Plaintiffs' design efforts and promotional activities, Plaintiffs' products designs, trademarks and trade dress have all become widely known throughout the United States and worldwide, and associated with Plaintiffs.

29. Plaintiffs' products are among the most popular and well known products in their industry, and their line of products is famous throughout the country and the world.

30. The appearance of Plaintiffs' original designs of their "Hot Safe" Feeding Spoons ("Feeding Spoons") are distinctive symbols which serve as trademarks or trade dress of Luv n' care's products in interstate commerce, both in the United States and worldwide.

31. The design and appearance of Plaintiffs' Feeding Spoons have acquired secondary meaning, and are recognized as identifying Plaintiffs' high-quality products and services.



32. Plaintiffs' intellectual property including their trademarks, trade dress and their associated goodwill, directed to their Feeding Spoons, are all valuable assets of Plaintiffs.

33. Defendants have directly and indirectly offered for sale, sold and distributed false, unauthorized copies of Plaintiffs' Feeding Spoons to consumers throughout the United States.

34. Defendants' bad faith activities have caused and will continue to cause a likelihood of deception and confusion in the marketplace among consumers, and extensive damage to Plaintiffs and their business, goodwill and reputation.

**DEFENDANTS' INFRINGEMENT OF PLAINTIFFS' "HOT SAFE"  
FEEDING SPOONS PRODUCT DESIGN**

35. Attached as Exhibit 5, are images of Luv n' care's "Hot Safe" Feeding Spoons product.

36. Attached as Exhibit 4, are images of the deceptive and confusing knock-offs that Defendants have sold, and are continuing to sell, in interstate commerce.

37. The overall appearance of the Feeding Spoons is protectable, distinctive, primarily non-functional trade dress. In particular, Plaintiffs' trade dress includes its dichromatic bowl as shown in the Exhibit 5, and described herein. Specifically, in one Feeding Spoon product (Exhibit 5, left

column) Plaintiffs' trade dress includes a dichromatic bowl wherein the outer surface of the bowl exhibits (1) a colored rim, and (2) a distinctly colored bowl-shaped area that is substantially circumscribed by the rim, in combination with a dichromatic handle. In another Feeding Spoon product (Exhibit 5, right column), Plaintiffs' trade dress includes a dichromatic bowl wherein the outer surface of the bowl exhibits (1) a colored rim, and (2) a distinctly colored bowl-shaped area that is substantially circumscribed by the rim, in combination with a substantially monochromatic handle.

**False Designation, Confusion, Dilution  
by Blurring and Tarnishment**

38. Defendants are profiting from sales of those unauthorized knock-offs.

39. The trade and consuming public are likely to be misled into believing that the unauthorized knock-offs of Plaintiffs' Feeding Spoons originate with or are otherwise authorized, sponsored and/or licensed by, or associated with the Plaintiffs.

40. Defendants are using Plaintiffs' Feeding Spoons designs to trade off of Plaintiffs' reputation and goodwill and to create deception in the marketplace.

41. Defendants are also blurring and tarnishing the distinctive quality of Plaintiffs' famous and extremely strong and distinctive product design, trade dress and trademarks associated with its Feeding Spoons.

42. Upon information and belief, Defendants in connection with goods and containers for goods, have used in commerce words, terms, names, symbols or devices, or combinations thereof, false designations of origin, false and misleading descriptions of fact, and false and misleading representations of fact, which are likely: to cause confusion; to cause mistake; and to deceive as to the affiliation, connection, and association of Defendants with the Plaintiffs and as to the origin, sponsorship, and approval of Defendants' goods, services and commercial activities.

43. Upon information and belief, Defendants, in commercial advertising and promotion, have misrepresented the nature, characteristics, qualities and geographic origin of their goods and commercial activities.

44. Plaintiffs' marks, including their product designs and packaging and the marks thereon, are widely recognized by consumers of child and infant care products and by the general consuming public of the United States as a designation of source of Plaintiffs' goods.

45. Plaintiffs' trademarks and trade dress concerning its Feeding Spoons are not functional.

46. Defendants' activities are causing and likely to cause dilution of Plaintiffs' trade dress and trademarks, including by blurring and by tarnishment.

### **WILLFUL INFRINGEMENT**

47. Defendants' activities have been deliberate and willful.

48. Upon information and belief, Defendants are familiar with Plaintiffs' original designs to its Feeding Spoons and are aware of the patents associated therewith, and have deliberately chosen to reproduce, copy and sell their unauthorized and infringing products.

49. Defendants' actions have caused and are causing irreparable damage to Plaintiffs, their business and their reputation.

50. Plaintiffs have been extensively damaged by Defendants' bad faith activities and will continue to be damaged unless Defendants are restrained and enjoined by this Court.

### **COUNT I PATENT INFRINGEMENT (35 U.S.C. §101 et seq.)**

51. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1 through 50 as if fully set forth herein.

52. This claim arises under 35 U.S.C. §101 et seq.

53. This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1331.

54. Defendants' acts constitute infringement of the '562 patent, infringement of the '828 patent, and infringement of the '339 patent under 35 U.S.C. §271.

55. Upon information and belief, Defendants' acts of infringement were and are with knowledge of the patents.

56. Upon information and belief, Defendants' acts of infringement were and are willful and deliberate.

57. Defendants have profited from their infringing activities.

58. As a result of Defendants' conduct, Plaintiffs have been substantially harmed, have suffered actual damages, have suffered lost profits, and have been forced to retain legal counsel and pay costs of court to bring this action.

**COUNT II**  
**LANHAM ACT TRADE DRESS INFRINGEMENT**  
**AND UNFAIR COMPETITION:**  
**(15 U.S.C. § 1125(a))**

59. Plaintiffs repeat and re-allege the allegations set forth in Paragraphs 1-58 of this Complaint, as though fully set forth herein.

60. This claim arises under the Lanham Act, 15 U.S.C. § 1051 et seq.

61. This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1331.

62. On the basis of the foregoing paragraphs, Defendants are intentionally using product trade dress confusingly similar to Plaintiffs' trade dress to its Feeding Spoons in a manner that has caused and is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants with Plaintiffs, or as to the origin, sponsorship, or approval of Defendants' goods by Plaintiffs.

63. Defendants' activities, in selling and offering for sale merchandise under products which are confusingly similar to Plaintiffs' Feeding Spoons, constitute unfair competition, false designation of origin, and false description and representations, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

64. Plaintiffs have no adequate remedy at law. As a result of the aforesaid acts of Defendants, Plaintiffs are suffering irreparable harm, and will continue to do so, unless Defendants are restrained and enjoined by this Court from continuing to commit the aforesaid acts.

65. Upon information and belief, Defendants' acts of trade dress infringement and unfair competition were and are willful and deliberate.

66. Defendants have profited from their improper activities.

67. Plaintiffs have suffered, and continue to suffer, substantial damages as a result of Defendants' bad faith activities, in an amount to be determined by the jury and this Court.

**COUNT III**  
**FEDERAL TRADEMARK AND**  
**TRADE DRESS DILUTION**

68. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1-67 as if fully set forth herein.

69. The trademarks and trade dress associated with Plaintiffs' Feeding Spoons are famous.

70. These marks qualify as famous trademarks under the meaning of the Federal Trademark Dilution Act of 1995, Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

71. Defendants' actions in using Plaintiffs' trade dress that is associated with these famous marks in commerce are causing, and continue to cause, actual dilution of the distinctive quality of Plaintiffs' marks and trade dress, including blurring and tarnishment of Plaintiffs' marks and trade dress.

72. Upon information and belief, Defendants have willfully intended to trade on Plaintiffs' reputation and to cause dilution of Plaintiffs' marks.

73. By reason of the foregoing, Plaintiffs have been injured in an amount to be determined by this Court, and are entitled to the remedies provided for in the Lanham Act, 15 U.S.C. § 1114, et seq.

**COUNT IV**  
**UNFAIR COMPETITION UNDER TEXAS LAW**

74. Plaintiffs repeat and re-allege the allegations set forth in Paragraphs 1-73 of this Complaint, as though fully set forth herein.

75. This claim arises under the common law of the State of Texas.

76. This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1367.

77. Plaintiffs have created and promoted their child and baby products, including their trademarks, packaging and trade dress, through extensive time, labor, skill and money.

78. Defendants have misappropriated the results of that labor and skill and those expenditures of Plaintiffs.

79. Defendants have used trade dress that is identical to or confusingly similar to Plaintiffs', for identical or highly similar goods, in competition with Plaintiffs, thereby gaining a special and unfair advantage in that competition, because Defendants bore little or no burden of expense of development and promotion of the trade dress and packaging incurred by Plaintiffs.



80. By knowingly using confusingly similar product trade dress for identical or highly similar goods, to compete against Plaintiffs' goods, Defendants have misappropriated a commercial advantage belonging to Plaintiffs.

81. Defendants have also engaged in bad faith misappropriation of the labors of Plaintiffs which is likely to cause confusion, and to deceive purchasers as to the origin of the goods, and which dilutes the value of Plaintiffs' Feeding Spoons trademarks and trade dress.

82. Defendants' actions have caused significant commercial damage to Plaintiffs.

83. Defendants' business conduct is illegal and actionable under the common law of unfair competition of the State of Texas.

84. Plaintiffs have been injured by Defendants' illegal actions and are entitled to the remedies provided under Texas law.

**COUNT V**  
**VIOLATION OF TEXAS**  
**BUSINESS AND COMMERCE CODE SECTION 17.46**

85. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1-84 as if fully set forth herein.

86. This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1367.

87. Defendants' misappropriation and infringement did and

continue to cause confusion or misunderstanding as to the source, sponsorship, and/or approval of Plaintiffs' products, and did and continue to cause confusion or misunderstanding as to Defendants' affiliation, connection, and/or association with Plaintiffs.

88. Defendants' misappropriation and infringement constitute false, misleading, and/or deceptive acts or practices in the conduct of trade or commerce in violation of Section 17.46 of the Texas Business and Commerce Code.

89. By reason of the foregoing, Plaintiffs have been injured by Defendants' illegal actions and are entitled to the remedies provided for in the Texas Business and Commerce Code.

**COUNT VI**  
**VIOLATION OF TEXAS**  
**BUSINESS AND COMMERCE CODE SECTION 16.29**

90. Plaintiffs repeat and re-allege each and every allegation contained in paragraphs 1-89 as if fully set forth herein.

91. This Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1367.

92. Defendants' misappropriation and infringement create a likelihood of injury to Plaintiffs' business reputation and likelihood of dilution

of the distinctive quality of Plaintiffs' Feeding Spoons trade dress in violation of Section 16.29 of the Texas Business and Commerce Code.

93. Defendants' activities have also created actual injury to Plaintiffs' business reputation and actual dilution of the distinctive quality of Plaintiffs' Feeding Spoons trade dress.

94. By reason of the foregoing, Plaintiffs have been injured by Defendants' illegal actions and are entitled to the remedies provided for in the Texas Business and Commerce Code and other applicable law.

### **DAMAGES**

95. Plaintiffs have no adequate remedy at law.

96. Plaintiffs have been extensively damaged by Defendants' illegal actions in an amount to be determined by a jury and this Court, including lost sales, lost profits and damage to their reputation and good will, as well as a disgorgement of Defendants' revenues and profits.

97. Plaintiffs request that this honorable Court assess enhanced and punitive or exemplary damages against Defendants in the fullest amount permissible by law, in view of the egregious, malicious, and extensive nature of Defendants' bad faith activities complained of herein, and in view of the numerous violations, the willful nature of the violations, and the significant damage to Plaintiffs, as set forth above.

**JURY TRIAL DEMAND**

98. Pursuant to Rule 38, Fed. R. Civ. P. Plaintiffs hereby demand a trial by jury on all issues set forth herein that are properly triable to a jury.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs Luv n' care and Admar respectfully request that the Court, upon final hearing of this matter, grant the following relief against Defendants:

- A. That Defendants be adjudged to have engaged in patent infringement of Luv n' care's rights under United States Patent No. 6,453,562 B1 ("the '562 patent"), under United States Patent No. 6,647,828 B2 ("the '828 patent"), and under United States Patent No. 6,848,339 B2 ("the '339 patent") (collectively "the patents") under 35 U.S.C. §101 et seq.;
- B. That Defendants be adjudged to have engaged in federal unfair competition and trade dress infringement under Section 43 of the Lanham Act, 15 U.S.C. §1125, and unfair competition and unfair business practices under the common and statutory law of the State of Texas;
- C. That the '562 patent, the '828 patent and the '339 patent were duly and legally issued by the U.S. Patent Office, and are valid

and enforceable;

- D. That each of Defendants, its officers, agents, servants, employees, representatives, distributors and all persons in concert or participation with Defendants be enjoined pursuant to 35 U.S.C. §283 from engaging in any activities which infringe Plaintiffs' rights in the patents under 35 U.S.C. §271;
- E. That each of Defendants, its officers, agents, servants, employees, representatives, distributors, and all persons in concert or participation with them be enjoined pursuant to 35 U.S.C. §283 from making, using, importing, exporting, offering for sale and selling any products which directly infringe or contributorily or actively induce infringement of the patents under 35 U.S.C. §271;
- F. That each of Defendants, its officers, agents, servants, employees, representatives, distributors and all persons in concert or participation with Defendants be preliminarily and permanently enjoined from engaging in any activities which infringe Plaintiffs' rights in their products or advertising materials, including Plaintiffs' rights in their trademarks and trade dress;
- G. That each of the Defendants, its officers, agents, servants,

employees, representatives, distributors, and all persons in concert or participation with them be preliminarily and permanently enjoined from making, using, importing, offering for sale and selling any products or packaging which infringe Plaintiffs' trademarks and trade dress;

- H. That each of the Defendants, its officers, agents, servants, employees, representatives, distributors, and all persons in concert or participation with them be preliminarily and permanently enjoined from selling or marketing merchandise in any way that tends to deceive, mislead or confuse the public into believing that Defendants' merchandise in any way originates with, is sanctioned by, or affiliated with Plaintiffs;
- I. That each of the Defendants, its officers, agents, servants, employees, representatives, distributors, and all persons in concert or participation with them be preliminarily and permanently enjoined from otherwise competing unfairly with Plaintiffs;
- J. That each of the Defendants, its officers, agents, servants, employees, representatives, distributors, and all persons in concert or participation with them be preliminarily and permanently enjoined from engaging in further acts of

misrepresentation regarding Plaintiffs and Plaintiffs' products;

- K. That each of the Defendants, its officers, agents, servants, employees, representatives, distributors, and all persons in concert or participation with them be preliminarily and permanently enjoined from engaging in further deceptive and unfair business practice with respect to Plaintiffs;
- L. That each of the Defendants be directed to file with this Court and serve on Plaintiffs within thirty (30) days after service of the injunction, a report in writing, under oath, setting forth in detail the manner and form in which the Defendants have complied with the injunction;
- M. That Defendants be required to account for and pay over to Plaintiffs any and all revenues and profits derived by them and all damages sustained by Plaintiffs by reason of the acts complained of in this Complaint, including an assessment of interest on the damages so computed, and that the damages be trebled pursuant to Section 35 of the Lanham Act, 15 U.S.C. §1117, as well as 35 U.S.C. §284, and all other applicable law;
- N. That Defendants be required to account for and pay over to Plaintiffs such actual damages as Plaintiffs have sustained as a consequence of Defendants' infringement of Plaintiffs' trade

dress, and that the damages relating to patent infringement be trebled pursuant to 35 U.S.C. §284, and to account for and pay to Plaintiffs all of Defendants' gains, revenues, profits and advantages attributable to or derived by Defendants' infringement of Plaintiffs' federal, state and common law rights;

O. That each such award of damages be enhanced to the maximum available for each infringement in view of each of Defendants' willful infringement of Plaintiffs' rights;

P. That each of the Defendants be required to deliver up for impoundment during the pendency of this action, and for destruction thereafter, all copies of the infringing materials in its possession or under its control and all materials, including molds and master models, used for making same;

Q. That Plaintiffs be awarded punitive or exemplary damages because of the egregious, malicious, and tortious conduct of Defendants complained of herein;

R. That Plaintiffs recover the costs of this action including their expenses and reasonable attorney's fees pursuant to 15 U.S.C. §1117, 35 U.S.C. §285 and all further applicable law, because of the deliberate and willful nature of the infringing activities of Defendants sought to be enjoined hereby, which make this an



exceptional case warranting such award;

- S. That Plaintiffs be awarded pre-judgment and post-judgment interest;
- T. That Plaintiffs obtain all further relief permitted under the laws of the United States and the State of Texas; and,
- U. That Plaintiffs obtain all such other and further relief as the Court may deem just and equitable.

Dated: February 2, 2011

/s/ Morris E. Cohen

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Morris E. Cohen (Member of the Bar,  
E.D. Texas)

Lee A. Goldberg (for *pro hac vice*)

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