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6	Attorneys for Plaintiff	
7	ALEXX, INC.	
8	UNITED STAT	ES DISTRICT COURT
9	EASTERN DIST	RICT OF CALIFORNIA
10	SACRAM	ENTO DIVISION
11		
12	ALEXX, INC., a California corporation,	Civil Action No.:
13 14	Plaintiff, v.	COMPLAINT FOR PATENT INFRINGEMENT
15	Stuart Kapicka, an individual having a	JURY TRIAL DEMANDED
16	place of business at 1609 41st Street, Sacramento, California 95819 and DOES 1-20, Inclusive	CONT TRAIL DENTINGED
17	1-20, metusive	
18	Defendants.	
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22	Plaintiff Alexx, Inc. (hereinafter "Ale	exx") hereby alleges as follows:
23	<u>NATUR</u>	RE OF ACTION
24	1. This is an action for infringen	nent of United States Design Patent No. D539526
25	("the '526 Design Patent"), United States Pat	tent No. 7,308,922 B2 ("the '922 Utility Patent"),
26	and United States Patent No. 7,537,032 B2 ("the '032 Utility Patent") (collectively, "the Alexx
27	Patents"). A true and correct copy of the Ale	exx Patents is attached as Exhibit A.
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SUMMARY OF COMPLAINT

- 2. In April 2004, Sandra Stein, founder of Plaintiff Alexx, invented the FINDERS KEY PURSE key locator. The key locator is an innovative product for locating keys or other easily misplaced objects. The key locator allows a person to attach such easily misplaced objects to the key locator and hang the locator on a purse or similar article. From the outside of the purse or similar article, the key locator is visible and, on the inside of the purse or similar article, the attached objects are securely attached to the key locator and can therefore be easily retrieved.
- 3. Alexx has enjoyed substantial commercial success with the key locator, distributing the product through more than 1000 sales representatives throughout the United States, including retail gift stores, chains, and catalogs such as Hallmark, Coach House Gifts, The Mole Hole, and Casual Living. Through this network of vendors, Alexx has sold more than four million of the key locators.
- 4. The innovativeness of Alexx's key locator has received national recognition. In November 2006, the San Fernando Valley Business Journal highlighted the novelty of Alexx's key locator. In February 2007, Sandra Stein was featured in an episode of the nationally syndicated Oprah Winfrey television series showcasing unique innovations. Alexx has subsequently been featured in Entrepreneur, NAWBO.org, MomInventors.com, MomtoMomchat.com, Bizymoms.com, Country Business, and PopularArticles.com. Moreover, Sandra Stein regularly appears on the QVC home shopping network selling Alexx's patented key locator.
- 5. Defendants have profited from Alexx's innovation by selling key locators that infringe the Alexx Patents.
- 6. On April 21, 2008, the undersigned counsel, on behalf of Alexx, sent a cease and desist letter to Stuart Kapicka demanding that he stop selling infringing key locators.
- 7. Stuart Kapicka did not respond to the April 21, 2008 cease and desist letter and continued to sell key locators that infringe the Alexx Patents.

1	8.	On March 1, 2010, the undersigned counsel, on behalf of Alexx, sent a second
2	cease and des	sist letter to Stuart Kapicka again demanding that he stop selling infringing key
3	locators.	
4	9.	Stuart Kapicka did not respond to the March 1, 2010 cease and desist letter and has
5	continued to	sell key locators that infringe the Alexx Patents.
6		THE PARTIES
7	10.	Alexx is a California corporation, having its principal place of business at 6430
8	Variel #101,	Woodland Hills, California, 91367.
9	11.	On information and belief, defendants have a principal place of business at 1609
10	41st Street, S	acramento, California 95819 and resides in this district.
11	12.	Alexx is ignorant of the true names and capacities of defendant Does 1-20 and
12	therefore sue	s these defendants by fictitious names. Alexx will amend this Complaint to allege
13	the true names and capacities of defendant Does 1-20 when ascertained. Alexx is informed and	
14	believes, and on that basis alleges, that each of these fictitiously named defendants is responsible	
15	in some man	ner for the conduct, injuries and damages alleged in this complaint.
16		JURISDICTION AND VENUE
17	13.	This is an action for patent infringement under Title 35 of the United States Code,
18	and, therefore	e, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
19	1338(a).	
20	14.	Venue is proper in this district under 28 U.S.C. § 1391(b)(1) because, on
21	information a	and belief, defendants reside in this District. Venue is also proper in this Court under
22	28 U.S.C. § 1	391(b)(2) because defendants have a principal place of business at 1609 41st Street,
23	Sacramento,	California 95819 where a substantial part of the events giving rise to the claims
24	occurred.	
25		COUNT 1
26		(Infringement Of United States Design Patent No. D539526)
27	15.	Alexx incorporates paragraphs 1 through 14 herein by reference.
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- 16. This claim is made under the provisions of the patent laws of the United States and, in particular, 35 U.S.C. §§ 271, et seq.
- 17. On April 3, 2007, the '526 Design Patent for Alexx's key locator was duly and legally issued in the name of Sandra Stein. By virtue of proper assignment, Alexx acquired and duly owns all right, title, and interest in the '526 Design Patent, including the right to sue and recover for any infringement.
- 18. Defendants have infringed the '526 Design Patent by offering to sell and selling key locators embodying the invention claimed in the '526 Design Patent within the United States.
- 19. The key locators that defendants have offered to sell or sold are either identical or bear substantial resemblance to Alexx's key locators such that the ordinary observer would be deceived into purchasing defendants' key locator thinking that it was Alexx's key locator.
- 20. Defendants knowingly, willfully, and deliberately infringed and, on information and belief, continue to infringe the '526 Design Patent in conscious disregard of Alexx's rights, making this case exceptional within the meaning of 35 U.S.C. § 285 and justifying treble damages pursuant to 35 U.S.C. § 284.
- 21. Defendants' actions complained of herein are causing irreparable harm and monetary damage to Alexx and will continue to do so unless and until defendants are enjoined and restrained by this Court.

COUNT 2

(Infringement of United States Patent No. 7,308,922 B2)

- 22. Alexx incorporates paragraphs 1 through 21 herein by reference.
- 23. On December 18, 2007, the '922 Utility Patent for Alexx's key locator was duly and legally issued in the name of Sandra Stein. By virtue of proper assignment, Alexx acquired and duly owns all right, title, and interest in the '922 Utility Patent, including the right to sue and recover for any infringement.
- 24. Defendants have infringed the '922 Utility Patent by offering to sell and selling key locators embodying the invention claimed in the '922 Utility Patent within the United States.

1	25. Defendants knowingly, willfully, and deliberately infringed and, on information	
2	and belief, continue to infringe the '922 Utility Patent in conscious disregard of Alexx's rights,	
3	making this case exceptional within the meaning of 35 U.S.C. § 285 and justifying treble	
4	damages pursuant to 35 U.S.C. § 284.	
5	26. Defendants' actions complained of herein are causing irreparable harm and	
6	monetary damage to Alexx and will continue to do so unless and until defendants are enjoined	
7	and restrained by this Court.	
8	COUNT 3	
9	(Infringement of United States Patent No. 7,537,032 B2)	
10	27. Alexx incorporates paragraphs 1 through 26 herein by reference.	
11	28. On May 26, 2009 the '032 Utility Patent for Alexx's key locator was duly and	
12	legally issued in the name of Sandra Stein. By virtue of proper assignment, Alexx acquired and	l
13	duly owns all right, title, and interest in the '032 Utility Patent, including the right to sue and	
14	recover for any infringement.	
15	29. Defendants have infringed the '032 Utility Patent by offering to sell and selling	
16	key locators embodying the invention claimed in the '032 Utility Patent within the United State	s.
17	30. Defendants knowingly, willfully, and deliberately infringed and, on information	
18	and belief, continue to infringe the '032 Utility Patent in conscious disregard of Alexx's rights,	
19	making this case exceptional within the meaning of 35 U.S.C. § 285 and justifying treble	
20	damages pursuant to 35 U.S.C. § 284.	
21	31. Defendants' actions complained of herein are causing irreparable harm and	
22	monetary damage to Alexx and will continue to do so unless and until defendants are enjoined	
23	and restrained by this Court.	
24	PRAYER FOR RELIEF	
25	WHEREFORE, Plaintiff asks the Court to:	
26	(a) Enter judgment for Alexx on this Complaint;	
27	(b) Preliminarily and permanently enjoin defendants from further infringement of the	e
28	Alexx Patents;	

1 2 3 4 5 6 7 8	(c) 35 U.S.C. § 3 (d) (e) (f) (g) (h) law or equity	Treble the damages in action of the case to be except Award Alexx reasonable Award Alexx interest an Award Alexx such furth	resulting from defendants' infringement in accordance with accordance with the provisions of 35 U.S.C. § 284; ptional under the provisions of 35 U.S.C. § 285; attorneys' fees under 35 U.S.C. § 285; and costs; and acre relief to which the Court finds Alexx is entitled under
3 4 5 6 7	(d) (e) (f) (g) (h)	Treble the damages in action of the case to be except Award Alexx reasonable Award Alexx interest and Award Alexx such furth	ptional under the provisions of 35 U.S.C. § 285; e attorneys' fees under 35 U.S.C. § 285; ad costs; and
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5 6 7	(f) (g) (h)	Award Alexx reasonable Award Alexx interest an Award Alexx such furth	e attorneys' fees under 35 U.S.C. § 285; ad costs; and
6 7	(g) (h)	Award Alexx interest an Award Alexx such furth	nd costs; and
7	(h)	Award Alexx such furth	
	, ,		er relief to which the Court finds Alexx is entitled under
8	law or equity	/.	
9		DEM A	AND FOR JURY TRIAL
10	Plain	tiff hereby demands a jury	trial on all issues so triable.
11			
12	Dated: May	24, 2010	ARTHUR S. BEEMAN BRETT A. LOVEJOY
13			JONES DAY
14			
15			By: /s/ Brett A. Lovejoy Brett A. Lovejoy
16			Attorneys for Plaintiff Alexx, Inc.
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