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7 Attorneys for Plaintiff  
OLIVET INTERNATIONAL, INC.

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 OLIVET INTERNATIONAL, INC.,  
a California corporation,

12 Plaintiff,

13 vs.

14 THE ENE GROUP LLC,  
15 a New York limited liability  
company,

16 Defendant.  
17

CV09-05026

Case No.

RSWL

(JEMx)

COMPLAINT FOR PATENT  
INFRINGEMENT, TRADE DRESS  
INFRINGEMENT AND UNFAIR  
COMPETITION

DEMAND FOR JURY TRIAL

18 Plaintiff Olivet International, Inc., by and through its attorneys, alleges as  
19 follows:  
20

21 **Jurisdiction and Venue**

22 1. This is a civil action for patent infringement, trade dress infringement,  
23 unfair competition, injunctive relief, and damages arising under the Acts of  
24 Congress relating to patents, 35 U.S.C. §1 *et seq.*, and trademarks, 15 U.S.C. §1051  
25 *et seq.*, and arising under the trademark and unfair competition laws of the State of  
26 California. This Court has jurisdiction over the subject matter of this action  
27 pursuant to 28 U.S.C. §§1331, 1338 and 1367, and 15 U.S.C. §1121.  
28

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2. Venue is proper in this Judicial District pursuant to 28 U.S.C. §§1391(b), (c), (d), (f), and 1400(b). Upon information and belief Defendant has engaged in the activities complained of herein within this Judicial District.

### The Parties

3. Plaintiff Olivet International, Inc. ("Olivet") is a corporation organized and existing under the laws of California, having its principal place of business in Pomona, California.

4. On information and belief, Defendant The ENE Group LLC ("Defendant") is a limited liability company organized and existing under the laws of New York, having a principal place of business in New York, New York.

5. Olivet is informed and believes, and on that basis alleges, that Defendant has ongoing and systematic contacts with this Judicial District, and has knowingly placed its infringing products directly into commerce within this Judicial District, or has knowingly placed such products into the stream of commerce expecting that such products would end up in this Judicial District.

### Allegations Common to All Claims for Relief

6. Olivet is an industry leader in luggage manufacture and sales. Olivet's luggage production requires considerable investment in leading-edge technology and other resources so that Olivet's products may exhibit the superior craftsmanship for which it is known. Each luggage piece is made by highly skilled workers who use advanced computer technology to monitor quality control.

### The Olivet Wheel Housing Design

7. On December 23, 2003, the United States Patent and Trademark Office issued U.S. Patent No. D 484,028 (the "'028 Patent") to Olivet as the assignee. A true and correct copy of the '028 Patent is attached hereto as **Exhibit "1"** and incorporated herein by this reference.

///

1           8.     The '028 Patent claims "the ornamental design for a luggage wheel  
2 housing" ("Wheel Housing Design"), which is shown and described in the  
3 '028 Patent, is a distinctive and nonfunctional wheel housing design.

4           9.     Olivet introduced the Wheel Housing Design in or about late 2002,  
5 and it has since become commonly known in the luggage industry as being  
6 incorporated into and exclusive to Olivet's luggage.

7           10.    Since the Wheel Housing Design was first introduced, Olivet has  
8 extensively advertised, marketed and promoted the particular distinctive "look" of  
9 the Wheel Housing Design in the United States, which is distinctive in appearance,  
10 eye-catching and readily recognized among customers and members of the trade.

11          11.    The Wheel Housing Design trade dress has also acquired secondary  
12 meaning and distinctiveness among consumers and members of the trade, and  
13 continues to have secondary meaning and distinctiveness. It is widely known and  
14 recognized by its unique, distinctive appearance, including its raised "fender" and  
15 unique curve design which identifies to consumers and members of the trade that  
16 the source of origin of the Wheel Housing Design is Olivet.

### 17                               **The Olivet In-Line Wheel Design**

18          12.    On June 13, 2006, the United States Patent and Trademark Office  
19 issued U.S. Patent No. D 522,753 (the "'753 Patent") to Olivet as the assignee. A  
20 true and correct copy of the '753 Patent is attached hereto as **Exhibit "2"** and  
21 incorporated herein by this reference.

22          13.    The '753 Patent claims "the ornamental design for a wheel for  
23 luggage," (In-Line Wheel Design"), which is shown and described in the  
24 '753 patent is distinctive and nonfunctional.

25          14.    Olivet introduced the "In-Line Wheel Design" in 2003. This In-Line  
26 Wheel Design has become commonly known in the United States as being  
27 incorporated into and exclusive to Olivet's luggage.

28       ///

1           15. Since the In-Line Wheel Design was first introduced, Olivet has  
2 extensively advertised, marketed and promoted the particular distinctive “look” of  
3 the In-Line Wheel Design in the United States, including its unique wheel “rim”  
4 pattern, which is distinctive in appearance, eye-catching and readily recognized by  
5 customers and members of the trade.

6           16. The In-Line Wheel Design trade dress has also acquired secondary  
7 meaning and distinctiveness among consumers and members of the trade, and  
8 continues to have secondary meaning and distinctiveness. The In-Line Wheel  
9 Design is now widely known and recognized by its unique, distinctive appearance,  
10 which identifies to consumers and members of the trade that the source of origin of  
11 the In-Line Wheel Design is Olivet.

12           17. By reason of the foregoing, the In-Line Wheel Design Patent has  
13 become and is now a designation of origin of Olivet and has established common  
14 law trademark and trade dress rights which are owned by Olivet.

15                           **Defendant’s Infringing Conduct**

16                                   **Infringement of ‘028 Patent**

17           18. Following Olivet’s first use of the Wheel Housing Design, and the  
18 issuance of the ‘028 Patent, Defendant manufactured, or caused to be  
19 manufactured, wheel housings that are copies of the Wheel Housing Design.

20           19. A side-by-side comparison of Olivet’s Wheel Housing Design and  
21 wheel housing found on Defendant’s products illustrates that Defendant’s design is  
22 a copy of Olivet’s ‘028 Patent. As an example of Defendant’s infringing use,  
23 attached hereto as **Exhibits “3,” “4,” and “5”** are side-by-side photographic  
24 comparisons of Olivet’s ‘028 Patent (Exhibits “3A,” “4A” and “5A”) and  
25 Defendant’s infringing designs (Exhibits “3B,” “4B” and “5B”).

26           20. Defendant has been, and is, offering for sale, and selling, one or more  
27 products that infringe or otherwise violate Olivet’s rights, including those pictured  
28 above, in retail stores across the United States. Such products are also available for

1 purchase on a number of retail websites, through catalogs, and at national and local  
2 retailers.

### 3 Infringement of the '753 Patent

4 21. Following Olivet's first use of the In-Line Wheel Design, and the  
5 issuance of the '753 Patent, Defendant manufactured, or caused to be  
6 manufactured, wheels that are copies of the In-Line Wheel Design.

7 22. A side-by-side comparison of Olivet's In-Line Wheel Design and the  
8 wheel found on Defendant's products illustrate that the Defendant's design is a  
9 copy of the Olivet's '753 Patent. As an example of Defendant's infringing use,  
10 attached hereto as Exhibits "3," "4" and "5" are side-by-side photographic  
11 comparisons of Olivet's '753 Patent (Exhibits "3A," "4A" and "5A") and  
12 Defendant's infringing designs (Exhibits "3B," "4B" and "5B").

13 23. Defendant has been, and is, offering for sale, and selling, one or more  
14 products that infringe or otherwise violate Olivet's rights, including those pictured  
15 above, in retail stores across the United States. Such products are also available for  
16 purchase on a number of retail websites, through catalogs, and at national and local  
17 retailers.

## 18 FIRST COUNT-PATENT INFRINGEMENT

### 19 Infringement of the '028 Patent

20 24. Olivet hereby incorporates Paragraphs 1 through 20, inclusive, herein  
21 by reference.

22 25. On information and belief, Defendant has directly infringed, induced  
23 infringement of, and/or contributed to the infringement of one or more claims of the  
24 '028 Patent, both literally and under the doctrine of equivalents, by making, using  
25 offering for sale, selling and/or importing into the United States without license or  
26 permission from Olivet, or encouraging others to do so.

27 ///

28 ///

1           26. On information and belief, Defendant had notice and actual knowledge  
2 of the '028 Patent before the filing of this suit, and Defendant's infringement of the  
3 '028 Patent has been and continues to be willful and deliberate.

4           27. Olivet has been damaged by Defendant's infringement of the  
5 '028 Patent in an amount to be determined at trial, such damages including all of  
6 Defendant's profits from the infringement alleged herein.

7           28. Defendant's infringement has injured Olivet and will continue to injure  
8 Olivet unless enjoined by the Court. Such injury will be irreparable.

9                           **SECOND COUNT-PATENT INFRINGEMENT**

10                           **Infringement of the '753 Patent**

11           29. Olivet hereby incorporates Paragraphs 1 through 17 and 21 through 23,  
12 inclusive, herein by reference.

13           30. On information and belief, Defendant has directly infringed, induced  
14 infringement of, and/or contributed to the infringement of one or more claims of the  
15 '753 Patent, both literally and under the doctrine of equivalents, by making, using  
16 offering for sale, selling and/or importing into the United States without license or  
17 permission from Olivet, or encouraging others to do so. On information and belief,  
18 Defendant had notice and actual knowledge of the '753 Patent before the filing of  
19 this suit, and Defendant's infringement of the '753 Patent has been and continues to  
20 be willful and deliberate.

21           31. Olivet has been damaged by Defendant's infringement of the  
22 '753 Patent in an amount to be determined at trial, such damages including all of  
23 Defendant's profits from the infringement alleged herein.

24           32. Defendant's infringement has injured Olivet and will continue to injure  
25 Olivet unless enjoined by the court. Such injury will be irreparable.

26 ///

27 ///

28 ///



**THIRD COUNT-TRADE DRESS INFRINGEMENT**

**Infringement of the '028 Patent**

33. Olivet hereby incorporates Paragraphs 1 through 20 and 25 through 28, inclusive, herein by reference.

34. The Wheel Housing Design was designed for the purpose of housing the luggage wheels in a modern, sleek design with a unique curve that lends to its appearance as a fender for the luggage wheel, and, therefore, constitutes a nonfunctional design feature of the luggage.

35. The Wheel Housing Design has acquired secondary meaning and distinctiveness among consumers and members of the trade, and continues to have secondary meaning and distinctiveness.

36. To any ordinary observer, and to customers and members of the trade, the "look" of Defendant's luggage, is confusingly similar, if not identical, to the Wheel Housing Design, in particular the distinctive "look" of the Wheel Housing Design including the raised "fender" design which is unique in appearance, eye-catching and readily recognized among customers and members of the trade.

37. Defendant's past, present and future commercial distribution and sales of luggage employing the Wheel Housing Design's trade dress constitutes trade dress infringement under 15 U.S.C. §1125.

38. On information and belief, Defendant's trade dress infringement of the Wheel Housing Design has been and continues to be willful and deliberate.

39. Olivet has been damaged by Defendant's trade dress infringement in an amount to be determined at trial. Furthermore, by these acts, Defendant has irreparably injured and caused Olivet to suffer a substantial loss of goodwill and reputation, and such injury will continue unless Defendant is enjoined by this Court.

40. By reason of the above actions, Olivet is entitled to the full range of relief under the Lanham Act, 15 U.S.C. §§1116-1118.

**FOURTH COUNT-TRADE DRESS INFRINGEMENT**

**Infringement of the '753 Patent**

41. Olivet hereby incorporates Paragraphs 1 through 17, 21 through 23, and 30 through 32, inclusive, herein by reference.

42. The In-Line Wheel Design was designed for the purpose of creating a distinct, modern, sturdy appearance that is similar to an upscale automobile wheel rim, and therefore constitutes a nonfunctional design feature of the luggage.

43. The In-Line Wheel Design has acquired secondary meaning and distinctiveness among consumers and members of the trade, and continues to have secondary meaning and distinctiveness.

44. To any ordinary observer, and to customers and members of the trade, the "look" of Defendant's luggage, is confusingly similar to the In-Line Wheel Design, in particular the distinctive "look" of the In-Line Wheel Design including its spoke "rim" look which is unique in appearance, eye-catching and readily recognized among customers and members of the trade.

45. Defendant's past, present and future commercial distribution and sales of luggage employing the In-Line Wheel Design's trade dress constitutes trade dress infringement under 15 U.S.C. §1125.

46. On information and belief, Defendant's trade dress infringement of the In-Line Wheel Design has been and continues to be willful and deliberate.

47. Olivet has been damaged by Defendant's trade dress infringement in an amount to be determined at trial. Furthermore, by these acts, Defendant has irreparably injured and caused Olivet to suffer a substantial loss of goodwill and reputation, and such injury will continue unless Defendant is enjoined by this Court.

48. By reason of the above actions, Olivet is entitled to the full range of relief under the Lanham Act, 15 U.S.C. §§1116-1118.

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**FIFTH COUNT-TRADE DRESS INFRINGEMENT (California Law)**

**Infringement of the '028 Patent**

49. Olivet hereby incorporates Paragraphs 1 through 20, 25 through 28, and 34 through 40, inclusive, herein by reference.

50. Defendant's unauthorized usage of Olivet's Wheel Housing trade dress in connection with its distribution and sales of luggage is likely to cause confusion, mistake and deception as to the true source of Defendant's goods or as to the existence of a relationship/affiliation between Plaintiff and Defendant, or that Plaintiff has sponsored or authorized Defendant's goods, thereby infringing Olivet's trade identity rights and related property rights under the common law and statutory laws of California.

51. Olivet has been damaged by Defendant's trade dress infringement in an amount to be determined at trial. Furthermore, by these acts, Defendant has irreparably injured Olivet and caused Olivet to suffer a substantial loss of goodwill and reputation, and such injury will continue unless Defendant is enjoined by this Court.

52. On information and belief, Defendant's unlawful acts were motivated by oppression, fraud and malice, for which Olivet is entitled to an award of exemplary damages under Cal. Civil Code §3294.

**SIXTH COUNT-TRADE DRESS INFRINGEMENT (California Law)**

**Infringement of the '753 Patent**

53. Olivet hereby incorporates Paragraphs 1 through 17, 21 through 23, 30 through 32, and 42 through 48, inclusive, herein by reference.

54. Defendant's unauthorized usage of Olivet's In-Line Wheel trade dress in connection with its distribution and sales of luggage is likely to cause confusion, mistake and deception as to the true source of Defendant's goods or as to the existence of a relationship/affiliation between Olivet and Defendant, or that Olivet has sponsored or authorized Defendant's goods, thereby infringing Olivet's trade

identity rights and related property rights under the common law and statutory laws of California.

55. Olivet has been damaged by Defendant's trade dress infringement in an amount to be determined at trial. Furthermore, by these acts, Defendant has irreparably injured Olivet and cause Olivet to suffer a substantial loss of goodwill and reputation, and such injury will continue unless Defendant is enjoined by this Court.

56. On information and belief, Defendant's unlawful acts were motivated by oppression, fraud and malice, for which Olivet is entitled to an award of exemplary damages under Cal. Civil Code §3294.

#### **SEVENTH COUNT-UNFAIR COMPETITION**

##### **Unfair Competition Pursuant to**

##### **California Business and Professions Code §17200**

57. Olivet re-alleges each and every allegation contained in paragraphs 1 through 56, inclusive, as though set forth in full herein.

58. Defendant intentionally infringed Olivet's '028 Patent and Wheel Housing Design trade dress, as well as '753 Patent and In-Line Wheel Design trade dress by adopting, advertising, offering for sale, and selling luggage under the Defendant's name and brand.

59. Defendant's unauthorized usage of Olivet's Housing Wheel Design and In-Line Wheel Design in connection with its distribution and sales of luggage constitutes unfair competition under the common law and statutory laws of California in violation of California Business and Professions Code §17200, *et. seq.*

60. Olivet has suffered, and continues to suffer, injury from Defendant's infringement, use, and misappropriation of the Wheel Housing Design and In-Line Wheel Design and, as such, Olivet is entitled to relief pursuant to California Business and Professions Code §17203.

///

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

A. That Defendant be adjudged to have infringed the '028 Patent;

B. That Defendant be adjudged to have infringed the '753 Patent;

C. That Defendant be adjudged to have induced infringement of the '028 Patent;

D. That Defendant be adjudged to have induced infringement of the '753 Patent;

E. That Defendant's patent infringement of the '028 Patent be adjudged willful and deliberate;

F. That Defendant's patent infringement of the '753 Patent be adjudged willful and deliberate;

G. That this case be deemed exceptional under 35 U.S.C. §285, and that the damages for patent infringement be enhanced accordingly;

H. That Defendant be adjudged to have infringed Olivet's Wheel Housing Design trade dress in violation of 15 U.S.C. §1125(a), California common law and Cal. Bus. & Prof. Code §14335;

I. That Defendant be adjudged to have infringed Olivet's In-Line Wheel Design trade dress in violation of 15 U.S.C. §1125(a), California common law and Cal. Bus. & Prof. Code §14335;

J. That Defendant's trade dress infringement of the Olivet's Wheel Housing Design trade dress be adjudged willful and deliberate;

K. That Defendant's trade dress infringement of the Olivet's In-Line Wheel Design trade dress be adjudged willful and deliberate;

L. That Defendant is adjudged to have unfairly competed with Olivet in violation of California common law and Cal. Bus. & Prof. Code §17200, *et seq.*;

M. That Defendant its subsidiaries, affiliates, parents, successors, assigns, officers, agents, servants, customers, retailers, employees, attorneys, and all persons

1 acting in concert or in participation with Defendant be preliminarily and  
2 permanently enjoined from:

3 1. Infringing or inducing infringement of the '028 Patent, and  
4 specifically from directly or indirectly making, using, selling, or offering for sale,  
5 any products embodying the invention of the '028 Patent during the terms thereof,  
6 without the express written authority of Olivet;

7 2. Infringing or inducing infringement of the '753 Patent, and  
8 specifically from directly or indirectly making, using, selling, or offering for sale,  
9 any products embodying the invention of the '753 Patent during the terms thereof,  
10 without the express written authority of Olivet;

11 3. Using Olivet's Wheel Housing Design trade dress, or any trade  
12 dress confusingly similar thereto, for or in connection with advertising, marketing,  
13 promoting, distributing, offering for sale, or selling luggage;

14 4. Using Olivet's In-Line Wheel Design trade dress, or any trade  
15 dress confusingly similar thereto, for or in connection with advertising, marketing,  
16 promoting, distributing, offering for sale, or selling luggage;

17 5. Using photographs, illustrations, or other depictions of Olivet's  
18 Wheel Housing Design trade dress, or any trade dress confusingly similar thereto,  
19 for or in connection with advertising, marketing, promoting, distributing, offering  
20 for sale, or selling luggage;

21 6. Using photographs, illustrations, or other depictions of Olivet's  
22 In-Line Wheel Design trade dress, or any trade dress confusingly similar thereto,  
23 for or in connection with advertising, marketing, promoting, distributing, offering  
24 for sale, or selling luggage;

25 7. Using any name, mark, designation, product configuration, trade  
26 dress, or other material for or in connection with advertising, marketing, promoting,  
27 distributing, offering for sale, or selling luggage that is likely to cause confusion,  
28 mistake or deception as to source relative to any of Olivet's names, marks,

1 designations, product configurations, or trade dress, including but not limited to  
 2 Olivet's Wheel Housing Design;

3 8. Using any name, mark, designation, product configuration, trade  
 4 dress, or other material for or in connection with advertising, marketing, promoting,  
 5 distributing, offering for sale, or selling luggage that is likely to cause confusion,  
 6 mistake or deception as to source relative to any of Olivet's names, marks,  
 7 designations, product configurations, or trade dress, including but not limited to  
 8 Olivet's In-Line Wheel Design;

9 9. Passing off its goods and/or services as those of Olivet;

10 10. Practicing unfair competition, unfair trade practices, false  
 11 advertising, or misappropriation against Olivet; and

12 11. Engaging in any conduct aimed at or likely to result in diverting  
 13 business intended for Olivet or injuring Olivet's goodwill or business reputation by  
 14 way of imitation, misrepresentation, false statements, advertising, fraud and/or  
 15 deception.

16 N. An order from this Court compelling Defendant to mail notice letters  
 17 at its own expense to all distributors, dealers, accounts, salesmen, employees,  
 18 jobbers, customers, retailers, and suppliers, informing them that Defendant has  
 19 committed patent infringement, trade dress infringement and unfair competition  
 20 against Olivet and that Defendant has no affiliation, connection, or other business  
 21 relationship with Olivet, requesting that they return to Defendant for full credit or  
 22 refund all of Defendant's luggage using the infringing design and trade dress.

23 O. An order from this Court commanding that Defendant deliver to Olivet  
 24 for destruction all advertising, products, labeling, packaging, sales/promotional  
 25 literature, owner's manuals, catalogs, displays, boxes, packages, and other trade  
 26 pieces within their possession or control which use the infringing design patents or  
 27 trade dress.

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literature, owner's manuals, catalogs, displays, boxes, packages, and other trade pieces within their possession or control which use the infringing design patents or trade dress.

P. An accounting for all profits of Defendant derived by reason of the acts alleged in this Complaint.

Q. An award of money damages suffered by Plaintiff in an amount to be ascertained, and the trebling thereof.

R. An order compelling Defendant to disgorge the amounts by which it has been unjustly enriched by the acts alleged herein.

S. A constructive trust imposed on all revenue, income and things of value derived by Defendant in marketing and selling luggage using imitative Wheel Housing and In-Line Wheel designs, trade dress and marks, including, but not limited to the design and trade dress complained of in the Complaint.

T. Exemplary damages under Cal. Civil Code §3294 for Defendant's oppressive, fraudulent and malicious use of Olivet's luggage design and trade dress.

U. Judgment, relief, and requests as set forth in this Complaint.

V. Reasonable attorney's fees, prejudgment interest, and costs of this action.

W. All such other, further, and different relief as the court deems proper under the circumstances.

DATED: July 9, 2009

BUCHALTER NEMER  
A Professional Corporation

By: 

RICHARD P. ORMOND  
MATTHEW L. SEROR  
CAROL A. DWYER

Attorneys for Plaintiff  
OLIVET INTERNATIONAL, INC.



**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Olivet International, Inc. hereby demands a trial by jury of all issues so triable.

DATED: July 9, 2009

BUCHALTER NEMER  
A Professional Corporation

By: 

RICHARD P. ORMOND  
MATTHEW L. SEROR  
CAROL A. DWYER

Attorneys for Plaintiff  
OLIVET INTERNATIONAL, INC.

# **EXHIBIT 1**



(12) **United States Design Patent** (10) Patent No.: **US D484,028 S**  
**Moon** (45) Date of Patent: **\*\* Dec. 23, 2003**

(54) **LUGGAGE WHEEL HOUSING**

D466,797 S \* 12/2002 Wu ..... D8/374

(76) Inventor: **Jerry Moon, P.O. Box 24-108, Taipei (TW)**

\* cited by examiner

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

Primary Examiner—Holly Baynham

(21) Appl. No.: **29/175,722**

(57) **CLAIM**

(22) Filed: **Feb. 10, 2003**

The ornamental design for a luggage wheel housing, as shown and described.

(51) LOC (7) Cl. .... **08-05**

(52) U.S. Cl. .... **D8/375**

(58) Field of Search ..... **D8/375; 16/18 CG, 16/18 R, 45; 190/18 A**

#### DESCRIPTION

FIG. 1 is a perspective view of a luggage wheel housing showing my new design;

FIG. 2 is a front elevational view thereof;

FIG. 3 is a rear elevational view thereof;

FIG. 4 is a left side elevational view thereof;

FIG. 5 is a right side elevational view thereof;

FIG. 6 is a top plan view thereof; and,

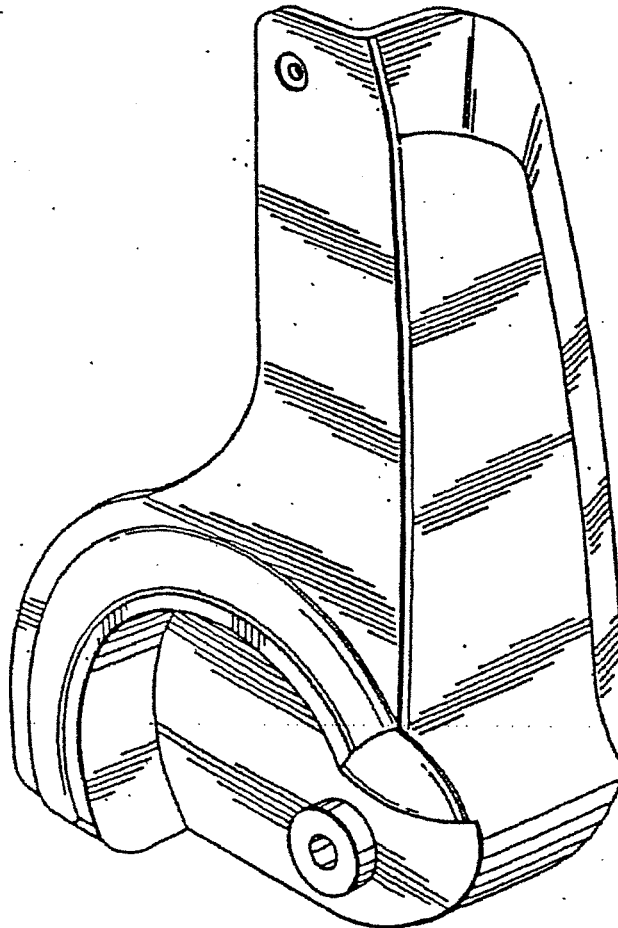
FIG. 7 is a bottom plan view thereof.

(56) **References Cited**

#### U.S. PATENT DOCUMENTS

D370,405 S	* 6/1996	Wu	.....	D8/375
D374,816 S	* 10/1996	Tsai	.....	D8/375
D430,792 S	* 9/2000	Wang	.....	D8/375
D439,146 S	* 3/2001	Wang	.....	D8/375

**1 Claim, 3 Drawing Sheets**



U.S. Patent

Dec. 23, 2003

Sheet 1 of 3

US D484,028 S

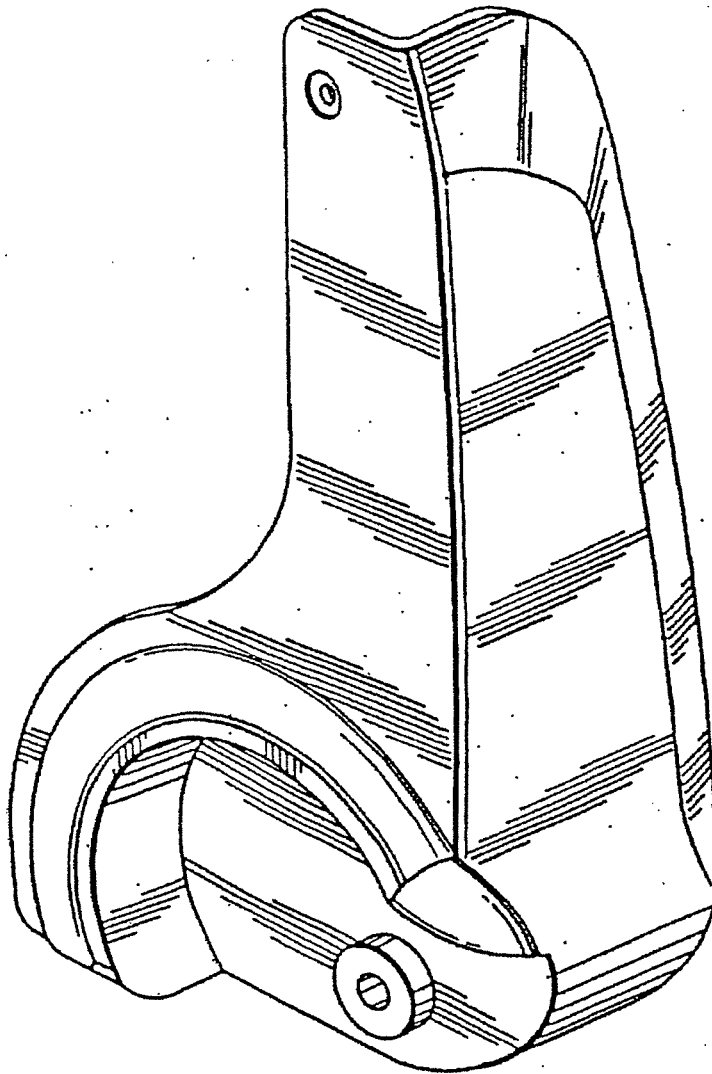


FIG. 1

U.S. Patent

Dec. 23, 2003

Sheet 2 of 3

US D484,028 S

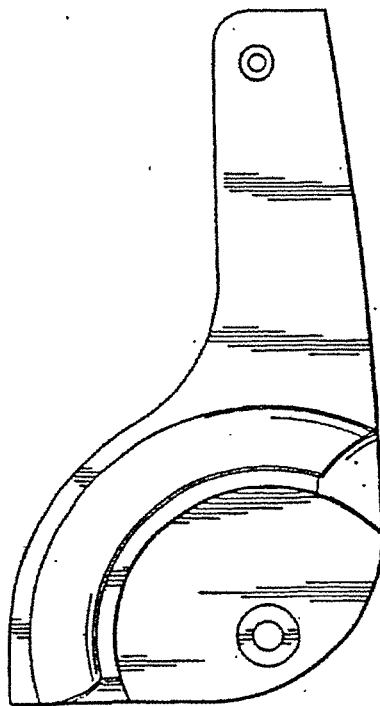


FIG. 2

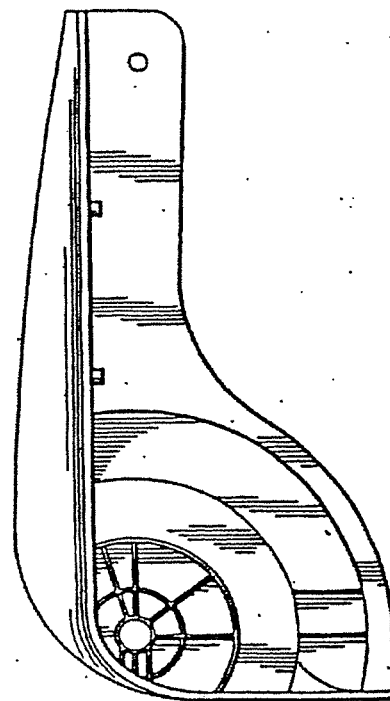


FIG. 3

U.S. Patent

Dec. 23, 2003

Sheet 3 of 3

US D484,028 S

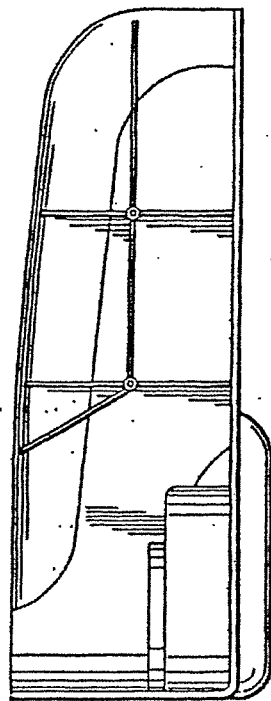


FIG. 4

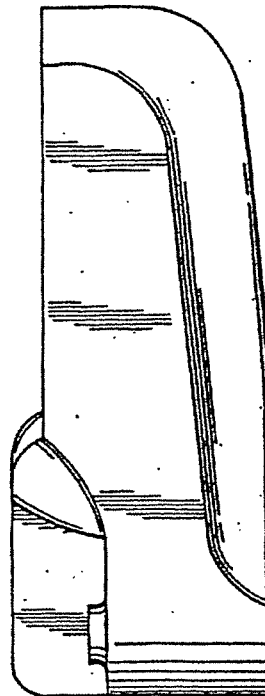


FIG. 5

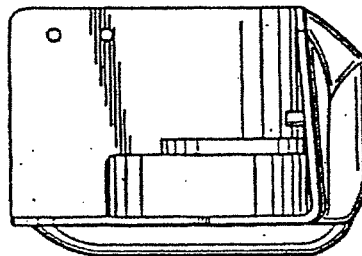


FIG. 6

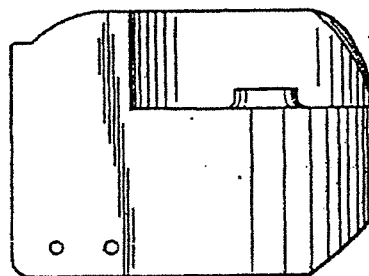


FIG. 7



# **EXHIBIT 2**



US00D522753S

(12) **United States Design Patent** (10) Patent No.: **US D522,753 S**  
**Moon** (45) Date of Patent: **\*\* Jun. 13, 2006**

(54) **WHEEL FOR LUGGAGE**

D473,379 S \* 4/2003 Moon ..... D3/318  
 D477,261 S \* 7/2003 Lin ..... D12/209

(76) Inventor: **Jerry Moon, P.O. Box 24-108, Taipei (TW)**

\* cited by examiner

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

Primary Examiner—Catherine R. Oliver

(74) Attorney, Agent, or Firm—Troxell Law Office PLLC

(21) Appl. No.: **29/180,764**(57) **CLAIM**(22) Filed: **May 1, 2003**

The ornamental design for a wheel for luggage, as shown and described.

(51) LOC (8) Cl. .... 03-01

**DESCRIPTION**

(52) U.S. Cl. .... D3/318

(58) Field of Classification Search ..... D3/318,  
 D3/272-274, 279, 282, 255; D8/375; D12/204-211,  
 D12/133; 301/121, 125; D34/24  
 See application file for complete search history.

FIG. 1 is a perspective view of a wheel for luggage showing my new design;

FIG. 2 is a front elevational view thereof;

FIG. 3 is a rear elevational view thereof;

FIG. 4 is a left side elevational view thereof;

FIG. 5 is a right side elevational view thereof;

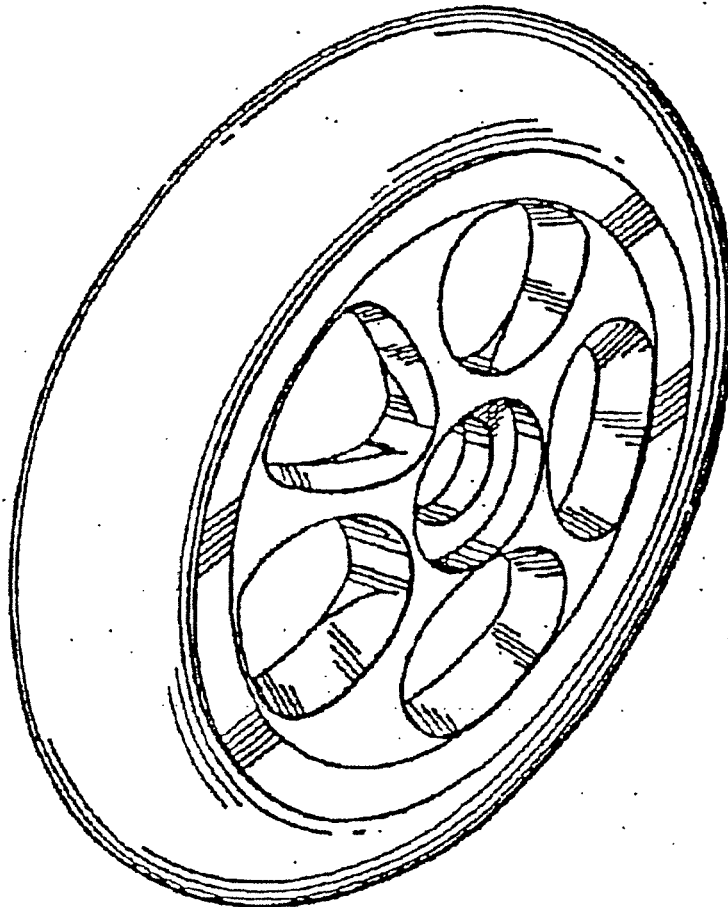
FIG. 6 is a top plan view thereof; and,

FIG. 7 is a bottom plan view thereof.

(56) **References Cited****U.S. PATENT DOCUMENTS**

D468,098 S \* 1/2003 Lu ..... D3/255

D470,747 S \* 2/2003 Chi ..... D8/375

**1 Claim, 3 Drawing Sheets**

U.S. Patent

Jun. 13, 2006

Sheet 1 of 3

US D522,753 S

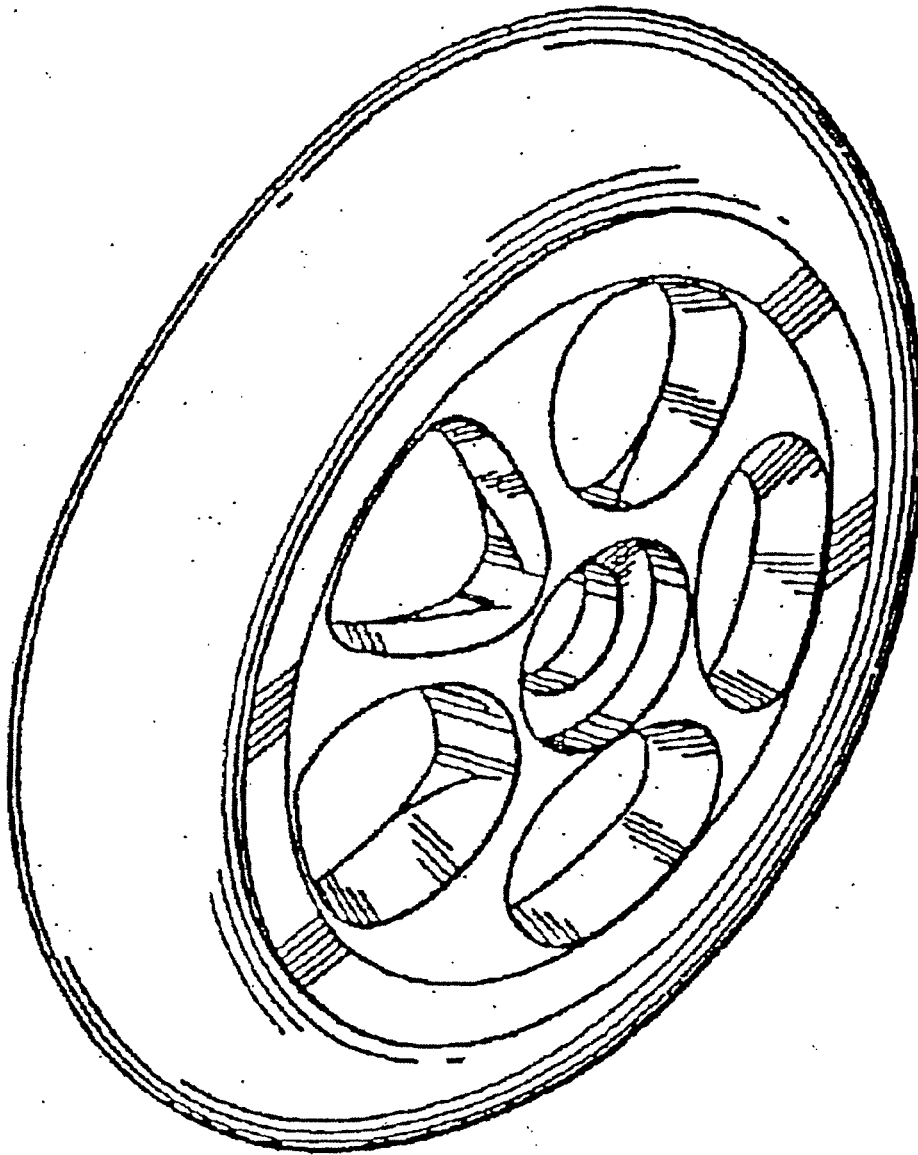


FIG. 1

EXHIBIT "2"  
[Page 2 of 4]

U.S. Patent

Jun. 13, 2006

Sheet 2 of 3

US D522,753 S

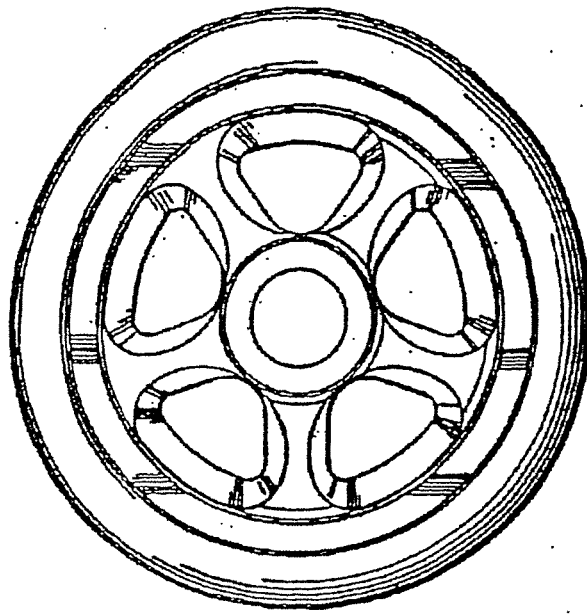


FIG. 2

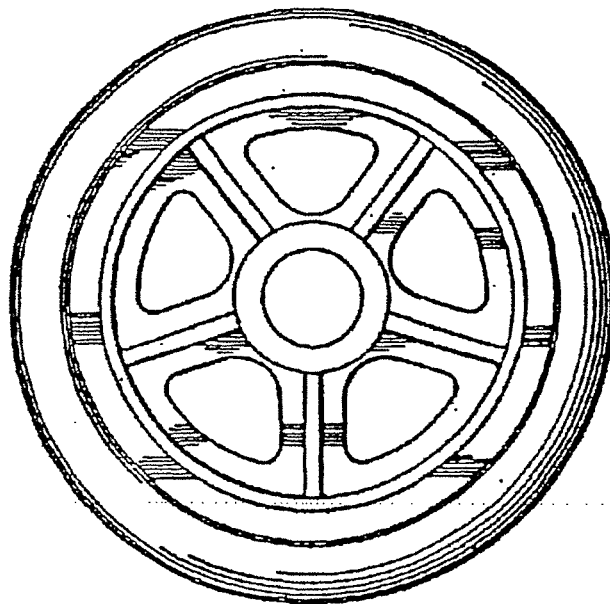


FIG. 3

U.S. Patent

Jun. 13, 2006

Sheet 3 of 3

US D522,753 S



FIG. 4



FIG. 5

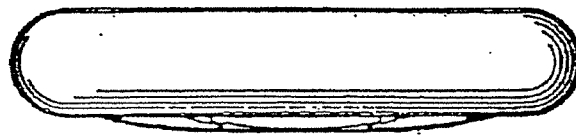


FIG. 6

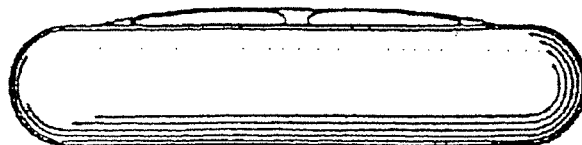


FIG. 7

# **EXHIBIT 3**



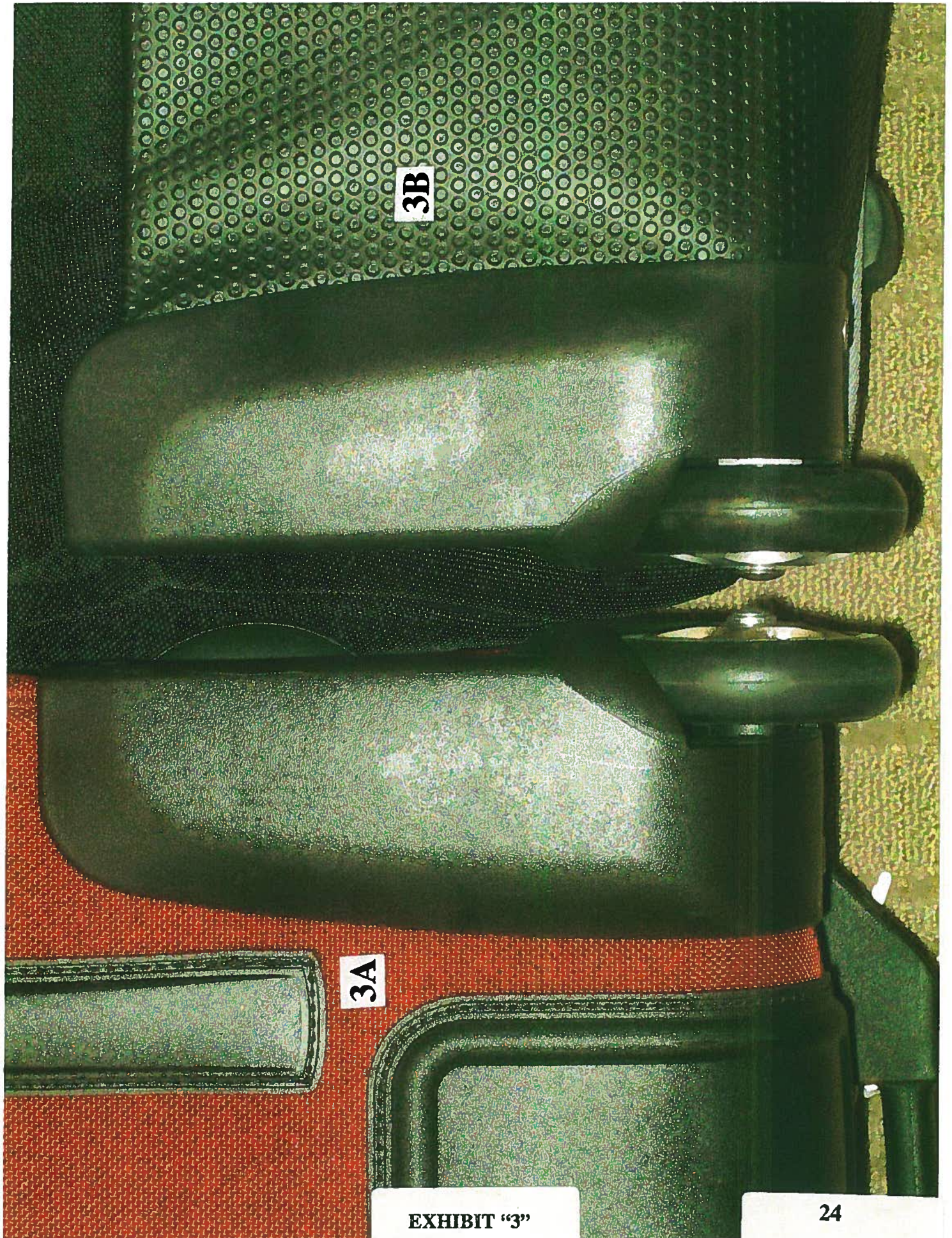


EXHIBIT "3"



**EXHIBIT “4”**





EXHIBIT "4"



**EXHIBIT “5”**

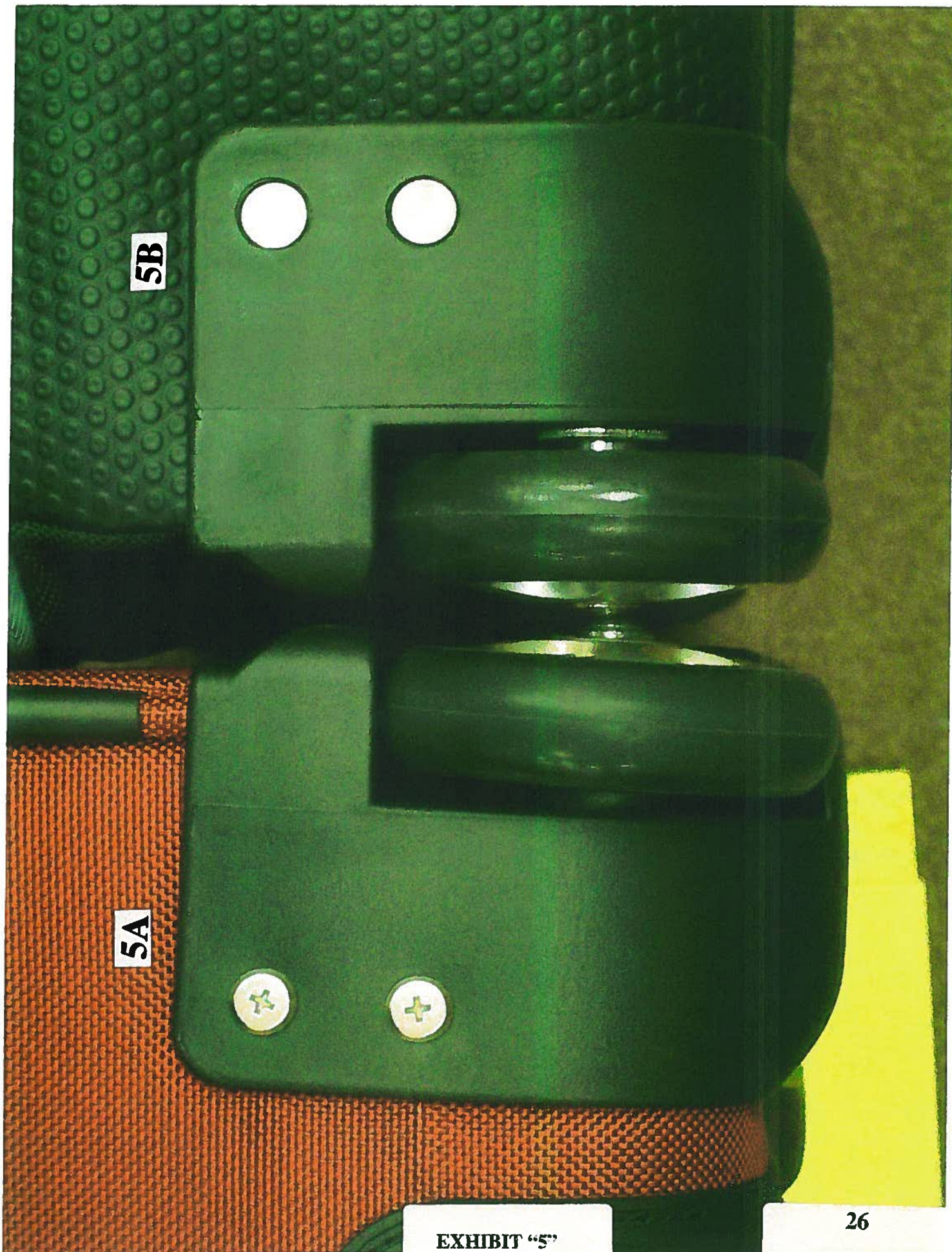


EXHIBIT "5"

**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 Ronald S. W. Lew and the assigned discovery Magistrate Judge is John E. McDermott.

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

**CV09- 5026 RSWL (JEMx)**

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  
CIVIL COVER SHEET

COPY

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) OLIVET INTERNATIONAL, INC., a California corporation	<b>DEFENDANTS</b> THE ENE GROUP LLC, a New York limited liability liability company
<b>(b) County of Residence of First Listed Plaintiff</b> (Except in U.S. Plaintiff Cases): Los Angeles	<b>County of Residence of First Listed Defendant</b> (In U.S. Plaintiff Cases Only): Los Angeles
<b>(c) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Richard P. Ormond (SBN: 207442) Matthew L. Seror (SBN: 235043) Carol A. Dwyer (SBN: 239769) BUCHALTER NEMER 1000 Wilshire Boulevard, Suite 1500 Los Angeles, CA 90017-2457 Telephone: (213) 891-0700; Facsimile: (213) 896-0400	<b>Attorneys</b> (If Known)

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 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.)

- |   |                                   |                                   |   |                                   |                                   |
|---|-----------------------------------|-----------------------------------|---|-----------------------------------|-----------------------------------|
| Citizen of This State                   | PTF<br><input type="checkbox"/> 1 | DEF<br><input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | PTF<br><input type="checkbox"/> 4 | DEF<br><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.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:** **JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☒ No**MONEY DEMANDED IN COMPLAINT:** \$ TO BE DETERMINED**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.)**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<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	<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 <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	<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	<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 <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <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	<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 <b>FORFEITURE / PENALTY</b> <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	<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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <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)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

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

If yes, list case number(s):

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

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

III(b). RELATED CASES: Have any cases been previously filed 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.

X. VENUE: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)

☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.

LOS ANGELES

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).

☐ Check here if the U.S. government, its agencies or employees is a named defendant.

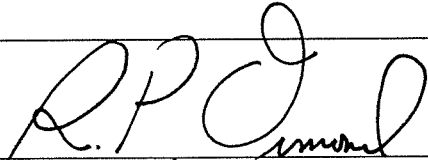
LOS ANGELES

List the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)

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

NATIONWIDE

SIGNATURE OF ATTORNEY (OR PRO PER):

  
 Richard P. Ormond  
 Matthew L. Seror  
 Carol A. Dwyer  
 BUCHALTER NEMER

Date July 9, 2009

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))

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

OLIVET INTERNATIONAL, INC., a California  
corporation

PLAINTIFF(S)

v.

THE ENE GROUP LLC, a New York limited liability  
company

DEFENDANT(S).

CASE NUMBER

CV09-05026 RSWL (JEMx)

**SUMMONS**

TO:DEFENDANT(S):

A lawsuit has been filed against you.

Within 20 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 attorneys Richard P. Ormond, Matthew L. Seror, Carol A. Dwyer, BUCHALTER NEMER, whose address is 1000 Wilshire Boulevard, Suite 1500, Los Angeles, California, 90017-2457. 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

By: 

Deputy Clerk

(Seal of the Court)

Dated: JUL 13 2009

[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)].