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1 Marc E. Hankin, Esq. (SBN: 170505)  
 Email: Marc@HankinPatentLaw.com  
 2 Kevin E. Schraven, Esq. (SBN: 259446)  
 Email: Kevin@HankinPatentLaw.com  
 3 **HANKIN PATENT LAW, APC**  
 6404 Wilshire Boulevard, Suite 1020  
 4 Los Angeles, CA 90048-5512  
 Telephone: (323) 944-0206  
 5 Facsimile: (323) 944-0209

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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. C. CALIF.  
LOS ANGELES

BY \_\_\_\_\_

6 Attorneys for Plaintiffs **MUNCHKIN,**  
**INC.** and **KIM LAUBE & COMPANY,**  
 7 **INC.**

## UNITED STATES DISTRICT COURT

## FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 MUNCHKIN, INC., a Delaware  
 corporation; and KIM LAUBE &  
 11 COMPANY, INC., a California  
 corporation,

Plaintiffs,

v.

15 PORTERVISION, INC., f/k/a  
 16 FURminator, Inc., a Missouri  
 corporation; FURMINATOR, INC.,  
 17 f/k/a FM Acquisition Corp., an Indiana  
 corporation; DAVID PORTER, an  
 18 individual; ANGELA PORTER, an  
 individual; and DOES 1 through 10,  
 19 inclusive.

Defendants.

Case No. **CV09-4393**RSWL  
(SSx)

## COMPLAINT FOR:

- (1) DECLARATORY JUDGMENT  
FOR PATENT INVALIDITY;
- (2) DECLARATORY JUDGMENT  
FOR INEQUITABLE  
CONDUCT AND FRAUD ON  
THE USPTO;
- (3) TORTIOUS INTERFERENCE  
WITH ECONOMIC  
RELATIONS;
- (4) TORTIOUS INTERFERENCE  
WITH PROSPECTIVE  
ECONOMIC ADVANTAGE;
- (5) CIVIL CONSPIRACY;
- (6) DEFAMATION PER SE;
- (7) UNFAIR COMPETITION  
UNDER CAL. BUS & PROF  
CODE § 17200 *et seq.*;
- (8) UNFAIR COMPETITION  
UNDER THE LANHAM ACT;
- (9) DECLARATORY RELIEF  
FOR CORRECTION OF  
INVENTORSHIP;

DEMAND FOR JURY TRIAL.

1 Plaintiffs Munchkin, Inc. ("Munchkin") and Kim Laube & Company, Inc.  
2 ("Laube") (collectively "Plaintiffs") hereby allege against Defendants  
3 PorterVision, Inc. f/k/a FURminator, Inc., FURMINATOR, Inc., f/k/a FM  
4 Acquisition Corp., (PorterVision, Inc. and FURMINATOR, Inc. are collectively  
5 referred to as "FURminator"), David Porter, Angela Porter (David Porter and  
6 Angela Porter are collectively referred to as "the Porters") and Does 1-10  
7 (collectively, the "FURminator Parties" or "Defendants") as follows:

### 8 9 **SUBJECT MATTER JURISDICTION**

10 1. This Court has subject matter jurisdiction over this entire action  
11 pursuant to 28 U.S.C. §§ 1331, 1338, 2201 and 2202. Alternatively, jurisdiction  
12 of this Court is predicated upon 28 U.S.C. § 1332(a)(1) on the basis of diversity  
13 of citizenship. Plaintiffs are citizens of California. As detailed below, Plaintiffs  
14 are informed and believe, and on that basis allege, that Defendants are citizens of  
15 Missouri. The amount in controversy exceeds \$75,000, exclusive of interest and  
16 costs.

17 2. Venue is proper in this District pursuant to 28 U.S.C. § 1391,  
18 because a substantial part of the events or omissions giving rise to the claim  
19 occurred in this judicial district where Munchkin and Laube are based.

### 20 21 **INTRODUCTION**

22 3. This lawsuit arises out of an abusive and unlawful scheme  
23 perpetrated by the FURminator Parties to unfairly compete with Munchkin and  
24 Laube. Specifically, the FURminator Parties claim, in bad faith and with  
25 knowledge that their patents are unenforceable and invalid, certain intellectual  
26 property rights in an effort to illegally suppress or even destroy competition in the  
27 pet grooming tool industry.

1           4.     Although the FURminator Parties have acknowledged that their  
2     “proprietary” pet grooming tool to de-shed pets – which is essentially a “blade on  
3     a stick” – has been around for decades and that there is ample prior art for such a  
4     tool, the Porters still deliberately chose to file fraudulent patent applications  
5     claiming inventorship of such a product with the United States Patent and  
6     Trademark Office (“USPTO”). Because the FURminator Parties failed to disclose  
7     relevant prior art in filing these patents, the patents subsequently issued.  
8     Immediately after the issuance of such patents, the FURminator Parties filed a  
9     number of meritless patent infringement lawsuits against their competitors to  
10    restrict competition.

11           5.     The FURminator Parties have brought actions against the vast  
12    majority of their competitors including, but not limited to, Ontel Products, Kim  
13    Laube & Company, Inc., Munchkin, Inc., and PetEdge, Inc. Although these  
14    lawsuits have all resulted in either judgments of non-infringement or, in some  
15    instances, settlements, the FURminator Parties continue to persist in their quest to  
16    eliminate any competition.

17           6.     The FURminator Parties have threatened both Munchkin and Laube  
18    that, if they continue to sell their grooming tools, the FURminator Parties will  
19    relentlessly bring lawsuit after lawsuit in order to try to force these competitors  
20    out of business. This is despite the fact that evidence of the invalidity and  
21    unenforceability of these patents was disclosed in prior lawsuits, two of which  
22    were against Munchkin and Laube. Moreover, the FURminator Parties have  
23    harassed and continue to harass Munchkin’s and Laube’s customers such as  
24    PETCO from doing business with Munchkin or Laube by making untrue and  
25    disparaging remarks.

26           7.     Such willful disregard for Munchkin’s and Laube’s business  
27    relationships and reputation in the community and marketplace have resulted in,  
28    among other things, irreparable harm to Plaintiffs, monetary damages, and the

1 need for judicial intervention. This Court should not countenance FURminator's  
2 abusive and manipulative tactics.

3  
4 **PARTIES**

5 8. Plaintiff Munchkin is a Delaware corporation with its principal place  
6 of business in Los Angeles, California. Munchkin sells its pet products via its  
7 Bamboo division.

8 9. Plaintiff Laube is a California corporation with its principal place of  
9 business in Los Angeles, California.

10 10. Plaintiffs are informed and believe, and on that basis allege, that  
11 Defendant PorterVision, Inc. f/k/a FURminator, Inc. is a Missouri corporation  
12 with its principal place of business in St. Louis, Missouri.

13 11. Plaintiffs are informed and believe, and on that basis allege, that  
14 Defendant FURMINATOR, Inc., f/k/a FM Acquisition Corp. is an Indiana  
15 corporation with its principal place of business at 1638 Headland Drive, Fenton,  
16 Missouri 63026.

17 12. Plaintiffs are informed and believe, and on that basis allege, that  
18 Defendant David Porter is an individual residing in the State of Missouri.

19 13. Plaintiffs are informed and believe, and on that basis allege, that  
20 Defendant Angela Porter is an individual residing in the State of Missouri.

21 14. The true names and capacities, whether individual, corporate,  
22 associate or otherwise, of the Defendants sued herein under Federal Rule of Civil  
23 Procedure 19 and Central District Local Rule 19-1, as Does 1 through 10,  
24 inclusive are unknown to Plaintiffs, who therefore sue said Defendants by such  
25 fictitious names. Plaintiffs will amend this complaint to insert the true names and  
26 capacities of said Defendants when the same have been ascertained. Each of the  
27 Defendants designated herein as a "Doe" is legally responsible in some manner for  
28 the wrongdoing alleged herein.

1           15. Plaintiffs are informed and believe, and on that basis allege, except as  
2 otherwise indicated, all Defendants, including the fictitious Doe Defendants, were  
3 at all times acting as agents, servants, conspirators, ostensible agents, employees,  
4 hirelings, partners, alter ego, joint venturers, and/or co-venturers of each other  
5 Defendant and that at all relevant times, each was acting for a common purpose or  
6 benefit, so that each Defendant is responsible for the events described herein and  
7 is therefore jointly and severally liable for the resulting damages.

8           16. Plaintiffs are informed and believe, and on that basis allege, that  
9 each Defendant conspired with one or more of the other Defendants to achieve  
10 the wrongful and unlawful results alleged herein, so that each Defendant should  
11 be held jointly and severally liable for all damages resulting from the conspiracy.  
12

### 13                           GENERAL ALLEGATIONS

#### 14                   THE FURMINATOR PARTIES' WRONGFUL CONDUCT

15           17. This action arises from an unlawful scheme, orchestrated by the  
16 FURminator Parties to unfairly compete with Plaintiffs in the pet grooming tool  
17 business. Defendants have admittedly failed to patent a new and novel idea for a  
18 tool which is nothing more than a "blade on a stick," yet they have illegally  
19 claimed inventorship of such a pet de-shedding tool for their own benefit and  
20 profit, and to the detriment of Plaintiffs and other competitors in the marketplace.

21           18. Perhaps even worse than such deception and fraud is the FURminator  
22 Parties' pattern and practice of bringing baseless lawsuits for patent infringement  
23 against their competitors. Then, when challenged on the validity and  
24 enforceability of their patents vis a vis counterclaims, the FURminator Parties  
25 engage in their modus operandi of immediately seeking to dismiss the lawsuit with  
26 a covenant not to sue on that particular patent – only to later file another lawsuit  
27 against the same competitor under a different patent for the same product.  
28



1 industry for over 30 years in a wide variety of areas.

2 26. Kim Laube, the owner and founder of Laube, is the named inventor  
3 on nine issued United States Patents related to grooming tools, and Kim Laube has  
4 designed numerous products for other manufacturers.

5 27. David and Angela Porters are the founders of FURminator.

6 28. Angela Porter (formerly Angela Mueller) owned a pet grooming  
7 business in the 1990s, and, together with her husband, formed FURminator in  
8 2002.

9 29. Prior to the formation of FURminator, David Porter had no  
10 involvement in the pet grooming industry, but instead worked in advertising and  
11 marketing.

12 30. On or around September 10, 2008, the Porters sold FURminator to an  
13 independent equity firm for an amount estimated to exceed \$50 million dollars.  
14 The Porters remained as minority shareholders of FURminator.

15  
16 **DEFENDANTS' WRONGFUL CONDUCT**

17 31. For decades, pet groomers have engaged in a method for grooming  
18 their pets known as "carding." Carding is the process of removing dead, loose  
19 hair and excess undercoat from a pet's (such as a horse, dog or cat) hair by  
20 dragging a carding tool (like a stripping knife) lightly through a pet's coat, much  
21 like using a rake to gather up dead leaves from a lawn.

22 32. Groomers have used a variety of tools to card or de-shed pets  
23 including, but not limited to, Pearson stripping knives, Mars stripping knives,  
24 Classic stripping knives, Hauptner stripping knives, a number of hand-made  
25 stripping knives, numerous sizes of clipper blades and a wide variety of thinning  
26 shears. In addition to these tools, one of the most often used carding or de-  
27 shedding tool is the combination of the head piece of an old Oster Model A-2  
28 clipper and an Oster comb blade with the clipper piece or cutting blade removed.

33. Despite knowing about this common knowledge in the pet grooming industry, the Porters filed for several patents for a “pet grooming tool” and/or “pet grooming tool and method for removing loose hair from a furry pet.” These patents have been referred to by the FURminator Parties as the “FURminator Family of Patents.” Among the FURminator Family of Patents for the pet grooming tool known as the “FURminator” are United States Patent Nos. 6,782,846 (the ‘846 Patent), 7,077,076 (the ‘076 Patent), 7,222,588 (the ‘588 Patent), 7,334,540 (the ‘540 Patent), and 7,509,926 (the ‘926 Patent). These Patents are all continuations of the ‘846 Patent and, therefore, the content of each of these Patents is *identical* in all critical respects.

#### **DEFENDANTS’ LITIGATION HISTORY**

34. FURminator has, since its inception, demonstrated a propensity for litigation and instituted a number of meritless lawsuits against its competitors alleging patent and trademark infringement. These lawsuits have all been filed for the sole purpose of illegally restraining competition in the pet grooming tool industry. Two of these lawsuits have been against Munchkin and two of them against Laube.

#### **FURminator v. Munchkin**

35. In January 2006, FURminator filed a lawsuit against Ontel Products, Inc. (“Ontel”) and Munchkin in the United States District Court for the Eastern District of Missouri entitled FURminator, Inc. v. Ontel Prods. Corp. et al., Case No. 4:06 CV 00023 CAS (“FUR I”). In that case, FURminator alleged that Munchkin and Ontel had infringed the ‘846 Patent and a purported trademark on the word “deshedding.” Specifically, FURminator sued Munchkin for patent infringement based on Munchkin’s sales of a de-shedding comb.

36. FURminator sought a preliminary injunction against both Ontel and

1 Munchkin, which the court denied in a published opinion. (See FURminator, Inc.  
2 v. Ontel Prods. Corp. et al., 429 F. Supp. 2d 1153 (E.D. Mo. 2006).

3 37. Specifically, the FUR I court found that the Porters falsely claimed to  
4 have coined the word “deshedding,” since that word had been in use in the pet  
5 grooming industry for decades prior to FURminator’s claimed creation and thus  
6 the purported trademark was “generic.”

7 38. Finally, on June 16, 2009, the U.S. Patent and Trademark Office  
8 issued a Notice of Abandonment, effective May 19, 2009, after FURminator was  
9 unable to persuade the Trademark Examining Attorney that “deshedding” was  
10 anything other than generic and, therefore, incapable of serving as a trademark.

11 39. Additionally, the FUR I court found that the accused products made  
12 by Ontel and Munchkin did not infringe the asserted claims of the asserted patent,  
13 and thus there was no likelihood that FURminator would prevail on the merits of  
14 its patent infringement claim.

15 40. The FUR I court further noted that, while Munchkin and Ontel had  
16 submitted evidence of prior art to the ‘846 Patent as to the invalidity and  
17 unenforceability of that patent, the FUR I court need not reach such issues at that  
18 time.

19 41. FURminator then appealed the ruling to the Federal Circuit, which  
20 affirmed the FUR I court’s ruling in favor of Munchkin and Ontel. (See  
21 FURminator, Inc. v. Ontel Prods. Corp. et al., 214 Fed. Appx. 982, 2007 WL  
22 200938 (Fed. Cir. Jan. 16, 2007).

23 42. Following the Federal Circuit’s ruling, Munchkin moved for  
24 summary judgment of invalidity of all claims of the ‘846 Patent. In connection  
25 with its summary judgment motion, Munchkin submitted clear and convincing  
26 evidence of prior public uses of a grooming tool that embodied all of the elements  
27 of the broadest claims of the ‘846 Patent, and had been used to perform the  
28 methods claimed in the patent for years prior to the application for the ‘846 Patent.

1           43. Rather than defending against such motion, in March 2007,  
2 FURminator moved to dismiss all of its claims against Munchkin and covenanted  
3 not to sue Munchkin for any or the products Munchkin had offered for sale on its  
4 website (www.bamboopet.com) prior to that date.

5           44. Munchkin opposed FURminator's motion to dismiss on various  
6 grounds, including that the Porters had threatened Steven Dunn, Munchkin's Chief  
7 Executive Officer, with litigation under additional patents on February 22, 2007  
8 and that Munchkin had informed FURminator in a letter dated February 22, 2007  
9 that it intended to sell a grooming device with an elongate handle portion (the  
10 "FurBuster") in the near future.

11           45. Additionally, Munchkin moved to amend its counterclaims to add  
12 counts related to the invalidity and unenforceability of the '076 Patent – the only  
13 other issued patent that FURminator had at that time – based on the threats made  
14 by the Porters.

15           46. The FUR I court dismissed the action based on the covenant not to  
16 sue on the '846 Patent and opted not to decide Munchkin's summary judgment of  
17 invalidity. The FUR I court, however, stated in its order that "if plaintiff  
18 [FURminator] files a new action in this Court claiming patent and/or trademark  
19 infringement by Bamboo and/or Munchkin, Inc. of the '846 patent or the term  
20 "deshedding" in connection with the products identified in the covenant not to sue,  
21 plaintiff [FURminator] shall pay defendants' [Bamboo and Munchkin] reasonable  
22 attorneys' fees and costs incurred in defending this action."

23           47. Despite the FUR I court's strong admonitions, in February 2008,  
24 immediately upon issuance of the '540 Patent (a continuation of the '846 Patent),  
25 the FURminator Parties filed another lawsuit against Munchkin and Laube in the  
26 United States District Court for the Eastern District of Texas, Marshall Division –  
27 a notoriously plaintiff-friendly forum for patent infringement actions. That  
28 lawsuit was subsequently moved to the Eastern District of Missouri – where

1 FURminator had previously covenanted not to sue Munchkin on the '846 Patent.  
2 That lawsuit is currently pending, and has a trial date of February 16, 2010.

### 3 4 FURminator v. Laube

5 48. In August 2006, while FURminator's appeal in FUR I (the first case  
6 against Munchkin) was pending, the FURminator Parties filed two additional  
7 patent infringement lawsuits – a second action against Ontel titled FURminator,  
8 Inc. v. Ontel Prods. Corp., Case No 4:06 CV 1294 CAS ("FUR II") alleging  
9 infringement of the '076 Patent and an action against Laube titled FURminator,  
10 Inc., v. Kim Laube & Co., Inc., Case No. 4:06 CV 1314 RWS ("FUR III")  
11 alleging infringement of both the '846 and '076 Patents.

12 49. In the FUR II case, FURminator again sought a preliminary  
13 injunction against Ontel, but withdrew that motion on the eve of the hearing after  
14 Ontel produced clear and convincing evidence of prior art and public uses of the  
15 grooming tools that disclosed all of the elements of the broadest claims of the '076  
16 Patent. FURminator then settled all of its asserted claims against Ontel in both the  
17 FUR I and FUR II cases.

18 50. In the FUR III case, after the parties had fully briefed their claim  
19 construction positions and Laube had disclosed voluminous preliminary invalidity  
20 contentions, FURminator, consistent with its modus operandi, announced its  
21 intention to provide Laube with a covenant not to sue under the '846 and '076  
22 Patents at a prehearing conference just days before the scheduled *Markman*  
23 hearing.

24 51. Despite Laube's objections, the FUR III court granted FURminator's  
25 motion to dismiss Laube's counterclaims based on the covenant not to sue. As in  
26 the FUR I case, the FUR III court held that "if FURminator files a new action  
27 against Kim Laube Company, Inc. claiming infringement of Patent Nos. '846 or  
28 '076, FURminator shall pay Laube's reasonable fees and costs incurred in

1 defending the present action.”

2 52. Again, despite the FUR III court’s admonitions, which echoed those  
3 of the FUR I court, the FURminator Parties filed their second lawsuit against  
4 Munchkin and Laube approximately one month after FURminator had issued a  
5 covenant not to sue Laube and the same date that the ‘540 Patent issued. That  
6 lawsuit entitled FURminator, Inc. v. Munchkin, Inc. and Kim Laube & Co., Inc.,  
7 Case No 4:06 CV 00367 RWS (“FUR IV”) is currently pending and has been on-  
8 going for nearly a year and a half and, as set forth above, is scheduled to go to trial  
9 on February 16, 2010.

10  
11 **FURMINATOR PARTIES’ CONTINUING THREATS**

12 53. FURminator has continuously issued covenants not to sue on the  
13 patent(s) that is/are the subject of current litigation, yet the FURminator Parties  
14 soon thereafter file new lawsuits in an unveiled attempt to quash competition  
15 based on a new, invalid, patent that issued as a continuation of the original,  
16 invalid, patent.

17 54. Additionally, the FURminator Parties have threatened – and continue  
18 to threaten – Steven Dunn, the Chief Executive Officer of Munchkin, and Kim  
19 Laube, the Chief Executive Officer of Laube, that FURminator will continue to  
20 file lawsuits against Munchkin and Laube on any and all issued patents – all for  
21 the same products on which covenants not to sue had previously been tendered.  
22 Thus, unless and until the issues of validity and enforceability have been decided  
23 once and for all, the FURminator Parties have admittedly refused to allow for a  
24 free market and have instead sought to suppress or even destroy any competition.

25 55. Plaintiffs are informed and believe, and on that basis allege, that  
26 unless this Court issues a Declaratory Judgment regarding the validity and  
27 enforceability of the FURminator Family of Patents, this type of abusive behavior  
28 will continue to run unchecked.

1           56. Further, Plaintiffs are informed and believe, and on that basis allege,  
2 that the FURminator Parties are using these lawsuits to compete unfairly against  
3 Munchkin and Laube, and to interfere with Munchkin's and Laube's current and  
4 prospective economic relationships.

5  
6                                   **FIRST CLAIM FOR RELIEF**

7                           **(Declaratory Judgment for Patent Invalidity)**

8           57. Plaintiffs re-allege and incorporate herein by reference all preceding  
9 paragraphs as though fully set forth herein.

10          58. More than one year prior to the filing of the earliest patent application  
11 for any of the patents in the FURminator Family of Patents, there appeared prior  
12 art, patents, publications, and products describing apparatuses and methods for  
13 grooming pets, and specifically for removing the loose hair from pets while not  
14 removing the non-loose hair including, but not limited to, stripping knives and so  
15 called "40-blades" used with paintbrush handles or with tape formed as a grip.

16          59. More than one year prior to the filing of the earliest patent application  
17 for any of the patents in the FURminator Family of Patents, and prior to any  
18 purported invention made by David and/or Angela Porter that is claimed or  
19 described in any related patents, the prior art described apparatuses and methods  
20 for grooming pets, and specifically for removing the loose hair from pets while not  
21 removing the non-loose hair including, but not limited to, devices comprised of an  
22 Oster A5 40 blade, or its equivalent, attached to an elongate handle, such as a  
23 paint brush handle, or used with tape wrapped around one part of the blade to form  
24 a grip.

25          60. At some point in time after the patenting, sale, or public use of the  
26 prior art described above, the Porters, the named inventors of the FURminator  
27 Family of Patents, attempted to develop and patent the same or similar pet  
28 grooming tools.



1 conduct by intentionally omitting material information from, or submitting false  
2 and misleading information to, the USPTO in the course of obtaining each of the  
3 patents in the FURminator Family of Patents.

4 67. The FURminator Parties and their agents intended to mislead and  
5 materially misled the Patent Examiner by intentionally withholding relevant and  
6 material information. Plaintiffs are informed and believe, and on that basis allege,  
7 that had the Patent Examiner been advised of the withheld material information,  
8 the Patent Examiner would have rejected some or all of the claims in the patents  
9 that comprise the FURminator Family of Patents.

10 68. Specifically, the Porters knew, during the time of the prosecution of  
11 each of the patents that comprise the FURminator Family of Patents, that the  
12 process known as “carding” had been a common practice among pet groomers for  
13 decades. The Porters further knew that stripping knives had been in public use by  
14 groomers for more than a year prior to the filing of the earliest patent application  
15 for any of the patents in the FURminator Family of Patents.

16 69. The FURminator Parties and their attorneys failed to disclose the  
17 existence of stripping knives, and the fact that stripping knives were in public use  
18 to perform carding, to the Patent Examiner during the examination process of the  
19 ‘846 Patent – the earliest in the series of patent applications for the FURminator  
20 Family of Patents.

21 70. Instead, the FURminator Parties remained silent about stripping  
22 knives while the Patent Examiner was relying on prior art that was clearly less  
23 relevant than stripping knives (including the Deneen patent, which was for cutting  
24 human hair – not grooming pets – and has a razor blade that cut rather than pulled  
25 hair).

26 71. The FURminator Parties were also aware of a prior art U.S. Design  
27 Patent relating to a Bowsprit™ brand stripping knife during the prosecution of the  
28 ‘846 Patent – the earliest in the series of patents in the FURminator Family of

1 Patents, but failed to disclose that prior art, as well. David Porter, one of the  
2 named inventors of the patents in the FURminator Family of Patents, discovered  
3 this U.S. Design Patent relating to a Bowsprit™ brand stripping knife during an  
4 Internet patent search, but failed to disclose it to the USPTO, despite knowing of  
5 its relevance, and David Porter knew, or should have known, that the Bowsprit™  
6 brand stripping knife would be material to the patentability of the Porters' pending  
7 patent application.

8 72. During the prosecution of each of the patents in the FURminator  
9 Family of Patents, the FURminator Parties knowingly withheld and failed to  
10 disclose to the USPTO certain information that they knew was material. Such  
11 information included, but is not limited to, prior art references and pleadings from  
12 other lawsuits that relate to the invalidity and unenforceability of the claims of the  
13 patents in the FURminator Family of Patents. Such failure to disclose this  
14 relevant information is a clear violation of the FURminator Parties and their  
15 agents' duty of candor and duty to disclose to the USPTO all material information.

16 73. The FURminator Parties knowingly failed to disclose and/or  
17 concealed material information from the USPTO with the intent to deceive the  
18 USPTO into issuing the patents that comprise the FURminator Family of Patents.

19 74. In light of the inequitable conduct of the FURminator Parties and  
20 their agents before the USPTO, all of the claims of the patents that comprise the  
21 FURminator Family of Patents are invalid as a matter of law and unenforceable  
22 under the equitable doctrines of unclean hands and fraud on the USPTO.

23 75. There is a justiciable controversy between the parties regarding the  
24 FURminator Parties' inequitable conduct, unclean hands, and the unenforceability  
25 of the FURminator Family of Patents, and thus Munchkin and Laube are entitled  
26 to a declaratory judgment that will finally resolve these issues.

**THIRD CLAIM FOR RELIEF**

**(Tortious Interference with Economic Relations)**

76. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs as though fully set forth herein.

77. Valid written or oral contracts existed between Plaintiffs, on the one hand, and their customers, on the other hand, to sell Munchkin's and Laube's products including, but not limited to, their pet grooming tools.

78. As a direct competitor in this niche market, Plaintiffs are informed and believe, and on that basis allege, that the FURminator Parties were aware of these relationships.

79. Plaintiffs are informed and believe, and on that basis allege, that Defendants intentionally engaged in acts, omissions, or conduct that they knew would have the natural or probable effect of interfering with or disrupting the contracts of which they had knowledge. Plaintiffs are informed and believe, and on that basis allege, that Defendants intended to cause such interference or disruption.

80. The FURminator Parties interfered with these economic relationships in an attempt to gain a competitive advantage and with the malicious intent to cause harm to Plaintiffs.

81. The economic relationships between Plaintiffs and their customers were actually disrupted and Plaintiffs were harmed.

82. As a proximate result of Defendants' acts, omissions, or conduct, Plaintiffs have suffered injury to their businesses, including but not limited to, monetary injury in an amount to be proven at trial, but in excess of the minimum jurisdictional requirements of this Court.

83. Plaintiffs are informed and believe, and on that basis allege, that Defendants acted with oppression, fraud, or malice, so as to justify the imposition of punitive and exemplary damages.

**FOURTH CLAIM FOR RELIEF**

**(Tortious Interference with Prospective Economic Advantage)**

84. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs as though fully set forth herein.

85. Economic relationships existed between Plaintiffs, on the one hand, and on the other hand, their customers and vendors, and Plaintiffs had a reasonable belief that such relationships would continue for the foreseeable future.

86. Plaintiffs are informed and believe, and on that basis allege, that the FURminator Parties knew of the existence of these relationships.

87. The FURminator Parties engaged in wrongful acts or conduct that they knew would have the natural or probable effect of interfering with or disrupting these relationships. Plaintiffs are informed and believe, and on that basis allege, that Defendants intended to cause such interference or disruption.

88. Plaintiffs' economic relationships with their customers and vendors were actually interfered with or disrupted.

89. As a proximate result of Defendants' acts, omissions, or conduct, Plaintiffs have suffered injury to their business, including but not limited to, monetary injury in an amount to be proven at trial, but in excess of the minimum jurisdictional requirements of this Court.

90. Plaintiffs are informed and believe, and on that basis allege, that Defendants acted with oppression, fraud, or malice, so as to justify the imposition of punitive and exemplary damages.

**FIFTH CLAIM FOR RELIEF**

**(Civil Conspiracy)**

91. Plaintiffs re-allege and incorporate herein by reference all preceding paragraphs as though fully set forth herein.

1           92. Plaintiffs are informed and believe, and on that basis allege, that  
2 Defendants agreed between and among themselves to perform the wrongful acts  
3 and omissions alleged above and intended to perform those acts or omissions or to  
4 aid the other Defendants in infringing Plaintiffs' rights.

5           93. As a proximate result of Defendants' acts, omissions, or conduct,  
6 Plaintiffs have suffered injury to their business, including but not limited to,  
7 monetary injury in an amount to be proven at trial, but in excess of the minimum  
8 jurisdictional requirements of this Court.

9           94. Plaintiffs are informed and believe, and on that basis allege, that  
10 Defendants acted with oppression, fraud, or malice, so as to justify the imposition  
11 of punitive and exemplary damages.

12  
13                                   **SIXTH CLAIM FOR RELIEF**

14                                   **(Defamation Per Se)**

15           95. Plaintiffs re-allege and incorporate herein by reference all preceding  
16 paragraphs as though fully set forth herein.

17           96. The FURminator Parties, in their written and verbal communications  
18 with various customers and potential customers of Plaintiffs, stated that Munchkin  
19 and Laube infringe on valid and enforceable patent rights owned by FURminator.

20           97. At the time the FURminator Parties made these statements, they  
21 knew that they were false and continue to be false. Such statements were made by  
22 the FURminator Parties to such third parties, either in writing or verbally, with the  
23 malicious intent to injure Plaintiffs' businesses. Additionally, such statements  
24 were made without justification or excuse, without any reasonable basis in law or  
25 fact, and with knowledge of their falsity.

26           98. As a proximate result of Defendants' acts, omissions, or conduct,  
27 Plaintiffs have suffered injury to their business, including but not limited to,  
28

1 monetary injury in an amount to be proven at trial, but in excess of the minimum  
2 jurisdictional requirements of this Court.

3 99. In addition, as a proximate result of the false statements made by the  
4 FURminator Parties, Plaintiffs have suffered irreparable harm and damage to their  
5 reputation in the marketplace rendering these statements defamatory per se such that  
6 Plaintiffs are entitled to punitive and exemplary damages.

7  
8 **SEVENTH CLAIM FOR RELIEF**

9 **(Unfair Competition under California Business and Professions Code**

10 **§ 17200 *et seq.*)**

11 100. Plaintiffs re-allege and incorporate herein by reference all preceding  
12 paragraphs as though fully set forth herein.

13 101. By engaging in the wrongful acts alleged above, Defendants have  
14 engaged in unlawful, unfair, or fraudulent business acts or practices, as defined by  
15 California Business and Professions Code § 17200 *et seq.*

16 102. Defendants have been unjustly enriched by their unlawful, unfair, or  
17 fraudulent business acts or practices, and Plaintiffs will suffer injury including, but  
18 not limited to, monetary injury to their businesses as a direct and proximate result  
19 of those acts or practices, in an amount to be proven at trial, but in excess of the  
20 minimum jurisdictional requirements of this Court.

21 103. Plaintiffs are informed and believe, and on that basis allege that,  
22 unless restrained and enjoined by this Court, Defendants will continue to engage  
23 in the wrongful acts alleged above and cause further irreparable harm for which  
24 Plaintiffs have no adequate remedy at law.

25 104. Plaintiffs seek an appropriate order of this Court requiring that  
26 Defendants, jointly and severally, make restitution by restoring to Plaintiffs all of  
27 the monies paid to Defendants and to disgorge all of the profits derived by  
28 Defendants through the use of the unlawful, unfair, and fraudulent business

1 practices described herein, as provided for by California Business and Professions  
2 Code § 17203.

3  
4 **EIGHTH CLAIM FOR RELIEF**

5 **(Unfair Competition under the Lanham Act)**

6 105. Plaintiffs re-allege and incorporate herein by reference all preceding  
7 paragraphs as though fully set forth herein.

8 106. By engaging in the wrongful acts alleged above, Defendants have  
9 engaged in unfair competition, as defined pursuant to the Lanham Act, 15 U.S.C.  
10 § 1125.

11 107. The FURminator Parties have made false and misleading statements  
12 to Plaintiffs' customers and potential customers in order to promote their products  
13 and disparage Plaintiffs' products. Specifically, the FURminator Parties have  
14 made false and misleading statements that Munchkin and Laube infringe valid and  
15 enforceable patents owned by FURminator.

16 108. Such false and misleading statements have actually deceived, or are  
17 likely to deceive, a substantial segment of the intended audience – Munchkin's  
18 and Laube's customers and potential customers. Moreover, such statements are  
19 material because they have influenced, or are reasonably likely to influence, the  
20 purchasing decisions of Plaintiffs' customers and the potential customers of  
21 Munchkin's and Laube's pet grooming tools.

22 109. The FURminator Parties have caused the false and misleading  
23 statements to enter interstate commerce.

24 110. The statements made by the FURminator Parties have resulted in  
25 actual or probable injury to Plaintiffs and were undertaken in bad faith, as the  
26 FURminator Parties have knowledge that none of Plaintiffs' products infringe on  
27 any valid or enforceable claims of any of the patents in the FURminator Family of  
28 Patents.

1 111. As a proximate result of Defendants' acts, omissions, or conduct,  
 2 Plaintiffs have suffered injury to their business, including but not limited to,  
 3 monetary injury in an amount to be proven at trial, but in excess of the minimum  
 4 jurisdictional requirements of this Court.

5 112. Plaintiffs are informed and believe, and on that basis allege that  
 6 unless restrained and enjoined by this Court, Defendants will continue to engage  
 7 in the wrongful acts alleged above and cause further irreparable harm for which  
 8 Plaintiffs have no adequate remedy at law, in addition to causing Plaintiffs to  
 9 suffer lost profits, lost sales, and to incur attorneys' fees, court costs, and  
 10 expenses.

### 11 **NINTH CLAIM FOR RELIEF**

#### 12 **(Declaratory Relief for Correction of Inventorship)**

13 113. Plaintiffs re-allege and incorporate herein by reference all preceding  
 14 paragraphs as though fully set forth herein.

15 114. An actual controversy has arisen and now exists between Plaintiff  
 16 Laube, on the one hand, and Defendants Porters, on the other hand, with respect to  
 17 United States Patent Nos. 6,782,846 (the '846 Patent), 7,077,076 (the '076 Patent),  
 18 7,222,588 (the '588 Patent), 7,334,540 (the '540 Patent), and 7,509,926 (the '926  
 19 Patent). Laube disputes the claim of inventorship and ownership by the Porters of  
 20 such patents and requests that the Court resolve the issues of inventorship and  
 21 ownership. Plaintiffs are informed and believe, and on that basis allege, that  
 22 Defendants dispute these contentions.

23 115. A judicial determination and declaration is necessary and appropriate  
 24 at this time and under these circumstances so that Plaintiffs may ascertain their  
 25 rights of ownership, inventorship, and duties with respect to said patents.

26 116. This Court should declare that if it finds that the inventorship of the  
 27 FURminator Family of Patents should be corrected by changing the name for  
 28

ownership of the patents to from the Porters to Laube that the patents then be assigned to Laube.

**PRAYER FOR RELIEF**

Wherefore Plaintiffs pray for judgment as follows:

- a. For a declaration that United States Patent Nos. 6,782,846 (the '846 Patent), 7,077,076 (the '076 Patent), 7,222,588 (the '588 Patent), 7,334,540 (the '540 Patent), and 7,509,926 (the '926 Patent) are invalid and/or unenforceable, in whole or in part;
- b. For a preliminary and permanent injunction enjoining and restraining Defendants, and all those acting in concert and participation therewith, from engaging in the wrongful acts set forth above;
- c. For compensatory damages, jointly and severally against all Defendants, in an amount to be proven at trial;
- d. For punitive damages against each Defendant in an amount to be proven at trial;
- e. For attorneys' fees;
- f. For costs of suit herein; and
- g. For such other and further relief as justice may require.

Dated: June 18, 2009

HANKIN PATENT LAW, APC

By: Marc E. Hankin

Marc E. Hankin  
Attorneys for Plaintiffs MUNCHKIN, INC. and  
KIM LAUBE & COMPANY, INC.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand jury trial of all issues that may be tried to a jury.

Dated: June 18, 2009

HANKIN PATENT LAW, APC

By: Marc E. Hankin

Marc Hankin  
Attorneys for Plaintiffs MUNCHKIN, INC. and  
KIM LAUBE & COMPANY, INC.

**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 Suzanne H. Segal.

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

**CV09 - 4393 RSWL (SSx)**

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.

AO 440 (Rev. 02/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

MUNCHKIN, INC., a Delaware corporation; and KIM  
LAUBE & COMPANY, INC., a California corporation

Plaintiff

PORTERVISION, INC., f/k/a FURminator, Inc., a Missouri  
corporation; FURMINATOR, INC., f/k/a FM Acquisition Corp.,  
an Indiana corporation; DAVID PORTER, an individual; ANGELA  
PORTER, an individual; and DOES 1 through 10, inclusive

Defendant

Civil Action No.

CV09-4393

RSWL  
(SSx)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) PORTERVISION, INC., f/k/a FURminator, Inc., a Missouri corporation;  
FURMINATOR, INC., f/k/a FM Acquisition Corp., an Indiana corporation; DAVID  
PORTER, an individual; ANGELA PORTER, an individual; and DOES 1 through  
10, inclusive

1638 Headland Drive, Fenton, Missouri 63026

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Marc E. Hankin, Esq. (SBN: 170505)  
Kevin E. Schraven, Esq. (SBN: 259446)  
HANKIN PATENT LAW, APC  
6404 Wilshire Boulevard, Suite 1020  
Los Angeles, CA 90048

If you fail to respond, 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 OF COURT

Date: JUN 18 2009

NATALIE LONGORIA

Signature of Clerk or Deputy Clerk



1198

AO 440 (Rev. 02/09) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

MUNCHKIN, INC., a Delaware corporation; and KIM LAUBE & COMPANY, INC., a California corporation

(b) County of Residence of First Listed Plaintiff Los Angeles  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Marc E. Hankin (SBN: 170505) and Kevin Schraven (SBN: 259446)  
Hankin Patent Law, APC  
6404 Wilshire Blvd. Suite 1020, Los Angeles, CA. 90048. (323) 944-0206

**DEFENDANTS**

PORTERVISION, INC., f/k/a FURminator, Inc., a Missouri corporation;  
FURMINATOR, INC., f/k/a FM Acquisition Corp., an Indiana corporation;  
DAVID PORTER, an individual; ANGELA PORTER, an individual; and

DOES 1 through 10, inclusive  
County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                            |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" 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. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER 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 Loans (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	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal 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 <b>PERSONAL INJURY</b> <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 <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	<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 <b>LABOR</b> <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>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <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	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <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 Acts <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 Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. 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 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 2201 and 2202

Brief description of cause:

Declaratory Relief of Patent Invalidity and Unenforceability and related Lanham Act and State Unfair Comp. Claims

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/18/2009

SIGNATURE OF ATTORNEY OF RECORD

*Marc E. Hankin, 170505*

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

CV09-4393

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

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
 If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court 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.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES COUNTY - MUNCHKIN, INC. VENTURA COUNTY - KIM LAURE & COMPANY	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	MISSOURI

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES COUNTY	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

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

X. SIGNATURE OF ATTORNEY (OR PRO PER): MARC E. HARRIS

Date JUNE 18, 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))