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**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

WHALEN FURNITURE MFG., INC.

Plaintiff,

v.

BELL'O INTERNATIONAL CORP.

Defendant.

Civil Action No.: **'11CV2988 JAH MDD**

**COMPLAINT FOR PATENT
 INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff, Whalen Furniture Manufacturing, Inc. ("Whalen"), as for its Complaint against
 Defendant, Bell'O International Corp. ("Bell'O"), alleges as follows:

JURISDICTION AND VENUE

1. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271 et seq.
 This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), (c) and
 1400(b). On information and belief, Bell'O has purposely transacted business involving their accused
 products in this judicial district, has committed acts of direct and/or indirect infringement in this
 judicial district, and continues to commit acts of infringement in this district.

THE PARTIES

3. Whalen is a corporation organized and existing under the laws of the state of California, having its principal place of business at 1578 Air Wing Road, San Diego, California 92154.

4. On information and belief, Bell'O is a corporation organized and existing under the laws of the state of Delaware and has a principal place of business at 711 Ginesi Drive, Morganville, New Jersey 07751.

5. On information and belief, Bell'O has committed acts of infringement alleged herein within this judicial district.

COUNT I

(Infringement of U.S. Patent No. 8,079,311)

6. Whalen repeats and realleges paragraphs 1-5 above.

7. Whalen is the owner of the entire right, title and interest in United States Patent No. 8,079,311, entitled "TELEVISION SUPPORT AND MOUNTING KIT," which was duly and legally issued by the United States Patent and Trademark Office on December 20, 2011 (the "'311 patent"). A true and correct copy of the '311 patent is attached as Exhibit A and is incorporated by reference.

8. Whalen has the exclusive right to make, use, sell, offer for sale and import into the United States embodiments of the inventions claimed in the '311 patent, and the exclusive right to authorize others to do the same.

9. Bell'O, without permission or license from Whalen, has unlawfully and wrongfully made, used, sold, offered for sale, and/or imported, and is now making, using, selling, offering for sale and/or importing, in direct competition with Whalen, television stands in the United States and this District that are covered by one or more claims of the '311 patent, including but not limited to, the: Bell'O FP4858-HG, Bell'O NTPC2132G, Bell'O TP4501, Bell'O TPC361, Bell'O TPC2127, Bell'O

1 TPC2128, and Bell'O TPC2143 (the "Accused Products").

2 10. Bell'O's unlawful and wrongful making, using, selling, offering for sale and/or
3 importing; contributing to the making, using, selling, offering for sale and/or importing; and inducing
4 of others to make, use, sell, offer for sale and/or import, the Accused Products within the United States
5 including this judicial district constitutes at least direct infringement of at least one claim of the '311
6 patent, under 35 U.S.C. §§ 271 et seq.

7
8 11. By reason of Bell'O's infringing activities, Whalen has suffered, and will continue to
9 suffer, substantial damages in an amount to be proven at trial.

10 12. Bell'O's continuing acts of infringement are irreparably harming and causing damage
11 to Whalen, for which Whalen has no adequate remedy at law, and will continue to suffer such
12 irreparable injury unless Bell'O's continuing acts of infringement are enjoined by the Court. The
13 hardships, if any, that would be imposed by an injunction are less than those faced by Whalen should
14 an injunction not issue. The public interest would be served by issuance of an injunction.
15

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Whalen respectfully requests that this Court:

18 A. Enter judgment in favor of Whalen that Bell'O has infringed the '311 patent as
19 aforesaid;

20 B. Grant a permanent injunction enjoining Bell'O, its officers, directors, agents, servants,
21 affiliates, employees, divisions, subsidiaries, branches, parents and all others acting in concert or
22 privity therewith from any and all further infringement of the '311 patent pursuant to 35 U.S.C. §
23 283;
24

25 C. Grant an accounting of damages resulting from Bell'O's infringement of the '311
26 patent, including pre-judgment and post-judgment interest pursuant to 35 U.S.C. § 284; and
27

28 D. Grant any and all further relief to which the Court may deem Whalen entitled.

DEMAND FOR JURY TRIAL

Whalen requests a trial by jury on all issues so triable by right pursuant to Fed. R. Civ. P. 38.

WHALEN FURNITURE MFG., INC.

Dated: December 21, 2011

By: /s/Randall S. Waier
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**Attorneys for Plaintiff
Whalen Furniture Mfg., Inc.**

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

WHALEN FURNITURE MFG., INC.

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

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

Law Offices of Randall S. Waier, 20241 Birch Street, Suite 103,
Newport Beach, California 92660, (949) 476-2511.**DEFENDANTS**

BELL'O INTERNATIONAL, CORP.

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.**'11CV2988 JAH MDD**

Attorneys (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

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated <i>or</i> Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated <i>and</i> Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury PERSONAL INJURY ☐ 362 Personal Injury - Med. Malpractice ☐ 365 Personal Injury - Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs. ☐ 660 Occupational Safety/Health ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt. Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 463 Habeas Corpus - Alien Detainee ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☒ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 810 Selective Service ☐ 850 Securities/Commodities/Exchange ☐ 875 Customer Challenge 12 USC 3410 ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determination Under Equal Access to Justice ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 444 Welfare ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 440 Other Civil Rights PRISONER PETITIONS ☐ 510 Motions to Vacate Sentence Habeas Corpus: ☐ 530 General ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition			

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 ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
35 U.S.C. § 271 et seq.Brief description of cause:
Patent Infringement**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 Janis L. SammartinoDOCKET NUMBER 11cv2958-JLS-POR

DATE

SIGNATURE OF ATTORNEY OF RECORD

12/21/2011

/s/Randall S. Waier

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____