

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

LENNON IMAGE TECHNOLOGIES, LLC,

*Plaintiff,*

v.

FOREVERMARK US, INC. and  
DE BEERS DIAMOND JEWELLERS US INC.,

*Defendants.*

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

**JURY TRIAL DEMANDED**

**PLAINTIFF’S COMPLAINT FOR PATENT INFRINGEMENT  
AGAINST FOREVERMARK US, INC. AND  
DE BEERS DIAMOND JEWELLERS US INC.**

Plaintiff Lennon Image Technologies, LLC (“LIT”) files this Complaint against Forevermark US, Inc. and De Beers Diamond Jewellers US Inc. (collectively, “De Beers”) and alleges as follows:

**PARTIES**

1. Plaintiff Lennon Image Technologies, LLC is a Texas Limited Liability Company with its principal place of business at 1910 East Southeast Loop 323, #244, Tyler, Texas 75701.

2. Upon information and believe, Defendant Forevermark US, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 263 Tresser Boulevard, 9th Floor, Stamford, Connecticut 08901. Upon information and believe, Defendant De Beers Diamond Jewellers US Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 20 West 55th Street, 7th Floor, New York, New York 10019. Defendants Forevermark US, Inc. and De Beers Diamond Jewellers US Inc. may be served with process

through their registered agent The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

### **BACKGROUND**

3. On information and belief, Defendants De Beers are in the business of exploration, sourcing, and marketing of diamonds and derive revenue from sales and distribution of their goods and/or services.

4. On information and belief, Defendants De Beers engage in electronic commerce conducted on and using at least, but not limited to, the website [www.forevermarkdiamond.com](http://www.forevermarkdiamond.com).

5. On information and belief, Defendants have engaged in such business activities in this District and continue to engage in such activities in this District.

6. Defendants own, operate, and/or direct the operation of the website [www.forevermarkdiamond.com](http://www.forevermarkdiamond.com), which has an apparatus for manipulating a customer image corresponding to a customer at [www.forevermarkdiamond.com/us/jewelry/virtual-try-on](http://www.forevermarkdiamond.com/us/jewelry/virtual-try-on) (“Virtual Fitting Interface”).

7. Defendants provide users with access to their website and provide users with the ability to download, upload, and/or install software required to operate their Virtual Fitting Interface.

8. Defendants direct users to operate the Virtual Fitting Interface, for example, by providing instructions on proper use and operation of the Virtual Fitting Interface.

### **JURISDICTION AND VENUE**

9. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code.

10. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11. Upon information and belief, Defendants are subject to this Court's general and/or specific personal jurisdiction because they (a) are a resident of the State of Delaware; (b) have designated an agent for service of process in the State of Delaware; (c) have committed acts of infringement in the State of Delaware as alleged below; and/or (d) are engaged in continuous and systematic activities in the State of Delaware.

12. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have a regular and established place of business in this district, and/or have transacted business in this district, and/or have committed and/or induced acts of patent infringement in this district.

### **THE PATENT-IN-SUIT**

13. On September 23, 2003, the United States Patent and Trademark Office issued United States Patent No. 6,624,843 ("the '843 Patent") entitled "Customer Image Capture and Use Thereof in a Retailing System," a true copy of which is attached as Exhibit A.

14. LIT is the owner by assignment of the '843 Patent and owns all right, title and interest in the '843 Patent, including the right to sue for and recover all past, present and future damages for infringement of the '843 Patent.

### **CLAIM 1 – INFRINGEMENT OF U.S. PATENT NO. 6,624,843**

15. Defendants have been and are now directly infringing one or more claims of the '843 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale or importing in the United States the computer implemented website

[www.forevermarkdiamond.com](http://www.forevermarkdiamond.com) which has an apparatus for manipulating a customer image corresponding to a customer at <http://www.forevermarkdiamond.com/us/jewelry/virtual-try-on>.

16. In addition and/or in the alternative, De Beers has been and/or is now indirectly infringing one or more claims of the '843 Patent by inducement and/or contributory infringement and is continuing to engage in such indirect infringement in violation of 35 U.S.C. § 271 (b) and/or 35 U.S.C. § 271(c). Users of De Beers' website and the Virtual Fitting Interface are direct infringers of the '843 Patent through their use of the infringing instrumentalities. De Beers has induced and continues to induce users of its website and its Virtual Fitting Interface to directly infringe one or more claims of the '843 Patent. By providing their website, access to the Virtual Fitting Interface, and the necessary software to operate the same, De Beers contributes to the direct infringement by users of their website and their Virtual Fitting Interface.

17. As a direct and proximate consequence of the acts and practices of the Defendants in infringing, directly and/or indirectly, one or more claims of the '843 Patent, LIT has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284 in an amount to be determined at trial.

18. The limitation of damages provision of 35 U.S.C. § 287(a) is not applicable to LIT.

19. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285 and LIT is thus entitled to an award of its reasonable attorneys' fees.

#### **DEMAND FOR JURY TRIAL**

20. LIT, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Lennon Image Technologies, LLC requests entry of judgment that:

1. Defendants have infringed the patent-in-suit;
2. Defendants account for and pay to Plaintiff all damages caused by their infringement of the patent-in-suit;
3. Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to it by reason of one or more of Defendants' patent infringement;
4. The Court declare this an exceptional case and that Plaintiff be granted reasonable attorneys' fees in accordance with 35 U.S.C. § 285;
5. Costs be awarded to Plaintiff; and
6. Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: July 16, 2012

By: /s/ Kenneth L. Dorsney  
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**ATTORNEYS FOR PLAINTIFF  
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