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2010 JUN -8 AM 10:57

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY  DEPUTY

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17 Attorneys For Plaintiff,
18 SEIRUS INNOVATIVE ACCESSORIES, INC.

19 UNITED STATES DISTRICT COURT
20 SOUTHERN DISTRICT OF CALIFORNIA

21 '10 CV 1217 WQH

22 BLM

23 SEIRUS INNOVATIVE ACCESSORIES,
24 INC., a Utah corporation,

Case No.

Plaintiff,

COMPLAINT FOR:

v.

25 KOMBI LTD., a Connecticut corporation;
26 KOMBI SPORTS, INC., a Canadian
27 corporation,

Defendants.

1. PATENT INFRINGEMENT
2. INDUCING PATENT INFRINGEMENT
3. FEDERAL TRADE DRESS INFRINGEMENT [15 U.S.C. § 1125(a)]
4. FALSE DESIGNATION OF ORIGIN [15 U.S.C. §1125(a)]
5. FEDERAL UNFAIR COMPETITION [15 U.S.C. § 1125(a)]
6. STATE UNFAIR COMPETITION [Cal. Bus. & Prof. Code § 17200 et seq.]
7. UNJUST ENRICHMENT

DEMAND FOR JURY TRIAL

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1 For its claims against defendants KOMBI LTD. and KOMBI SPORTS, INC.
2 (“DEFENDANTS”), plaintiff SEIRUS INNOVATIVE ACCESSORIES, INC. (“SEIRUS”),
3 hereby alleges as follows:

4 **PARTIES**

5 1. SEIRUS is a Utah corporation with its principal place of business at 13975
6 Danielson Street, Poway, California 92064. SEIRUS is engaged in the business of selling men’s,
7 women’s, and children’s action and outdoor apparel and accessories, including face masks.

8 2. Upon information and belief, KOMBI LTD. (“KOMBI”) is a Connecticut
9 corporation with a principal place of business at 6 Thompson Drive, Essex, Vermont, 05451.
10 Upon information and belief, KOMBI is engaged in the business of selling men’s, women’s, and
11 children’s outdoor apparel and accessories, including cold weather head gear and face masks.

12 3. Upon information and belief, KOMBI SPORTS, INC. (“KOMBI CANADA”) is
13 an Canadian corporation with a principal place of business at 5711 Rue Ferrier, Mont-Royal,
14 Quebec, Canada. Upon information and belief, KOMBI CANADA is engaged in the business
15 of selling men’s, women’s, and children’s outdoor apparel and accessories, including cold
16 weather head gear and face masks.

17 **JURISDICTION AND VENUE**

18 4. This civil action for infringement and unfair competition arises under the patent
19 laws of the United States, 35 U.S.C. §§ 271, *et seq.*, under the Lanham Act, 15 U.S.C. §§ 1051 *et*
20 *seq.*, and under California state law governing unjust enrichment and unfair competition,
21 specifically California Business and Professions Code §§ 17200 *et seq.*.

22 5. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C.
23 § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a) and (b), and supplemental jurisdiction pursuant to
24 28 U.S.C. § 1367.

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1 6. Upon information and belief, DEFENDANTS have either directly or through their
2 agents transacted business in the State of California and within this judicial district, and expected
3 or reasonably should have expected their acts to have consequence in the State of California and
4 within this judicial district, thus subjecting DEFENDANTS to the personal jurisdiction of this
5 Court.

6 7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) as
7 DEFENDANTS are doing business in this judicial district and therefore may be found in this
8 district, and/or a substantial part of the events giving rise to the claims alleged herein occurred
9 within this district.

10 **FACTS COMMON TO ALL CLAIMS**

11 **(A) DEFENDANTS' INFRINGEMENT OF SEIRUS' PATENTS**

12 8. SEIRUS is the owner of United States Letters Patent No. 5,214,804 (the "'804
13 PATENT") which issued on June 1, 1993 and is titled "PROTECTIVE MASK WITH SCARF,"
14 and United States Letters Patent No. 6,272,690 (the "'690 PATENT") which issued on August
15 14, 2001 and is titled "HEAD COVERING."

16 9. DEFENDANTS are offering for sale and, upon information and belief, have sold
17 in this judicial district and elsewhere throughout the United States, the following products that
18 fall within the scope of at least one claim of the '804 PATENT: BALACLAVA WITH FACE
19 MASK ("'804 PATENT ACCUSED PRODUCTS").

20 10. DEFENDANTS are also offering for sale and, upon information belief, have sold
21 in this judicial district and elsewhere throughout the United States, the following products that
22 fall within the scope of at least one claim of the '690 PATENT: BALACLAVA WITH FACE
23 MASK ("'690 PATENT ACCUSED PRODUCTS").

24 **(B) DEFENDANTS' INFRINGEMENT OF SEIRUS' TRADE DRESS IN PRODUCTS**
25 **AND PACKAGING**

26 **(i) SEIRUS' PRODUCT TRADE DRESS**

27 11. By virtue of the extensive use, sale and advertising by SEIRUS and others on
28 behalf of SEIRUS, the shape, form and appearance of SEIRUS products (hereinafter the

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1 “SEIRUS PRODUCT TRADE DRESS”), are inherently distinctive and have acquired
2 distinctiveness and secondary meaning to signify SEIRUS as the manufacturer and the source of
3 these goods.

4 (ii) **SEIRUS’ PACKAGING TRADE DRESS**

5 12. By virtue of the extensive use, sale and advertising by SEIRUS and others on
6 behalf of SEIRUS, the shape, form and appearance in use of the packaging of SEIRUS products
7 (hereinafter the “SEIRUS PACKAGING TRADE DRESS”), has acquired secondary meaning in
8 the market for cold-weather headgear.

9 13. DEFENDANTS are offering for sale and, upon information and belief, have sold
10 in this judicial district and elsewhere throughout the United States, the following products, that
11 copy, imitate, palm off as, and pass off their products as members of the family of products that
12 contain the SEIRUS PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS:
13 BALACLAVA WITH FACE MASK (the “ACCUSED TRADE DRESS PRODUCTS”).

14 (C) **THE INVALIDITY OF DEFENDANT’S PATENT NO. D**

15 14. Upon information and belief, DEFENDANT is the assignee and owner of United
16 States Design Patent No. D566,339, entitled “Combined Nose and Mouth Guard” (the “‘339
17 PATENT”). The application (No. 29/278,839) for the ‘339 PATENT was filed on or about April
18 11, 2007, and the patent issued on or about April 8, 2008. However, the invention in the ‘339
19 PATENT was known or used by others prior to the invention thereof by the applicant for the
20 ‘339 PATENT. The Claim of the ‘339 PATENT is invalid for failure to satisfy the statutory
21 criteria for patentability under the patent laws of the United States, including without limitation
22 35 U.S.C. §§ 101, 102, 103, and 171.

23 **CLAIMS FOR RELIEF**

24 **FIRST CLAIM FOR RELIEF**
25 **(Patent Infringement)**

26 15. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and
27 every allegation in the foregoing paragraphs, as though fully set forth herein.

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1 patent infringement. SEIRUS has been and continues to be damaged by the unlawful infringing
2 activities of DEFENDANTS and will be irreparably harmed unless the unlawful infringing
3 activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. §
4 271(b).

5 23. Upon information and belief, SEIRUS has suffered and continues to suffer lost
6 sales and in turn damages as a direct result of the unlawful infringement of the '804 and/or '690
7 PATENTS by DEFENDANTS. Under 35 U.S.C. § 284, SEIRUS is entitled to damages to be
8 established at trial or upon an accounting adequate to compensate for the infringement, including
9 lost profits, but not less than a reasonable royalty.

10 24. Upon information and belief, DEFENDANTS' infringement of the '804 and '690
11 PATENTS is willful and done with an intent to harm SEIRUS or in reckless disregard for the
12 rights of SEIRUS. Therefore, this is an exceptional case and SEIRUS is entitled to enhanced
13 damages under 35 U.S.C. § 284.

14 25. This is an exceptional case under 35 U.S.C. § 285 entitling SEIRUS to its
15 reasonable attorneys' fees.

16 26. SEIRUS has been and continues to be damaged by the unlawful infringing
17 activities of the DEFENDANTS and will be irreparably harmed unless the unlawful infringing
18 activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. §
19 283.

20 **THIRD CLAIM FOR RELIEF**
21 **(Federal Trade Dress Infringement)**
22 **[15 U.S.C. § 1125(a)]**

23 27. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and
24 every allegation in the foregoing paragraphs, as though fully set forth herein.

25 28. DEFENDANTS' actions in connection with the sale, offering for sale, distribution
26 or advertising of the ACCUSED TRADE DRESS PRODUCTS in interstate commerce, without
27 the consent of SEIRUS, constitute willful, deliberate and intentional infringement of the SEIRUS
28 PACKAGING TRADE DRESS and SEIRUS PRODUCT TRADE DRESS, and have caused and
continue to cause a likelihood of confusion, in violation of 15 U.S.C. § 1125.

FIFTH CLAIM FOR RELIEF
(Unfair Competition)
[15 U.S.C. § 1125(a)(1)]

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3 35. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and
4 every allegation in the foregoing paragraphs, as though fully set forth herein.

5 36. SEIRUS manufactures and sells products and lines of products, and by virtue of
6 the extensive, use, sale and advertising by SEIRUS, the associated SEIRUS PRODUCT TRADE
7 DRESS and SEIRUS PACKAGING TRADE DRESS have become inherently distinctive and
8 have acquired distinctiveness, secondary meaning, and sufficient fame to signify SEIRUS as the
9 manufacturer and source of said products and lines of products.

10 37. Upon information and belief, DEFENDANTS have unlawfully and without
11 license or right, copied, imitated, and otherwise created a collection of products and lines of
12 products including the ACCUSED TRADE DRESS PRODUCTS, all of which emulate, imitate,
13 palm off as, pass off as and copy the SEIRUS PRODUCT TRADE DRESS and SEIRUS
14 PACKAGING TRADE DRESS to thereby emulate, imitate, palm off as, and pass off their
15 products as SEIRUS products.

16 38. The activities of DEFENDANTS in advertising, selling and offering to sell each
17 of the ACCUSED TRADE DRESS PRODUCTS, separately and together, is likely to cause
18 confusion, mistake, and deception as to the source and origin thereof so that purchasers thereof
19 and others will likely be confused and believe the ACCUSED TRADE DRESS PRODUCTS
20 emanate from SEIRUS. In turn, DEFENDANTS are unfairly competing and misrepresenting
21 their products to be those of SEIRUS in violation of 15 U.S.C. § 1125(a).

22 39. The activities of DEFENDANTS in advertising for sale, offering for sale, and
23 selling the ACCUSED TRADE DRESS PRODUCTS constitute unlawful and tortious unfair
24 competition, palming off and passing off, and misrepresentation as to the source of goods in
25 violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1).

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1 Specifically, and without limitation, DEFENDANTS' actions of designing, manufacturing,
2 packaging, selling, distributing, and/or offering for sale in interstate commerce products bearing
3 the SEIRUS PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS, without
4 consent of SEIRUS, have caused and continue to cause a likelihood of confusion, mistake, and
5 deception in the minds of the public. Furthermore, said actions have a significant negative
6 impact on the commercial value of and market for SEIRUS' products under the SEIRUS
7 PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS, as well as the value
8 of and market for other products bearing the SEIRUS name.

9 48. DEFENDANTS' acts of infringement as alleged above constitute unfair
10 competition actionable under the laws of the State of California as fraudulent business acts or
11 practices, in that, *inter alia*, said acts are likely to confuse the public as to the origin of the
12 products.

13 49. DEFENDANTS' acts of infringement as alleged above constitute unfair
14 competition actionable under the laws of the State of California as deceptive and false
15 advertising, in that, *inter alia*, said acts are likely to cause confusion, mistake, and deception.

16 50. Such acts and omissions described above are unlawful, unfair, fraudulent,
17 deceptive, misleading, and untrue and constitute a violation of Business & Professions Code
18 §17200 *et seq.* SEIRUS reserves the right to identify additional violations by DEFENDANTS as
19 may be established through discovery.

20 51. As a result of DEFENDANTS' said acts of unfair competition, SEIRUS has
21 suffered and will continue to suffer irreparable harm, and SEIRUS has no adequate remedy at
22 law with respect to this injury. Unless the acts of unfair competition are enjoined by this Court,
23 SEIRUS will continue to suffer irreparable harm.

24 52. As a direct and legal result of DEFENDANTS' unlawful, unfair, and fraudulent
25 conduct described above, DEFENDANTS have been and will continue to be unjustly enriched
26 with ill-gotten gains.

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SEVENTH CLAIM FOR RELIEF
Unjust Enrichment

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3 53. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and
4 every allegation in the foregoing paragraphs, as though fully set forth herein.

5 54. DEFENDANTS' acts of misappropriation and illegal use of SEIRUS' respective
6 intellectual property rights and valuable goodwill associated with the rights have resulted in
7 DEFENDANTS being unjustly enriched at SEIRUS' expense.

8 55. SEIRUS has invested heavily in the advertisement, promotion and building of
9 goodwill related to the aforementioned intellectual property.

10 56. SEIRUS is therefore entitled to restitution of all ill-gotten profits related to the
11 aforementioned intellectual property rights that have been retained by DEFENDANTS.

12 **WHEREFORE**, SEIRUS requests that this Court enter judgment in its favor, and against
13 DEFENDANTS as follows:

14 1. For judgment that DEFENDANTS have infringed, contributorily infringed and/or
15 induced the infringement of, at least one claim of the '804 PATENT and/or '690 PATENT;

16 2. That SEIRUS recover damages against DEFENDANTS under 35 U.S.C.
17 § 284 in an amount to be determined at trial or by accounting for the lost profits, but no less than
18 a reasonable royalty, on all sales of each of the infringing products alleged above and any others
19 that are subsequently discovered in the course of this proceeding, plus pre-judgment and post-
20 judgment interest;

21 3. That the damages awarded pursuant to the preceding paragraph be increased to
22 three times the amount awarded because this is an exceptional case under 35 U.S.C. § 284;

23 4. That the Court declare this is an exceptional case and SEIRUS be awarded all of
24 its attorneys' fees in connection with this matter under 35 U.S.C. § 285;

25 5. That the Court preliminarily and/or permanently enjoin and restrain
26 DEFENDANTS, their officers, agents, servants, employees and those persons in active concert
27 or participation with DEFENDANTS, from further acts of infringement for the remaining life of
28 the '804 PATENT and '690 PATENT under 35 U.S.C. § 283;

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1 6. That the Court preliminarily and permanently enjoin DEFENDANTS and their
2 employees, servants, agents, affiliates, distributors, dealers, attorneys, successors and/or assigns,
3 and all persons in active concert or participation with DEFENDANTS, from manufacturing,
4 using, selling, offering to sell, importing for sale, advertising, displaying, or using any of the
5 ACCUSED TRADE DRESS PRODUCTS, or any products likely to cause confusion, mistake,
6 and deception, or to misappropriate SEIRUS' intellectual property;

7 7. That the Court award SEIRUS damages for lost profits, loss of goodwill or other
8 damages as appropriate;

9 8. For restitution of all ill-gotten profits related to the intellectual property rights at
10 issue herein that have been retained by DEFENDANTS.

11 9. For judgment that SEIRUS be awarded damages under U.S.C. § 1117 for all of its
12 lost profits, the profits of DEFENDANTS, and the costs of this action;

13 10. That the damages awarded under the preceding paragraph are to be increased to
14 three times the amount awarded under 15 U.S.C. § 1117(b);

15 11. That DEFENDANTS, their officers, agents, servants, employees and those
16 persons in active concert of participation with any of them, be permanently enjoined from further
17 acts of unfair competition in violation of 15 U.S.C. § 1125(a)(1);

18 12. That the Court direct the destruction of DEFENDANTS' current advertising,
19 promotional and related materials and products, as they relate to such activity in the United
20 States, that bear the SEIRUS PRODUCT TRADE DRESS and/or SEIRUS PACKAGING
21 TRADE DRESS and/or any other confusingly similar trade dress, and DEFENDANTS' current
22 inventory of products pursuant to 15 U.S.C. § 1118 and other applicable laws;

23 13. That the Court award punitive damages for intentional and willful acts;

24 14. That the Court award SEIRUS its costs, expenses, and attorneys' fees in this
25 action pursuant to 15 U.S.C. § 1117, 35 U.S.C. § 235, and other applicable laws; and

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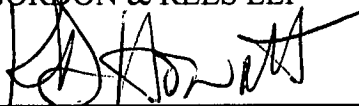
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15. For such other and further relief as the Court deems proper.

Dated: June 8, 2010

GORDON & REES LLP

By: 

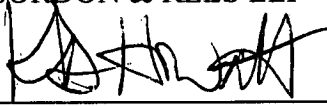
Matthew D. Murphey
Kimberly D. Howatt
Lindsay J. Hulley
Attorneys for Plaintiff
SEIRUS INNOVATIVE ACCESSORIES, INC.

DEMAND FOR JURY TRIAL

Plaintiff SEIRUS hereby demands a jury trial on all issues as to which a jury is available,
as provided by Rule 38 the Federal Rules of Civil Procedure.

Dated: June 8, 2010

GORDON & REES LLP

By: 

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Kimberly D. Howatt
Lindsay J. Hulley
Attorneys for Plaintiff
SEIRUS INNOVATIVE ACCESSORIES, INC.

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Division: 3
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CIVIL FILING FEE
For: SEIRUS INNOVATIVE V KOMBI LTD
Case/Party: D-CAS-3-10-CV-001217-001
Amount: \$350.00

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Check/Money Order Num: 5745
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.

CIVIL COVER SHEET

JS 44 (Rev. 12/07)

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
SEIRUS INNOVATIVE ACCESSORIES, INC., a Utah corporation

DEFENDANTS
KOMBI LTD., a Connecticut corporation; KOMBI SPORTS, INC., a Canadian corporation

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

County of Residence of First Listed Defendant 2010 JUN -8 AM 10:56
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE COURT LAND INVOLVED. SOUTHERN DISTRICT OF CALIFORNIA

(c) Attorney's (Firm Name, Address, and Telephone Number)
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Lindsay J. Hulley, Esq., SBN 184924
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Attorneys (If Known) _____ BY  DEPUTY
10 CV 1217 WQH BLM

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
<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<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	PERSONAL INJURY <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 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 PERSONAL PROPERTY <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	<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 LABOR <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 IMMIGRATION <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 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <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

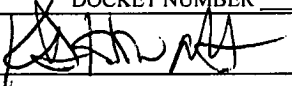
VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. §§ 1051 et. seq., 15 U.S.C. §§ 1125 et. seq., and 35 U.S.C. §§ 271 et. seq.

Brief description of cause: Patent Infringement, Federal Trade Dress Infringement, False Designation of Origin, Unfair Competition, State Unfair Competition

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: June 8, 2010 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY
 RECEIPT: 14350 AMOUNT: \$350- 6/8/10 BLM APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____