

CHARLES L. ROBERTS (5137; *croberts@wnlaw.com*)  
H. CRAIG HALL, JR. (8691; *chall@wnlaw.com*)  
WORKMAN | NYDEGGER  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 533-9800  
Facsimile: (801) 328-1707

Attorneys for Plaintiff  
SAC ACQUISITION LLC

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

SAC ACQUISITION LLC, a Delaware  
Limited Liability Company,

Plaintiff,

v.

RELIANCE INTERNATIONAL, LLC, a Utah  
limited liability company, ZERMOD, LLC, a  
Utah limited liability company, ROBISON  
FURNITURE, LLC, a Utah limited liability  
company d/b/a MONSTER SAK and d/b/a  
FURNISH IT FOR LESS, and JOHN DOES 1-  
10,

Defendants.

Civil Action No. 2:11-cv-00959-SA

**COMPLAINT**

Jury Demanded

Magistrate Judge Samuel Alba

Plaintiff SAC ACQUISITION LLC (“LoveSac” or “Plaintiff”) hereby complains against defendants RELIANCE INTERNATIONAL, LLC (“Reliance”), ZERMOD, LLC (“Zermod”), ROBISON FURNITURE, LLC d/b/a MONSTER SAK and d/b/a FURNISH IT FOR LESS (“Robison Furniture”) and JOHN DOES 1-10 (“John Does 1-10”) (collectively, “Defendants”), for the causes of action alleged as follows:

### **THE PARTIES**

1. Plaintiff LoveSac is a Delaware limited liability company with its principal place of business located at 700 Canal St., 4th Floor, Stamford, CT 06902.

2. On information and belief, defendant Reliance is a Utah limited liability company with its principal place of business located at 3214 N. University Ave., #443, Provo, Utah 84604. Reliance may be served with process by serving its registered agent Rolf Hanson at 3214 N. University Ave., #443, Provo, Utah 84604.

3. On information and belief, defendant Zermode is a Utah limited liability company with its principal place of business located at 51 West Center Street, Suite 360, Orem, Utah 84057. Zermode may be served with process by serving its registered agent Eric B. Nicholes at 51 West Center Street, Suite 360, Orem, Utah 84057.

4. On information and belief, defendant Robison Furniture is a Utah limited liability company with its principal place of business at 410 S. University Ave., Provo, Utah 84601. Robison Furniture may be served with process by serving its registered agent Dustin A. Robison at 1887 S. Oregon Ave., Provo, Utah 84606. On information and belief defendant Robison Furniture does business as both MONSTER SAK and FURNISH IT FOR LESS.

5. On information and belief John Does 1-10 are additional entities and/or individuals that have participated and may still be participating in the manufacturing and/or sale of infringing product(s).

### **JURISDICTION AND VENUE**

6. This is a civil action for patent infringement arising under the patent laws of the United States, including 35 U.S.C. §§ 271 et seq., which gives rise to the remedies specified under 35 U.S.C. §§ 281, and 283–85.

7. This is also a civil action for unfair competition arising under Utah Code Ann. § 13-5a-101, *et seq.*

8. This court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a). This Court has related claim jurisdiction over the state law claim pursuant to 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367.

9. On information and belief, Defendants have made, used, offered for sale, and/or sold goods and/or methods which infringe one or more claims of U.S. Patent No. 7,213,885 (“the ’885 patent”—attached as Exhibit A) and U.S. Patent No. 7,419,220 (“the ’220 patent”—attached as Exhibit B) and U.S. Patent No. 7,547,073 (“the ’073 patent”—attached as Exhibit C) (collectively, the “Asserted Patents”) within the State of Utah all as more fully set forth below, which conduct relates to the claims asserted by Plaintiff and out of which Plaintiff’s claims, in part, arise.

10. Venue is proper in this judicial district pursuant to, at least, 28 U.S.C. §§ 1391(b)(1), 1391(b)(2), 1391(b)(3), 1391(c), and 1400(b).

### **FACTUAL BACKGROUND**

11. By this reference, Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

12. Since 1998, LoveSac has been in the business of manufacturing, distributing and selling furniture throughout the United States. This furniture includes but is not limited to a modular furniture assembly that is both convenient and versatile.

13. LoveSac is the owner by assignment of various patents, including the '885 patent, the '220 patent and the '073 patent. All three patents relate to modular furniture assemblies that are convenient and versatile, and can be assembled, disassembled, rearranged, moved and cleaned in a quick and efficient manner with minimal effort.

14. LoveSac has sold and continues to sell such modular furniture, which is covered by the Asserted Patents, under the registered trademark "SACTIONALS." One of the main benefits of SSACTIONALS furniture is that it can be arranged into literally hundreds of different configurations. See <http://www.lovesac.com/sactionals.html>.

15. In 2006 Reliance and LoveSac entered into a contract for Reliance to produce and supply furniture, including SSACTIONALS furniture, to LoveSac. This relationship continued until 2009 when the parties mutually agreed to terminate the contractual relationship. Since at least 2009, Reliance has had no authority to make, use, offer to sell, or sell any product that falls within the scope of the Asserted Patents.

16. Due to the three-year relationship between LoveSac and Reliance, Reliance acquired confidential and proprietary LoveSac information. Specifically, Reliance not only became aware of the Asserted Patents, but it acquired valuable information regarding how to best produce and supply modular furniture products that fall within the scope of the Asserted Patents.

17. On information and belief, Reliance has produced, sold and continues to sell and distribute modular furniture products that infringe the Asserted Patents. This includes but is not

limited to a furniture product marketed and sold under the “ZOFA” mark (more fully described below). Such product has been distributed and sold to at least Defendant Robinson Furniture.

18. On information and belief, Zermod has produced, sold and continues to sell and distribute modular furniture products that infringe the Asserted Patents. This includes but is not limited to a furniture product marketed and sold under the “ZOFA” mark (more fully described below). Such product has been distributed and sold to at least Defendant Robinson Furniture.

19. On information and belief, defendant Robison Furniture has sold and continues to sell products that infringe the Asserted Patents. This includes but not limited to selling infringing products online at [www.ksl.com](http://www.ksl.com) and at its physical store location in Provo, Utah.

20. In its ksl.com advertisements, defendant Robison Furniture acknowledges the product’s similarity to LoveSac’s patented SACTIONALS furniture products in its ad which the headline reads: “Zofa – Like Sactional but Better.” The advertisement continues with: “This modular style sectional can be combined into hundreds of configurations to build the perfect furniture solution with no tools necessary! This is better than what lovesac (sic) sells and a fraction of the cost.”

21. LoveSac uses the exact verbiage to describe its furniture (“[the modular furniture] ... can be combined into hundreds of configurations to build the perfect furniture solution with no tools necessary!”)—language which Defendant Robison Furniture apparently copied-and-pasted for its ksl.com Zofa advertisement. See <http://www.lovesac.com/sactionals.html> (top paragraph).

22. On information and belief John Does 1-10 are additional entities and/or individuals that have participated and may still be participating in the manufacturing and/or sale of infringing product(s).

23. Upon information and belief Defendants, at all relevant times, had knowledge of the Asserted Patents.

**FIRST CAUSE OF ACTION  
(Patent Infringement of the '885 Patent)**

24. By this reference, Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

25. LoveSac alleges on information and belief that Defendants have infringed and continue to infringe, literally or under the doctrine of equivalents, the '885 patent by making, using, selling, offering for sale within the United States, and/or importing into the United States systems and products that embody one or more of the claims of the '885 patent, and/or by contributing to infringement, inducing others to infringe the Asserted Patent, and/or carrying out acts constituting infringement under 35 U.S.C. § 271(f). By way of example and not limitation, one such act of infringement is the Defendants' manufacture and/or sale of the ZOFA furniture described more fully above.

26. LoveSac alleges on information and belief that, unless and until enjoined by this Court, Defendants will continue to infringe the '885 patent.

27. The conduct of Defendants as set forth hereinabove gives rise to a cause of action for infringement of the '885 patent, pursuant to at least 35 U.S.C. §§ 271 and 281.

28. LoveSac alleges on information and belief that Defendants had notice of their infringement and will continue infringing the '885 patent subsequent to receiving notice of the

initiation of this action despite an objectively high likelihood that their actions constitute infringement, thereby making its actions both willful and deliberate.

29. By reason of the foregoing, LoveSac is entitled to damages, enhanced damages, attorney fees and preliminary and permanent injunctive relief against Defendants, as more fully set forth herein below.

**SECOND CAUSE OF ACTION  
(Patent Infringement of the '220 Patent)**

30. By this reference, Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

31. LoveSac alleges on information and belief that Defendants have infringed and continue to infringe, literally or under the doctrine of equivalents, the '220 patent by making, using, selling, offering for sale within the United States, and/or importing into the United States systems and products that embody one or more of the claims of the '220 patent, and/or by contributing to infringement, inducing others to infringe the Asserted Patent, and/or carrying out acts constituting infringement under 35 U.S.C. § 271(f). By way of example and not limitation, one such act of infringement is the Defendants' manufacture and/or sale of the ZOFA furniture described more fully above.

32. LoveSac alleges on information and belief that, unless and until enjoined by this Court, Defendants will continue to infringe the '220 patent.

33. The conduct of Defendants as set forth hereinabove gives rise to a cause of action for infringement of the '220 patent, pursuant to at least 35 U.S.C. §§ 271 and 281.

34. LoveSac alleges on information and belief that Defendants had notice of their infringement and will continue infringing the '220 patent subsequent to receiving notice of the

initiation of this action despite an objectively high likelihood that their actions constitute infringement, thereby making its actions both willful and deliberate.

35. By reason of the foregoing, LoveSac is entitled to damages, enhanced damages, attorney fees and preliminary and permanent injunctive relief against Defendants, as more fully set forth herein below.

**THIRD CAUSE OF ACTION  
(Patent Infringement of the '073 Patent)**

36. By this reference, Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

37. LoveSac alleges on information and belief that Defendants have infringed and continue to infringe, literally or under the doctrine of equivalents, the '073 patent by making, using, selling, offering for sale within the United States, and/or importing into the United States systems and products that embody one or more of the claims of the '073 patent, and/or by contributing to infringement, inducing others to infringe the Asserted Patent, and/or carrying out acts constituting infringement under 35 U.S.C. § 271(f). By way of example and not limitation, one such act of infringement is the Defendants' manufacture and/or sale of the ZOFA furniture described more fully above.

38. LoveSac alleges on information and belief that, unless and until enjoined by this Court, Defendants will continue to infringe the '073 patent.

39. The conduct of Defendants as set forth hereinabove gives rise to a cause of action for infringement of the '073 patent, pursuant to at least 35 U.S.C. §§ 271 and 281.

40. LoveSac alleges on information and belief that Defendants had notice of their infringement and will continue infringing the '073 patent subsequent to receiving notice of the



initiation of this action despite an objectively high likelihood that their actions constitute infringement, thereby making its actions both willful and deliberate.

41. By reason of the foregoing, LoveSac is entitled to damages, enhanced damages, attorney fees and preliminary and permanent injunctive relief against Defendants, as more fully set forth herein below.

**FOURTH CAUSE OF ACTION  
(State Law Unfair Competition)**

42. By this reference, Plaintiff realleges and incorporates the foregoing paragraphs as though fully set forth herein.

43. Defendants by their actions set forth herein above, have engaged in intentional business acts or practices that are unlawful, unfair, and/or fraudulent and that have caused a material diminution in the value of the Asserted Patents. Among other things, Defendants have engaged in patent infringement, which is defined as an act of unfair competition under Utah Code Ann. § 13-5a-102(4).

44. Defendants' conduct as set forth hereinabove gives rise to a cause of action for unfair competition and related wrongs under the statutory and common law of the State of Utah and other states, including at least Utah Code Ann. § 13-5a-101, *et seq.*

45. By reason of the foregoing, Plaintiff has suffered damages and irreparable harm.

46. By reason of the foregoing, Plaintiff is entitled to actual and punitive damages from Defendants, along with its attorneys' fees and costs pursuant to at least Utah Code Ann. § 13-5a-103(1)(b) as more fully set forth herein below.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

A. Judgment finding Defendants jointly and severally liable for infringement of the Asserted Patents;

B. For injunctive relief enjoining Defendants, and the respective officers, directors, agents, employees, representatives and all persons operating in concert with Defendants, as follows:

- a. from manufacturing any products falling within the scope of the claims of the Asserted Patents;
- b. from using any product or method falling within the scope of any of the claims of the Asserted Patents;
- c. from selling, offering to sell, licensing or purporting to license any product or method falling within the scope of any of the claims of the Asserted Patents;
- d. from importing any product into the United States which falls within the scope of the claims of the Asserted Patents;
- e. from actively inducing others to infringe any of the claims of the Asserted Patents;
- f. from engaging in acts constituting contributory infringement of any of the claims of the Asserted Patents; and
- g. from all other acts of infringement of any of the claims of the Asserted Patents;

C. For an award of damages sufficient to compensate Plaintiff for Defendants' infringement;

D. For judgment finding the infringement of the Defendants to be willful, and for an award of enhanced damages in connection with such finding;

E. For judgment finding this to be an exceptional case and awarding Plaintiff their costs and attorneys' fees incurred herein;

F. An award of actual and punitive damages pursuant to Utah Code Ann. § 13-5a-103(b);

G. An award of Plaintiff's costs in bringing this action, pursuant to at least Utah Code Ann. §§ 13-5a-103(1)(b)(ii);

H. An award of Plaintiff's attorneys' fees, pursuant to applicable state statutory and common law, including at least Utah Code Ann. §§ 13-5a-103(1)(b)(ii);

I. That costs and attorneys' fees be awarded to Plaintiff under 17 U.S.C. § 505; and

J. For such other and further relief as the Court deems just and equitable.

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

Plaintiff demands trial by jury on all claims and issues so triable.

DATED October 14, 2011.

WORKMAN | NYDEGGER

By: /s/ Charles L. Roberts  
Charles L. Roberts  
H. Craig Hall, Jr.

Attorneys for Plaintiff  
SAC ACQUISITION LLC