



**A. Parties**

1. Plaintiff Bryan A. Netsch is an individual residing at 444 Remington Point, Highland Village, Texas.

2. Upon information and belief, involuntary Plaintiff, The Standard Register Company, is an Ohio corporation, registered to do business in Texas, whose street address is 600 Albany Street, Dayton Ohio, 45408, whose post address is P.O. Box 1167, Dayton Ohio, 45401-1167, and who may be served with citation by serving CI Corp Systems, 350 N St. Paul Street, Dallas, Texas 75201. The Standard Register Company is joined as an involuntary plaintiff pursuant to F.R.Civ. Proc. Rule 19.

3. Upon information and belief, Defendant Elmers Products, Inc. ("Elmers") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Columbus, Ohio, who may be served with process by serving its registered agent for service of process, Prentice-Hall Corporation System, Inc., 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. However, because Defendant is a foreign corporation and engages in business in Texas but does not maintain a regular place of business in this state or a designated agent for service of process, and because this suit arises of the Defendant's business in Texas, this Defendant may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service of process.

4. Upon information and belief, Color Loco, with its principal place of business in Ann Arbor, Michigan, is an assumed name for Elmers Products, Inc. a corporation organized and existing

under the laws of the State of Delaware with its principal place of business in Columbus, Ohio, who may be served with process by serving its registered agent for service of process CSC Lawyers Incorporating Service, 601 Abbott Road, East Lansing, Michigan 48823. However, because Defendant is a foreign corporation and engages in business in Texas but does not maintain a regular place of business in this state or a designated agent for service of process, and because this suit arises of the Defendant's business in Texas, this Defendant may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service of process.

5. Upon information and belief, Kaboose, L.L.C., formerly known as Giddy Up, L.L.C., is a limited liability company organized and existing under the laws of the State of Michigan with its principal place of business at 3630 Plaza Drive, Suite 6, Ann Arbor, Michigan 48108, and who may be served with process by serving its registered agent for service of process Joseph Yassay, 3630 Plaza Drive, Suite 6, Ann Arbor, Michigan 48108. However, because Defendant is a foreign limited liability company and engages in business in Texas but does not maintain a regular place of business in this state or a designated agent for service of process, and because this suit arises of the Defendant's business in Texas, this Defendant may be served with process by serving the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent for service of process.

### **B. Jurisdiction And Venue**

1. This is an action for patent infringement. Accordingly, this Court has subject matter jurisdiction over the claims in this case pursuant to 35 USC §§ 1331 and 1338(a).

2. On information and belief, this Court has personal jurisdiction over the Involuntary Plaintiff and the Defendants based on their contacts with this district including, but not limited to, their conducting business in this district and the Defendants committing acts of infringement of the patent sued upon in this district by at least the use, sale, offering for sale, manufacture, assembly, and/or distribution of infringing products in, to, and/or into this district.

3. On information and belief, this Court has personal jurisdiction over the involuntary Plaintiff, The Standard Register Company based on its contacts with this district including, but not limited to, conducting business in this district.

4. On information and belief, venue is proper in this district pursuant to 28 USC §§§ 1391(b), (c) and 1400(b).

### **C. Nature Of The Action**

1. On September 29, 1998, United States Patent No. 5,814,579, entitled "Mutlicolor Printing System," (the '579 patent) was duly and legally issued by the United States Patent Office to Bryan Netsch and The Standard Register Company of Dayton, Ohio, as co-owners. A copy of the '579 patent is attached hereto as Exhibit A.

2. The Standard Register Company is an involuntary Plaintiff in this action. Plaintiff Netsch and Involuntary Plaintiff The Standard Register Company are the owners of all right, title, and interest in and to the '579 patent

3. On or about September 23, 2003, Giddy Up (now known as Kaboose, L.L.C.) entered into a License Agreement whereby Giddy Up (now known as Kaboose, L.L.C.) was granted a license to, among other things, manufacture, use, and sell products which utilized the technology

disclosed in the '579 patent.

4. On or about March 31, 2006, according to Giddy Up (now known as Kaboose, L.L.C.), the License Agreement was terminated.

5. Upon information and belief, as of October 31, 2006 Defendants Kaboose, L.L.C., formerly known as Giddy Up, L.L.C. and Color Loco are wholly owned by Defendant Elmers.

6. Defendants do not have any license, authorization, consent, or permission from Plaintiffs to manufacture, use, offer to sell, or sell any product embodying the claimed subject matter of the '579 Patent.

7. On information and belief, Defendants are and since at least about April 1, 2006, have been infringing one or more of the claims of the '579 patent by, among other things, manufacturing, using, offering for sale, and/or selling in this district and elsewhere throughout the United States products which embody the subject matter of at least one claim of the '579 patent, and will continue to do so unless and until enjoined by this Court.

8. On information and belief, Defendants, with full knowledge of the '579 patent, commenced and/or continued infringement of and/or otherwise acted in violation of Plaintiff's (and involuntary Plaintiff's) rights with respect to one or more of the claims of the '579 patent in willful disregard of Plaintiff's (and involuntary Plaintiff's) rights thereunder.

9. On information and belief, Defendants, with full knowledge of the '579 patent, actively induced others to infringe one or more claims of the '579 patent.

10. Defendants have notice of the '579 patent because Defendants acted under a prior license to practice one or more claims of the '579 patent.

**D. Cause of Action**

**Count I - Patent Infringement**

1. Plaintiff, hereby restates the averments of the previous paragraphs as if fully set forth herein, and for its Count I states as follows:

2. Defendants have been and are now infringing the '579 Patent in violation of 35 U.S.C. § 271(a) by, among other things, making, selling, offering to sell, and/or using in the United States, including in this district, products covered by at least one of the claims of the '579 Patent.

3. Defendants have been and are now actively inducing infringement of at least one of the claims of the '579 Patent by others in violation of 35 U.S.C. §§ 271(b) and 271(f).

4. Defendants have been and are now contributing to infringement of at least one of the claims of the '579 Patent by others in violation of 35 U.S.C. § 271(c).

5. The acts of Defendants complained of herein have been and are now being done willfully with knowledge, or reason to know, that they violate one or more claims of the '579 Patent.

6. The acts of Defendants complained of herein have caused and are presently causing irreparable harm, damage, and injury to Plaintiff (and involuntary Plaintiff) for which Plaintiff (and involuntary Plaintiff) have no adequate remedy at law, and that such acts will continue to cause such irreparable harm, damage, and injury to Plaintiff (and involuntary Plaintiff) unless and until the same are enjoined and restrained by this court.

**WHEREFORE. PREMISES CONSIDERED,** Plaintiff prays for the following relief:

a. A preliminary and permanent injunction against Defendants enjoining them from and against any and all further and/or continued infringement, contributory infringement, and active

inducement of infringement of the claims of the '579 patent.

b. An accounting for damages to Plaintiff resulting from Defendants' infringement, contributory infringement, active inducement of infringement, and any/all other compensable violations of Plaintiff's rights pertaining to the '579 patent, together with a trebling of all such damages because of the knowing, willful and wanton nature of Defendants' conduct and the exceptional nature of this case pursuant to 35 U.S.C. § 285.

c. An assessment of interest on all damages.

d. Award Plaintiff his attorneys' fees, costs and expenses in this action.

e. Such other, further, and additional relief as this Court may deem reasonable and just.

f. Plaintiff demands a jury to try all issues deemed appropriate for decision by the jury by the Court.

Respectfully submitted,

**AUSTIN H. ENGLAND, P.C.**

By: 

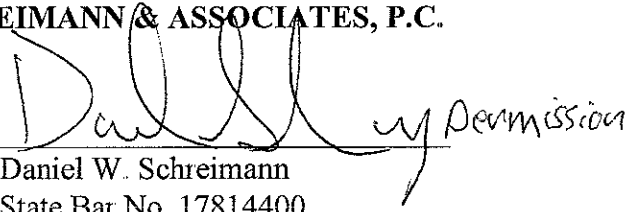
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