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8 Attorneys for Plaintiff,  
9 C&C JEWELRY MFG., INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 C&C JEWELRY MFG., INC., a  
14 California corporation,

15 Plaintiff,

16 v.

17 TRENT WEST, an individual,

18 Defendant.

19 **C09 01303**  
20 CASE NO.

21 COMPLAINT FOR  
22 DECLARATORY JUDGEMENT OF  
23 NON-INFRINGEMENT,  
24 INVALIDITY, AND  
25 UNENFORCEABILITY OF U.S.  
26 PATENT NOS. 6,062,045, 6,553,667,  
27 6,928,734, 6,990,736, 6,993,842,  
28 7,032,314 AND 7,076,972 UNDER 28  
U.S.C. § 2201, DAMAGES FOR  
TORTIOUS INTERFERENCE WITH  
PROSPECTIVE AND EXISTING  
BUSINESS RELATIONSHIPS,  
UNFAIR COMPETITION UNDER 15  
U.S.C. § 1051 *ET SEQ* AND CAL.  
BUS. & PROF. CODE § 17200 *ET*  
*SEQ*, AND DEMAND FOR JURY  
TRIAL PURSUANT TO FED. R. CIV.  
PROC., RULE 38

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31 COMPLAINT

ORIGINAL  
FILED

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RICHARD W. WIEKING  
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U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

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1 Plaintiff, C&C JEWELRY MFG., INC., ("C&C") complains of Defendant  
2 Trent West ("WEST") and shows as follows:

3 **Parties, Jurisdiction and Venue**

4 1. Plaintiff C&C is a corporation existing under the laws of the State of  
5 California.

6 2. Defendant WEST is an individual residing, upon information and  
7 belief, in the State of California, within this judicial district.

8 3. This is a complaint for Declaratory Judgment of patent invalidity and  
9 non-infringement, arising under the patent laws of the United States and for state-  
10 law claims of tortious interference with prospective and existing business relations.  
11 Jurisdiction is proper in this Court under 28 U.S.C. §§ 1331, 1338, 1367, 2201, and  
12 2202.

13 4. Because Defendant WEST is an individual who resides in this judicial  
14 district, venue is proper under 28 U.S.C. §§ 1391 and 1400.

15 **Background Facts**

16 5. Plaintiff C&C is a manufacturer, importer and distributor of jewelry.  
17 Among the jewelry products C&C imports and distributes within the United States  
18 are jewelry finger rings made of tungsten carbide.

19 6. Defendant WEST is the owner of U.S. Patent Nos. 6,062,045;  
20 6,553,667; 6,928,734; 6,990,736; 6,993,842; 7,032,314; and 7,076,972 ("WEST  
21 PATENTS").

22 7. Defendant WEST has sued a number of sellers of tungsten carbide  
23 jewelry finger rings for patent infringement across the United States. Among the  
24 defendants in WEST's patent infringement suits is a customer of Plaintiff C&C,  
25 J.C. Penney Company, in West v. J.C. Penney Corporation, Inc. et al, Civil Action  
26 6:08-cv-00212-LED, filed May 29, 2008 and currently pending in the U.S.  
27 District Court for the Eastern District of Texas ("PENNEY SUIT").

8. Among the products accused of infringement by WEST in the PENNEY SUIT are tungsten carbide rings imported by C&C and sold to J.C. Penney, who in turn merely sells the rings at the retail level. Apparently for tactical reasons, WEST chose to sue the retailer (Penney) rather than the importer (C&C).

9. Accordingly a case or controversy exists between Plaintiff C&C and Defendant WEST as to whether tungsten carbide rings imported and sold by C&C infringe any valid claim of any of the WEST PATENTS.

**Count I**  
**Non-Infringement, Invalidity, and Unenforceability**  
**of U.S. Patent No. 6,062,045**

10. The allegations of paragraphs 1 through 9 are repeated and re-alleged as if set forth in full.

11. Upon information and belief, no tungsten carbide jewelry ring imported into the United States and sold by C&C infringes any valid claim of U.S. Patent No. 6,062,045 ("the '645 Patent") under any section of 35 U.S.C. § 271.

12. Upon information and belief, the '045 Patent is invalid for failure to comply with 35 U.S.C. §§ 102, 103, or 112.

13. Upon information and belief, the '045 Patent is unenforceable because WEST committed inequitable conduct before the United States Patent and Trademark Office ("USPTO") by intentionally, and with intent to deceive, failing to cite prior art known to WEST to be material to the patent application leading to the '045 Patent. Such prior art includes, without limitation, patents owned by Montres RADO SA disclosing jewelry formed of tungsten carbide.

**Count II**  
**Non-Infringement, Invalidity, and Unenforceability**  
**of U.S. Patent No. 6,553,667**

14. The allegations of paragraphs 1 through 13 are repeated and re-alleged as if set forth in full.



1 USPTO by intentionally, and with intent to deceive, by withholding the identity of  
2 his co-inventor, Dr. Edwin McKinnon and by claiming himself as the sole inventor,  
3 when in fact, Dr. McKinnon invented the formula for the rings.

4 **Count IV**  
5 **Non-Infringement, Invalidity, and Unenforceability**  
6 **of U.S. Patent No. 6,990,736**

7 22. The allegations of paragraphs 1 through 21 are repeated and re-alleged  
8 as if set forth in full.

9 23. Upon information and belief, no tungsten carbide jewelry ring  
10 imported into the United States and sold by C&C infringes any valid claim of U.S.  
11 Patent No. 6,990,736 ("the '736 Patent") under any section of 35 U.S.C. § 271.

12 24. Upon information and belief, the '736 Patent is invalid for failure to  
13 comply with 35 U.S.C. §§ 102, 103, or 112.

14 25. Upon information and belief, the '736 Patent is unenforceable because  
15 WEST committed inequitable conduct before the USPTO by intentionally, and with  
16 intent to deceive, failing to cite prior art known to WEST to be material to the  
17 patent application leading to the '736 Patent. Such prior art includes, without  
18 limitation, patents owned by Montres RADO SA disclosing jewelry formed of  
19 tungsten carbide. Additionally, WEST committed inequitable conduct before the  
20 USPTO by intentionally, and with intent to deceive, by withholding the identity of  
21 his co-inventor, Dr. Edwin McKinnon and by claiming himself as the sole inventor,  
22 when in fact, Dr. McKinnon invented the formula for the rings.

23 **Count V**  
24 **Non-Infringement, Invalidity, and Unenforceability**  
25 **of U.S. Patent No. 6,993,842**

26 26. The allegations of paragraphs 1 through 25 are repeated and re-alleged  
27 as if set forth in full.

1 27. Upon information and belief, no tungsten carbide jewelry ring  
2 imported into the United States and sold by C&C infringes any valid claim of U.S.  
3 Patent No. 6,993,842 ("the '842 Patent") under any section of 35 U.S.C. § 271.

4 28. Upon information and belief, the '842 Patent is invalid for failure to  
5 comply with 35 U.S.C. §§ 102, 103, or 112.

6 29. Upon information and belief, the '842 Patent is unenforceable because  
7 WEST committed inequitable conduct before the USPTO by intentionally, and with  
8 intent to deceive, failing to cite prior art known to WEST to be material to the  
9 patent application leading to the '842 Patent. Such prior art includes, without  
10 limitation, patents owned by Montres RADO SA disclosing jewelry formed of  
11 tungsten carbide. Additionally, WEST committed inequitable conduct before the  
12 USPTO by intentionally, and with intent to deceive, by withholding the identity of  
13 his co-inventor, Dr. Edwin McKinnon and by claiming himself as the sole inventor,  
14 when in fact, Dr. McKinnon invented the formula for the rings.

15 **Count VI**  
16 **Non-Infringement, Invalidity, and Unenforceability**  
17 **of U.S. Patent No. 7,032,314**

18 30. The allegations of paragraphs 1 through 29 are repeated and re-alleged  
19 as if set forth in full.

20 31. Upon information and belief, no tungsten carbide jewelry ring  
21 imported into the United States and sold by C&C infringes any valid claim of U.S.  
22 Patent No. 7,032,314 ("the '314 Patent") under any section of 35 U.S.C. § 271.

23 32. Upon information and belief, the '314 Patent is invalid for failure to  
24 comply with 35 U.S.C. §§ 102, 103, or 112.

25 33. Upon information and belief, the '314 Patent is unenforceable because  
26 WEST committed inequitable conduct before the USPTO by intentionally, and with  
27 intent to deceive, failing to cite prior art known to WEST to be material to the

1 patent application leading to the '314 Patent. Such prior art includes, without  
 2 limitation, patents owned by Montres RADO SA disclosing jewelry formed of  
 3 tungsten carbide. Additionally, WEST committed inequitable conduct before the  
 4 USPTO by intentionally, and with intent to deceive, by withholding the identity of  
 5 his co-inventor, Dr. Edwin McKinnon and by claiming himself as the sole inventor,  
 6 when in fact, Dr. McKinnon invented the formula for the rings.

7 **Count VII**  
 8 **Non-Infringement, Invalidity, and Unenforceability**  
 9 **of U.S. Patent No. 7,076,972**

10 34. The allegations of paragraphs 1 through 33 are repeated and re-alleged  
 11 as if set forth in full.

12 35. Upon information and belief, no tungsten carbide jewelry ring  
 13 imported into the United States and sold by C&C infringes any valid claim of U.S.  
 14 Patent No. 7,076,972 ("the '972 Patent") under any section of 35 U.S.C. § 271.

15 36. Upon information and belief, the '972 Patent is invalid for failure to  
 16 comply with 35 U.S.C. §§ 102, 103, or 112.

17 37. Upon information and belief, the '972 Patent is unenforceable because  
 18 WEST committed inequitable conduct before the USPTO by intentionally, and with  
 19 intent to deceive, failing to cite prior art known to WEST to be material to the  
 20 patent application leading to the '972 Patent. Such prior art includes, without  
 21 limitation, patents owned by Montres RADO SA disclosing jewelry formed of  
 22 tungsten carbide. Additionally, WEST committed inequitable conduct before the  
 23 USPTO by intentionally, and with intent to deceive, by withholding the identity of  
 24 his co-inventor, Dr. Edwin McKinnon and by claiming himself as the sole inventor,  
 25 when in fact, Dr. McKinnon invented the formula for the rings.

26 **Count VIII**  
 27 **Tortious Interference With**  
 28 **Prospective and Existing Business Relationships**



48. These actions have damaged C&C.

49. Plaintiff C&C demands trial by jury on all issues so triable.

1) C&C does not infringe any claim of the WEST PATENTS;

2) The WEST PATENTS are invalid;

3) The WEST PATENTS are unenforceable;

4) That WEST's conduct constitutes tortious interference with business relations and awarding damages resulting therefrom;

5) That WEST's conduct constitutes unfair competition and awarding damages resulting therefrom;

6) this is an exceptional case within the meaning of 35 U.S.C. § 285; and

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1 7) awarding C&C its costs and attorney's fees and other such relief, *at law and*  
2 at equity, to which C&C may show itself to be entitled.  
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4 Respectfully submitted,  
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6 TROJAN LAW OFFICES  
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8 by  
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10 Dated: March 24, 2009  
11

12 R. Joseph Trojan  
13 Attorney for Plaintiff,  
14 C&C JEWELRY MFG., INC.  
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