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7 Attorneys for Plaintiff

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 10 UNITED STATES DISTRICT COURT  
 11 SOUTHERN DISTRICT OF CALIFORNIA

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 14 **RED.COM, INC., dba RED DIGITAL** ) Case No.: 12-CV-1336 JLS (RBB)  
**CINEMA**, a Washington Corporation, )  
 15 ) FIRST AMENDED COMPLAINT FOR  
 Plaintiff, ) PATENT INFRINGEMENT, TRADE DRESS  
 16 ) INFRINGEMENT, AND UNFAIR  
 vs. ) COMPETITION AND FALSE  
 17 ) DESIGNATION OF ORIGIN  
**WOODEN CAMERA, LLC**, a Texas limited )  
 18 liability corporation, )  
 ) DEMAND FOR JURY TRIAL  
 19 Defendant. )  
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1 Plaintiff Red.com, Inc. dba Red Digital Cinema (hereinafter referred to as "RED") hereby  
2 complains of Defendant Wooden Camera, LLC (hereinafter referred to as "Wooden"), and  
3 alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. Jurisdiction over this action is founded upon 15 U.S.C. § 1121, and 28 U.S.C. §§  
6 1331 and 1338.

7 2. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).  
8 The Defendant has sold infringing products in this district, attempted to pass off infringing  
9 products in this district, has directed sales and marketing efforts toward this district and/or own  
10 or operate retail stores in this judicial district and/or on the internet and selling in this district at  
11 its website below.

12 **THE PARTIES**

13 3. Plaintiff RED is a corporation organized and existing under the laws of the State  
14 of Washington, having its principal place of business at 34 Parker, Irvine, California 92618, and  
15 doing business within this judicial district.

16 4. RED is informed and believes, and thereupon alleges that Defendant Wooden  
17 Camera, LLC is a Texas limited liability corporation doing business at 1042 West 43<sup>rd</sup> Street,  
18 Houston, Texas 77018, and is doing business within this judicial district at least on its website,  
19 www.woodencamera.com. RED is informed and believes, and thereupon alleges, that Defendant  
20 has been offering to sell, advertising and selling products, including the accused products  
21 identified below, directly and in the stream of commerce knowing such products would be sold  
22 in California and in this judicial district.

23 **FACTUAL BACKGROUND**

24 5. Since at least 2005, RED has been and continues to be actively engaged in the  
25 design, development, manufacture and sale of high performance digital still and motion  
26 cinematography cameras, video equipment and accessories, digital editing software, video  
27 players and generally, imaging format technology used in the dissemination, broadcast, or  
28 transmission of video. Since the introduction of its revolutionary RED ONE® camera, RED's

1 products have been used to film several blockbuster movies, as well as many other movies and  
2 television series. The RED camera and products have been one of the hottest items in the  
3 Hollywood industry.

4 6. RED introduced its EPIC and SCARLET cameras in the past few years. Attendant  
5 with these two cameras, RED has also designed and introduced unique accessory components for  
6 the cameras. The accessories are unique in their styling and look, reminiscent of an  
7 industrial/military look. Because of their unique styling and successful sales, these products have  
8 become uniquely identifiable as having originated from RED.

9 7. RED is informed and believes, and thereupon alleges, that Defendant WOODEN  
10 manufactures, imports, advertises, offers for sale and/or sells digital cinema camera accessories  
11 specifically designed to knock-off the look of RED's accessories and engage with the RED EPIC  
12 and SCARLET cameras.

13 **PATENT INFRINGEMENT FACTS**

14 8. RED is the owner by assignment of U.S. Patent No. D654,110, duly and lawfully  
15 issued on February 7, 1995, describing and claiming the invention entitled "Camera  
16 Component." A correct copy of U.S. Patent No. D654,110 is attached hereto as Exhibit 1.

17 9. RED is informed and believes, and thereupon alleges that Defendant WOODEN  
18 is selling a digital cinema camera accessory that unlawfully embodies the claimed subject matter  
19 of U.S. Patent No. D654,110. In particular, RED alleges that Defendant's "A-Lock" mount for  
20 Quick Back and REDmote embodies the subject matter claimed in RED's design patent referred  
21 to above without any license thereunder and is thereby infringing the patent. RED is informed  
22 and believes and based thereon alleges that Defendant made, used, imported, advertised, offered  
23 for sale and/or sold its accused accessory to multiple distributors, retailers, and/or retail  
24 customers.

25 10. Defendant has received written notice of RED's proprietary rights in its patents by  
26 way of a cease and desist letter it caused to be sent to Defendant. Further, Defendant has  
27 received constructive notice of RED's patents as RED caused its patents to be placed plainly on  
28 the product and/or packaging. Despite actual and constructive knowledge, Defendant continues

1 to infringe RED's patent rights. On information and belief, such infringement by Defendant must  
2 have been willful and wanton.

3 11. RED is informed and believes and thereupon alleges that the sale of the  
4 unauthorized, infringing camera accessory has resulted in lost sales, reduced the business and  
5 profit of RED, and greatly injured the general reputation of RED due to the inferior quality of the  
6 copies, all to RED's damage in an amount not yet fully determined.

7 12. The exact amount of profits realized by Defendant as a result of its infringing  
8 activities, are presently unknown to RED, as are the exact amount of damages suffered by RED  
9 as a result of said activities. These profits and damages cannot be accurately ascertained without  
10 an accounting.

11 **TRADE DRESS FACTS**

12 13. RED has expended substantial sums of money in the promotion of its EPIC,  
13 SCARLET, and related accessory lines of products. As a result of RED's promotional efforts,  
14 the distinctive look and feel of the RED accessories have become and are now widely known and  
15 recognized in this district and elsewhere as emanating from and authorized by RED. RED's  
16 accessory lines for its EPIC and SCARLET cameras are inherently distinctive in appearance, and  
17 has become, through widespread public acceptance, a distinctive designation of the source of  
18 origin of goods offered by RED and an asset of incalculable value as a symbol of RED and its  
19 quality goods and good will.

20 14. RED is informed and believes, and thereupon alleges, that the Defendant  
21 specifically designed, manufactured, packaged, advertised, displayed and sold expressly to profit  
22 from the demand created by RED for its inherently distinctive configurations of its accessories  
23 for its digital cinema cameras. In particular, RED's V-Mount, DSMC<sup>®</sup> Tactical Ribcage,  
24 DSMC<sup>®</sup> Tactical Cage, DSMC<sup>®</sup> Universal Mount (15mm and 19mm) and Swat Rail are  
25 uniquely designed and styled with the RED design language to engage with the RED cameras.  
26 RED is informed and believes, and thereupon alleges, that the following products are designed,  
27 made, offered for sale, and/or sold by Defendant to mimic the same designs and benefit  
28 financially from the success of the RED products: "A-Lock" (which "replicates the "A" on the

1 back of the camera”), “Nato Cage” (2 arms and 4 arms), “Nato Cage +” (19mm and 15mm),  
2 “Cheese Cage,” “Cheese Cage +” (19mm and 15mm), “Ultimate Top Mount” (15mm and  
3 19mm), “Tiny-versal 15mm Studio,” “Tiny-versal 19mm,” and “Safety NATO Rail.”

4 15. RED is informed and believes and thereupon alleges that Defendant has  
5 advertised its RED accessory copies via its website and by way of other media. RED is informed  
6 and believes and thereupon alleges that said advertising has drawn RED customers away from  
7 RED’s website and its retailers, thereby causing damage to RED.

8 16. RED is informed and believes, and thereupon alleges, that Defendant’s copy  
9 accessories are inferior products to authentic RED camera accessories. As a result, RED has  
10 been damaged significantly in the digital cinema accessory market. RED contends and believes  
11 that its image and the reputation of its products has been tarnished and diminished by  
12 Defendant’s sale of RED copy camera accessories of inferior quality.

13 17. RED is further informed and believes and thereupon alleges that the presence of  
14 Defendant’s copies in the marketplace damages the value of RED’s exclusive rights. The  
15 presence of the copies in the marketplace is likely to diminish the apparent exclusivity of  
16 genuine RED products thereby dissuading potential customers who otherwise would have sought  
17 inherently distinctive RED camera accessories designs. Upon information and belief, RED  
18 alleges that such deception has misled, and continues to mislead, and confuse many purchasers  
19 to buy the products sold by Defendant and/or has misled non-purchasers to believe the copies  
20 emanate from or are authorized by RED.

21 18. RED is informed and believes and thereupon alleges that Defendant’s sale of the  
22 allegedly infringing accessory copies has resulted in lost sales, has reduced the business and  
23 profit of RED, and has greatly injured the general reputation of RED due to the inferior quality  
24 of the copies, all to RED’s damage in an amount not yet fully determined.

25 19. The exact amount of profits realized by Defendant as a result of its infringing  
26 activities, are presently unknown to RED, and neither are the exact amount of damages suffered  
27 by RED as a result of these activities. These profits and damages cannot be accurately  
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1 ascertained without an accounting. Further, Defendant’s actions are irreparably injuring RED  
2 and will continue unless and until enjoined by this court.

3 **FIRST CLAIM FOR RELIEF**  
4 **Patent Infringement**

5 20. The allegations of paragraphs 1 through 19 are repled and realleged as though  
6 fully set forth herein.

7 21. This is a claim for patent infringement, and arises under 35 U.S.C. Sections 271  
8 and 281.

9 22. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

10 23. RED is the owner of U.S. Patent No.D654,110, which protects the invention  
11 entitled “Camera Component,” embodied by RED’s V-Mount. A true and correct copy of U.S.  
12 Patent No. D654,110 is attached hereto as Exhibit 1. By statute, the patent is presumed to be  
13 valid and enforceable under 35 U.S.C. § 282.

14 24. Defendant, through its agents, employees and servants, have manufactured,  
15 imported, advertised, offered to sell, and sold, without any rights or license, a camera component  
16 which fall within the scope and claim contained in U.S. Patent No. D654,110.

17 25. RED is informed and believes and thereupon alleges that Defendant willfully  
18 infringed upon RED's exclusive rights under this patent, with full notice and knowledge thereof.

19 26. RED is informed and believes and thereupon alleges that Defendant has derived,  
20 received and will continue to derive and receive from the aforesaid acts of infringement, gains,  
21 profits and advantages in an amount not presently known to RED. By reason of the aforesaid  
22 acts of infringement, RED has been, and will continue to be, greatly damaged.

23 27. Defendant may continue to infringe U.S. Patent No. D654,110 to the great and  
24 irreparable injury of RED, for which RED has no adequate remedy at law unless the Defendant  
25 is enjoined by this court.

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**SECOND CLAIM FOR RELIEF**  
**Trade Dress Infringement**

28. RED realleges paragraphs 1 through 19 as though set forth fully at this point.

29. This is an action for trade dress infringement and false designation of origin pursuant to 15 U.S.C. § 1125(a) against Defendant Wooden.

30. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

31. Since 2010, RED has marketed and sold RED-styled accessories for its cameras. The configuration of RED's V-Mount is distinctive and well-recognized by the industry and consumers as emanating from RED. The RED accessories identified above have enjoyed enormous commercial success, which is expected to continue, and have become, through wide-spread recognition, an indicator of RED as the source of the products.

32. RED is informed and believes and thereupon alleges that the Defendant's advertising and sale of copies of RED's V-Mount configuration constitutes trade dress infringement and unfair competition, as a false designation of origin, a false description or representation of goods, and false representation to the consuming public that the Defendant's camera accessories originated from or somehow are authorized by or affiliated with RED.

33. RED is informed and believes and thereupon alleges that the actions of Defendant was done willfully, knowingly and maliciously with the intent to trade upon the good will of RED and to injure RED.

34. The Defendant's acts are in violation of 15 U.S.C. § 1125 (a) and will continue to the great and irreparable injury of RED until enjoined by this Court.

**THIRD CLAIM FOR RELIEF**  
**Trade Dress Infringement**

35. RED realleges paragraphs 1 through 19 as though set forth fully at this point.

36. This is an action for trade dress infringement and false designation of origin pursuant to 15 U.S.C. § 1125(a) against Defendant Wooden.

37. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

Since 2010, RED has marketed and sold RED-styled accessories for its cameras. The configuration of RED's DSMC<sup>®</sup> Tactical Ribcage is distinctive and well-recognized by the

1 industry and consumers as emanating from RED. The RED accessories identified above have  
2 enjoyed enormous commercial success, which is expected to continue, and have become,  
3 through wide-spread recognition, an indicator of RED as the source of the products.

4 38. RED is informed and believes and thereupon alleges that the Defendant's  
5 advertising and sale of copies of RED's DSMC<sup>®</sup> Tactical Ribcage configuration constitutes trade  
6 dress infringement and unfair competition, as a false designation of origin, a false description or  
7 representation of goods, and false representation to the consuming public that the Defendant's  
8 camera accessories originated from or somehow are authorized by or affiliated with RED.

9 39. RED is informed and believes and thereupon alleges that the actions of Defendant  
10 was done willfully, knowingly and maliciously with the intent to trade upon the good will of  
11 RED and to injure RED.

12 40. The Defendant's acts are in violation of 15 U.S.C. § 1125 (a) and will continue to  
13 the great and irreparable injury of RED until enjoined by this Court.

14 **FOURTH CLAIM FOR RELIEF**  
15 **Trade Dress Infringement**

16 41. RED realleges paragraphs 1 through 19 as though set forth fully at this point.

17 42. This is an action for trade dress infringement and false designation of origin  
18 pursuant to 15 U.S.C. § 1125(a) against Defendant Wooden.

19 43. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

20 44. Since 2010, RED has marketed and sold RED-styled accessories for its cameras.  
21 The configuration of RED's DSMC<sup>®</sup> Tactical Cage is distinctive and well-recognized by the  
22 industry and consumers as emanating from RED. The RED accessories identified above have  
23 enjoyed enormous commercial success, which is expected to continue, and have become,  
24 through wide-spread recognition, an indicator of RED as the source of the products.

25 45. RED is informed and believes and thereupon alleges that the Defendant's  
26 advertising and sale of copies of RED's DSMC<sup>®</sup> Tactical Cage configuration constitutes trade  
27 dress infringement and unfair competition, as a false designation of origin, a false description or  
28 representation of goods, and false representation to the consuming public that the Defendant's  
camera accessories originated from or somehow are authorized by or affiliated with RED.



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**SIXTH CLAIM FOR RELIEF**  
**Trade Dress Infringement**

55. RED realleges paragraphs 1 through 19 as though set forth fully at this point.

56. This is an action for trade dress infringement and false designation of origin pursuant to 15 U.S.C. § 1125(a) against Defendant Wooden.

57. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1338.

58. Since 2010, RED has marketed and sold RED-styled accessories for its cameras. The configuration of RED's Swat Rail is distinctive and well-recognized by the industry and consumers as emanating from RED. The RED accessories identified above have enjoyed enormous commercial success, which is expected to continue, and have become, through wide-spread recognition, an indicator of RED as the source of the products.

59. RED is informed and believes and thereupon alleges that the Defendant's advertising and sale of copies of RED's Swat Rail configuration constitutes trade dress infringement and unfair competition, as a false designation of origin, a false description or representation of goods, and false representation to the consuming public that the Defendant's camera accessories originated from or somehow are authorized by or affiliated with RED.

60. RED is informed and believes and thereupon alleges that the actions of Defendant was done willfully, knowingly and maliciously with the intent to trade upon the good will of RED and to injure RED.

61. The Defendant's acts are in violation of 15 U.S.C. § 1125 (a) and will continue to the great and irreparable injury of RED until enjoined by this Court.

WHEREFORE, Plaintiff Red.com, Inc. prays as follows:

1. That Defendant Wooden Camera, LLC be adjudicated to have infringed RED's U.S. Patent No.D654,110, and that the patent is valid and enforceable and is owned by RED;
2. That Defendant, its agents, servants, employees, and attorneys and all persons in active concert and participation with them, be forthwith preliminarily and thereafter permanently enjoined from making, using or selling any camera component which infringe United States Patent No. D654,110;

- 1 3. For an assessment and award of damages against Defendant in an amount equal to  
2 RED's lost profits, Defendant's profits, or a reasonable royalty derived from  
3 Defendant's infringement of Plaintiff's patent rights in U.S. Patent Nos. D654,110  
4 pursuant to 35 USC §§ 284 and 289;
- 5 4. That the Defendant Wooden Camera, LLC be adjudicated to have infringed  
6 RED's V-Mount trade dress, and that said trade dress rights are enforceable and  
7 owned by RED;
- 8 5. That the Defendant Wooden Camera, LLC be adjudicated to have infringed  
9 RED's DSMC Tactical Ribcage trade dress, and that said trade dress rights are  
10 enforceable and owned by RED;
- 11 6. That the Defendant Wooden Camera, LLC be adjudicated to have infringed  
12 RED's DSMC Tactical Cage trade dress, and that said trade dress rights are  
13 enforceable and owned by RED;
- 14 7. That the Defendant Wooden Camera, LLC be adjudicated to have infringed  
15 RED's DSMC Universal Mount (15mm and 19mm) trade dress, and that said  
16 trade dress rights are enforceable and owned by RED;
- 17 8. That the Defendant Wooden Camera, LLC be adjudicated to have infringed  
18 RED's Swat Rail trade dress, and that said trade dress rights are enforceable and  
19 owned by RED;
- 20 9. That Defendant, its agents, servants, employees, and attorneys, and all those  
21 persons in active concert or participation with Defendant, be forthwith  
22 preliminary and thereafter permanently enjoined from infringing RED's V-  
23 Mount, DSMC<sup>®</sup> Tactical Ribcage, DSMC<sup>®</sup> Tactical Cage, DSMC<sup>®</sup> Universal  
24 Mount (15mm and 19mm) and Swat Rail trade dress configurations;
- 25 10. For an assessment and award of damages against Defendant in an amount no less  
26 than RED's lost profits, Defendant's profits or a reasonable royalty for  
27 Defendant's infringement of RED's trade dress rights in its V-Mount, DSMC  
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1 Tactical Ribcage, DSMC Tactical Cage, DSMC Universal Mount (15mm and  
2 19mm) and Swat Rail products pursuant to 15 USC § 1125(a);

3 11. For an order requiring Defendant to deliver up and destroy all infringing digital  
4 cinema camera accessories;

5 12. That an award of reasonable costs, expenses, and attorney's fees be awarded  
6 against Defendant pursuant to 15 U.S.C. § 1116(a) and 35 U.S.C. § 285; and

7 13. That Defendant be directed to file with this court and serve upon RED within 30  
8 days after the service of the injunction, a report in writing under oath, setting forth  
9 in detail the manner and form in which Defendant has complied with the  
10 injunction.

11  
12 DATED: June 27, 2012

WEEKS, KAUFMAN, NELSON & JOHNSON

13  
14 /s/ Gregory K. Nelson  
15 Gregory K. Nelson  
16 Attorney for Plaintiff, Red.com, Inc.

17  
18 JURY DEMAND

19 Plaintiff RED, Inc. hereby requests a trial by jury in this matter.

20 DATED: June 27, 2012

WEEKS, KAUFMAN, NELSON & JOHNSON

21  
22 /s/ Gregory K. Nelson  
23 Gregory K. Nelson  
24 Attorney for Plaintiff, Red.com, Inc.