

Ropers Majeski Kohn & Bentley
A Professional Corporation
Los Angeles

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7 Los Angeles, California 90071
8 Telephone: (213) 312-2000
9 Facsimile: (213) 312-2001

10 Attorneys for Plaintiff
11 CALIFIA FARMS, L.P.

BY _____

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

2011 OCT 27 PM 4: 12

FILED

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 CV11 08933

SJO

(MAN)

15 CALIFIA FARMS, L.P., a California
16 limited partnership,

CASE NO.

17 Plaintiff,

COMPLAINT FOR:

18 vs.

19 TRICORBRAUN INC., a Missouri
20 corporation; and DOES 1 through 10,

1. Declaratory Judgment of Non-Infringement of Patent
2. Declaratory Judgment of Invalidity of Patent
3. Declaratory Judgment of Unenforceability of Patent
4. Correction of Inventorship of Patent
5. Declaratory Judgment of Ownership of Patent

21 Defendants.

DEMAND FOR JURY TRIAL

22 Plaintiff Califia Farms, L.P. ("Plaintiff" and/or "Califia Farms") hereby seeks
23 declaratory relief, injunctive relief and other remedies against Defendant
24 TricorBraun Inc. ("Defendant" and/or "TricorBraun") as follows:

25 PARTIES

26 1. Plaintiff Califia Farms is a California limited partnership with its
27 principal place of business at Sun Pacific, 1095 E. Green St., Pasadena, California
28 91106.

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1 claim occurred in this district. Specifically, Plaintiff has its principal place of
2 business in the Central District of California, the allegedly infringing products were
3 manufactured for and distributed by Plaintiff in the Central District of California,
4 and the effect of the threat of litigation was felt by Plaintiff in the Central District of
5 California.

6 **FACTS RELATED TO ALL CLAIMS FOR RELIEF**

7 10. In June 2010, Plaintiff and Defendant commenced discussions
8 concerning the development of designs of plastic bottles for tangerine juices of the
9 Plaintiff.

10 11. Beginning on about June 30, 2010, Greg Steltenpohl, who is employed
11 by Plaintiff as its chief executive officer, provided Defendant TricorBraun with
12 conception and design information and instructions and photographic samples for
13 proposed bottle designs.

14 12. From June 2010 until December 2010, Plaintiff and Defendant
15 collaborated in the development of the bottle designs which Plaintiff intended to
16 use for its Cuties Juice brand line of tangerine juices.

17 13. Califia Farms paid TricorBraun thousands of dollars for prototypes and
18 services provided to it by TricorBraun.

19 14. Califia Farms ultimately decided not to use TricorBraun as a
20 manufacturer of bottles for the Cuties Juice brand.

21 15. The Califia Farms' Cuties Juice brand bottles were provided by a
22 different supplier after further changes to the bottle design.

23 16. During the period of their collaboration, Greg Steltenpohl provided
24 instructions to Defendant's employees, including David A. Snyder, including bottle
25 shaping instructions, design details, multiple changes to the shape and dimensions,
26 design directions, and examples of third-party bottles, among other things, in
27 connection with the design and development of carafe shaped bottles for the Cuties
28 Juice brand tangerine juices.

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1 17. During the ongoing collaboration of Plaintiff and Defendant, on
2 September 21, 2010, Defendant TricorBraun, without Califia Farms' knowledge,
3 filed a United States design patent application entitled "Bottle" naming David A.
4 Snyder, TricorBraun's employee, as the sole inventor.

5 18. The application ultimately issued as the '560 patent on June 28, 2011.

6 19. The '560 patent, entitled "Bottle," lists David A. Snyder as the sole
7 inventor and TricorBraun as assignee.

8 20. The '560 patent includes various drawings of a bottle. According to
9 the USPTO assignment records, David A. Snyder executed an assignment on
10 September 15, 2010 to Kranson Industries, Inc. d/b/a TricorBraun.

11 21. Upon information and belief, Kranson Industries, Inc. subsequently
12 changed its name to TricorBraun Inc.

13 22. The Plaintiff Califia Farms is informed and believes, and on that basis
14 alleges that TricorBraun claims to be the owner of all right, title and interest in
15 United States Patent D640,560.

16 23. Without any authorization of Plaintiff Califia Farms and without
17 Califia Farms' prior knowledge, the claimed subject matter of the '560 patent
18 application and the '560 patent includes matter that was co-invented by Califia
19 Farms' employee, Greg Steltenpohl.

20 24. Plaintiff Califia Farms did not learn about the existence of the patent
21 application, much less the improper naming of Snyder as the sole inventor of the
22 '560 patent of Defendant TricorBraun, until after the issuance of '560 patent, and
23 upon receipt of a letter from Defendant's counsel, dated August 4, 2011.

24 25. Califia Farms and Greg Steltenpohl never assigned to TricorBraun any
25 of the items or inventions disclosed by them to TricorBraun during the course of
26 their collaboration.

27 26. On or about August 4, 2011, Defendant TricorBraun sent to Plaintiff
28 Califia Farms a letter in which it enclosed a copy of a July 25, 2011 letter and a

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1 copy of the '560 patent enclosed with that letter (although not the two photographic
2 enclosures referenced in the July 25, 2011 letter). The July 25, 2011 letter alleges
3 that the Cuties Juice product was being sold in packaging that falls within the scope
4 of the '560 patent and demanding that Califia Farms "immediately cease and desist
5 all manufacturing, importation, distribution, sale, and marketing of any Cuties Juice
6 brand products, and any other products, using the packaging described herein. . . ."
7 A copy of the August 4, 2011 letter and enclosures are attached to this complaint as
8 Exhibit B.

9 27. The '560 patent is not infringed by bottles of Califia Farms, is invalid,
10 or is not enforceable.

11 28. Substantial prior art exists for similarly carafe-shaped bottles. For
12 example, TricorBraun had knowledge of various bottle designs, including bottles
13 disclosed to it by Califia Farms and knowingly did not disclose those bottle designs
14 to the USPTO during the prosecution of the patent application leading to the '560
15 patent. Those bottle designs, among others, are relevant prior art during
16 prosecution of the application leading to the '560 patent.

17 29. Inventor David A. Snyder had direct knowledge of prior art bottle
18 designs, including prior art bottle designs disclosed to him by Califia Farms, prior
19 to the filing of the patent application leading to the '560 patent, and such designs
20 that would have been considered to be relevant prior art during prosecution of the
21 applications leading to the '560 patent.

22 30. The Plaintiff Califia Farms distributes and/or sells its Cuties Juice
23 brand of juices in plastic bottles.

24 31. No claim of patent infringement against Califia Farms has been filed
25 by TricorBraun.

26 32. Based on the demands of Exhibit B, Plaintiff Califia Farms has a
27 reasonable apprehension of being sued for patent infringement by TricorBraun.

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FIRST CLAIM FOR RELIEF
(Declaratory Judgment of Non-Infringement of
U.S. Patent No. D640,560)

33. Plaintiff Califia Farms restates and incorporates by reference the allegations of paragraphs 1 through 32.

34. Defendant TricorBraun has alleged that certain of the Plaintiff's Cuties Juice bottles infringe the '560 patent.

35. The bottles of Plaintiff Califia Farms do not infringe the '560 Patent.

36. There exists an actual and justiciable controversy between Plaintiff Califia Farms and Defendant regarding the infringement of the '560 patent under 28 U.S.C. §§ 2201 and 2202.

37. Plaintiff Califia Farms has reasonable apprehension of being sued by Defendant due to the letter of TricorBraun, alleging patent infringement and threatening a patent infringement lawsuit.

38. In fact, Plaintiff Califia Farms has not infringed and does not infringe, either directly or indirectly, any valid and enforceable claim of the '560 patent.

39. Among other reasons why there is no infringement is that Plaintiff Califia Farms' bottle designs are different from the designs claimed by the '560 patent.

40. Furthermore, no ordinary observer, when familiar with the prior art bottle designs, including those known by and not disclosed by Defendant during prosecution of the patent application leading to the '560 patent, would be deceived into believing that Plaintiff Califia Farms' bottles are the same as the bottle in the '560 patent.

41. Declaratory relief is necessary and appropriate in this case because the Court's judgment on the issue of patent non-infringement will afford Plaintiff Califia Farms relief from the uncertainty and controversy surrounding TricorBraun's alleged infringement of the '560 patent.

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1 42. Accordingly, Plaintiff's Califia Farms requests a judicial determination
2 of its rights, duties, and obligations with regard to the '560 patent.

3 **SECOND CLAIM FOR RELIEF**

4 **(Declaratory Judgment of Invalidity of**
5 **U.S. Patent No. D640,560)**

6 43. Plaintiff Califia Farms restates and incorporates by reference the
7 allegations of Paragraphs 1 through 42.

8 44. There exists an actual justiciable controversy between Plaintiff Califia
9 Farms and Defendant regarding the validity of the '560 patent. Among other
10 reasons, the patented bottle design is not novel, and was not solely invented by the
11 named inventor on the '560 patent. Accordingly, Plaintiff Califia Farms requests a
12 judicial determination of its rights, duties, and obligations with regard to the '560
13 patent.

14 45. Declaratory relief is necessary and appropriate in this case because the
15 Court's judgment on the issue of patent invalidity will afford Plaintiff Califia Farms
16 relief from the uncertainty and controversy surrounding Defendant's intent to
17 enforce the '560 patent against Plaintiff Califia Farms.

18 46. The claim of the '560 patent is invalid and fails to meet the conditions
19 of patentability and/or otherwise comply with one or more of 35 U.S.C. §§ 101,
20 102, 103, and 112.

21 47. A judicial declaration of invalidity is necessary and appropriate so that
22 Plaintiff Califia Farms may ascertain its rights regarding the '560 patent.

23 **THIRD CLAIM FOR RELIEF**

24 **(Declaratory Judgment of Unenforceability of**
25 **U.S. Patent No. D640,560)**

26 48. Plaintiff Califia Farms restates and incorporates by reference the
27 allegations of Paragraphs 1 through 47.

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1 57. The error with respect to non-joinder of Greg Steltenpohl as an
2 inventor arose without any deception intent on the part of Greg Steltenpohl.

3 58. Because Greg Steltenpohl is an inventor of the '560 patent, the Court
4 should issue an order directing the U.S. Patent and Trademark Office to issue a
5 certificate correcting the '560 patent to add Greg Steltenpohl as a named inventor.

6 **FIFTH CLAIM FOR RELIEF**

7 **(Declaratory Judgment of Ownership of**
8 **U.S. Patent No. D640,560)**

9 59. Plaintiff Califia Farms restates and incorporates by reference the
10 allegations of Paragraphs 1 through 58.

11 60. Greg Steltenpohl is an employee of Califia Farms and is obliged to
12 assign inventions pertaining to bottles developed during the course of his
13 employment to Plaintiff Califia Farms.

14 61. Greg Steltenpohl conceived of certain bottle designs during the course
15 of his employment by Califia Farms and caused such designs to be disclosed to
16 employees of Defendant TricorBraun including David A. Snyder.

17 62. The inventions conceived by Greg Steltenpohl were disclosed to David
18 A. Snyder and others employed by Defendant TricorBraun and incorporated into
19 the design of the '560 patent.

20 63. Plaintiff Califia Farms has an ownership interest in the '560 patent by
21 virtue of the inventive contributions made thereto by its employee, Greg
22 Steltenpohl.

23 64. Plaintiff Califia Farms also has an ownership in the '560 patent at
24 equity, by virtue of its engagement of TricorBraun.

25 65. There is a definite and justiciable dispute between Plaintiff Califia
26 Farms and Defendant concerning the ownership of the '560 patent.

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1 66. Defendant TricorBraun’s assertions of ownership of the ‘560 patent
2 and the assignment to TricorBraun of the ‘560 patent creates an actual case or
3 controversy which is real and substantial.

4 67. Unless Plaintiff Califia Farms obtains from this Court a declaratory
5 judgment of its ownership or co-ownership of all rights, title and interest in the ‘560
6 patent, it faces significant harm, as Defendant’s allegation of sole ownership of the
7 patent, and the claim of infringement of the patent, prevents Plaintiff Califia Farms
8 from using the invention of the ‘560 patent as an owner or co-owner thereof.

9 **WHEREFORE**, the Plaintiff Califia Farms prays as follows:

10 1. That judgment be entered in favor of Plaintiff Califia Farms and
11 against Defendant on all claims set forth in the complaint.

12 2. That declaratory judgment be entered in favor of Plaintiff Califia
13 Farms and against Defendant declaring that the Plaintiff Califia Farms has not
14 infringed the ‘560 patent.

15 3. That declaratory judgment be entered in favor of Plaintiff Califia
16 Farms and against Defendant declaring that the ‘560 patent is invalid.

17 4. That declaratory judgment be entered in favor of Plaintiff Califia
18 Farms and against Defendant declaring that the ‘560 patent is unenforceable.

19 5. That declaratory judgment be entered in favor of Plaintiff Califia
20 Farms and against Defendant declaring that Defendant and each of its officers,
21 employees, agents, alter egos, attorneys, and any persons in active concert or
22 participation with them be restrained and enjoined from further threatening,
23 prosecuting or instituting any action against Plaintiff Califia Farms claiming that
24 the ‘560 patent is valid, enforceable, or infringed, or from representing that the
25 products of Plaintiff Califia Farms infringe the ‘560 patent.

26 6. That the Court issue an order directing the Commissioner of Patents to
27 add Greg Steltenpohl as a co-inventor of the ‘560 patent.

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1 7. That declaratory judgment be entered declaring Plaintiff Califia Farms
2 owns all rights, title, and interest in the '560 patent or an indivisible co-ownership
3 interest in the '560 patent and all rights to recover or seek injunctive or other relief
4 for the full remaining term of the '560 patent.

5 8. For attorneys fees incurred by Plaintiffs Califia Farms as this is an
6 exceptional case under 35 U.S.C. § 285.

7 9. For Plaintiff Califia Farms' cost of suit herein; and

8 10. For such other relief as the Court deems just and proper.

9
10 Dated: October 27, 2011

ROPERS, MAJESKI, KOHN & BENTLEY

11
12 By: James C. Potepan

13 James C. Potepan
14 James C. Hildebrand
15 Attorneys for Plaintiff CALIFIA
16 FARMS, L.P.
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DEMAND FOR JURY TRIAL

Plaintiff Califia Farms demands a trial by jury on all issues so triable in this action.

Dated: October 27, 2011

ROPERS, MAJESKI, KOHN & BENTLEY

By: James C. Potepan
James C. Potepan
James C. Hildebrand
Attorneys for Plaintiff CALIFIA
FARMS, L.P.



US00D640560S

(12) **United States Design Patent**
Snyder

(10) Patent No.: **US D640,560 S**
(45) Date of Patent: **** Jun. 28, 2011**

(54) BOTTLE
(75) Inventor: David A. Snyder, West Chicago, IL (US)
(73) Assignee: TricorBraun Inc., St. Louis, MO (US)
(**) Term: 14 Years
(21) Appl. No.: 29/375,370

D529,805 S * 10/2006 Cadena D9/500
D558,054 S * 12/2007 Melrose et al. D9/549
D620,363 S * 7/2010 Barsoumian D9/500

* cited by examiner

Primary Examiner — Ian Simmons
Assistant Examiner — Dana L Sipos
(74) Attorney, Agent, or Firm — H. Frederick Rusche;
Husch Blackwell LLP

(22) Filed: Sep. 21, 2010
(51) LOC (9) Cl. 09-01
(52) U.S. Cl. D9/500
(58) Field of Classification Search D9/500,
D9/502-505, 516, 529, 537-540, 544-545,
D9/549, 558, 574-575, 682, 686, 688-691,
D9/772, 776-780; D24/224; D7/509-511,
D7/598, 591, 597, 679; 215/379, 381-382,
215/384; 220/660, 662, 669, 675
See application file for complete search history.

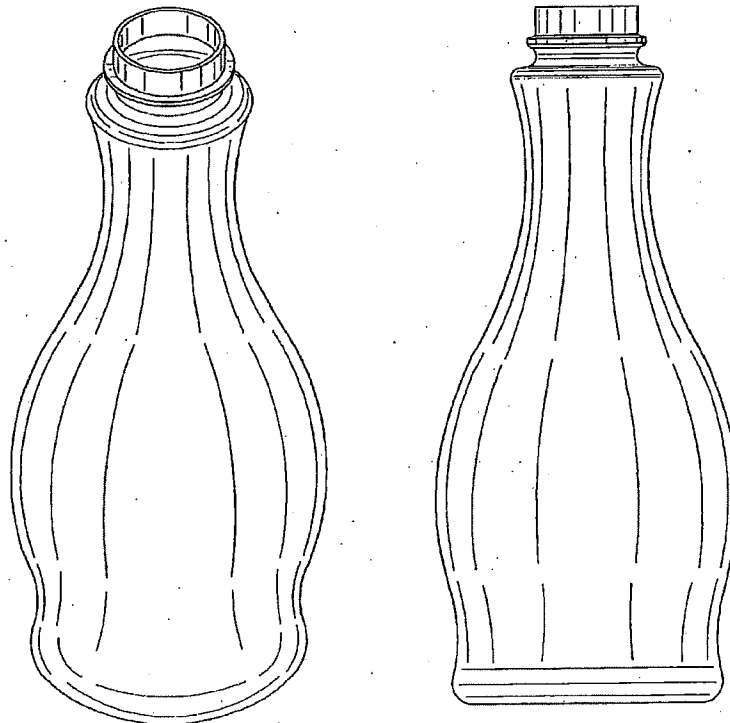
(57) **CLAIM**
I claim the ornamental design for a bottle, as shown and described.

DESCRIPTION

FIG. 1 is a top perspective view of a bottle showing my new design;
FIG. 2 is a front elevational view thereof;
FIG. 3 is a left side elevational view thereof;
FIG. 4 is a right side elevational view thereof;
FIG. 5 is a top plan view thereof; and,
FIG. 6 is a bottom plan view thereof.
The broken dot-dot-dash line in the FIG. 6 bottom plan view defines the bounds of the claim and forms no part thereof.

(56) **References Cited**
U.S. PATENT DOCUMENTS
D148,078 S * 12/1947 Lelong D9/505
D163,105 S * 5/1951 Ellena D9/633
D211,978 S * 8/1968 Douglas D7/300

1 Claim, 2 Drawing Sheets



U.S. Patent

Jun. 28, 2011

Sheet 1 of 2

US D640,560 S

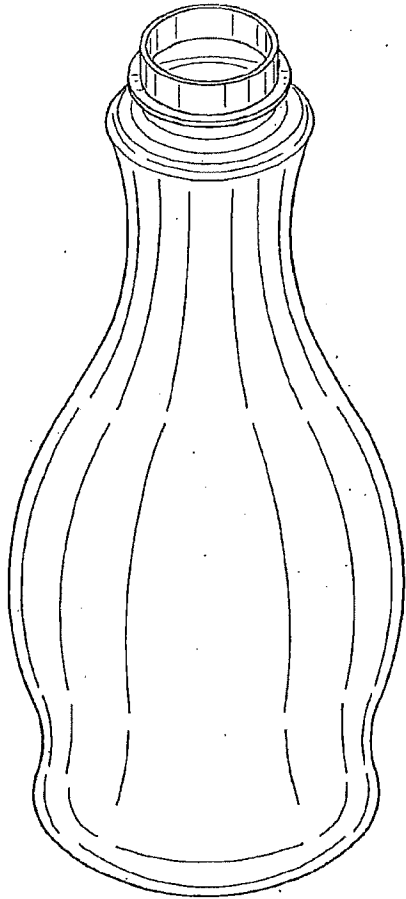


FIG. 1

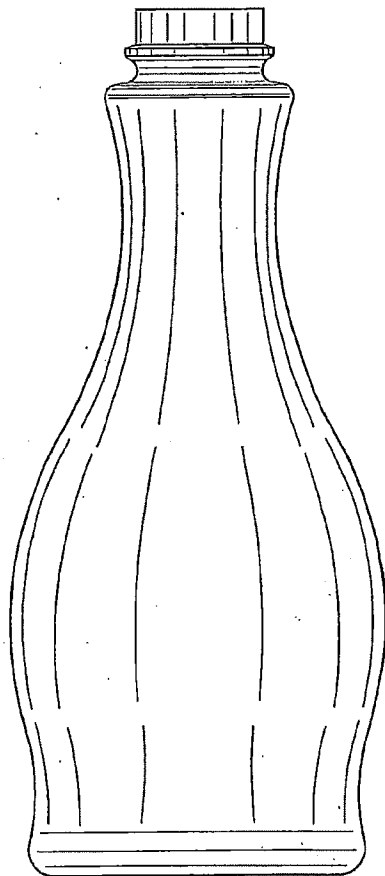


FIG. 2

U.S. Patent

Jun. 28, 2011

Sheet 2 of 2

US D640,560 S

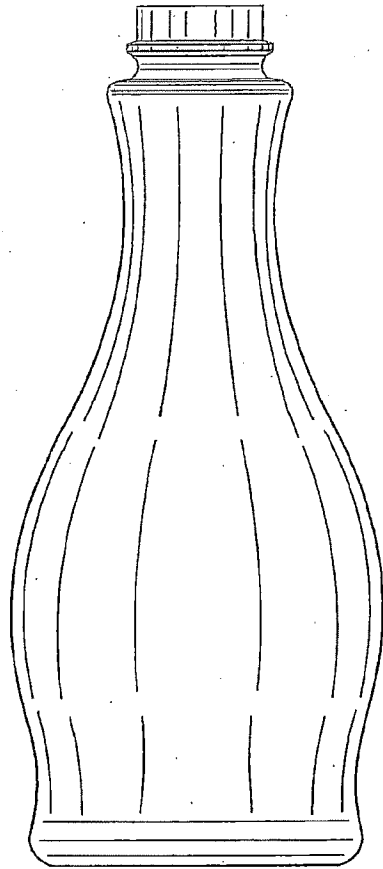


FIG. 3

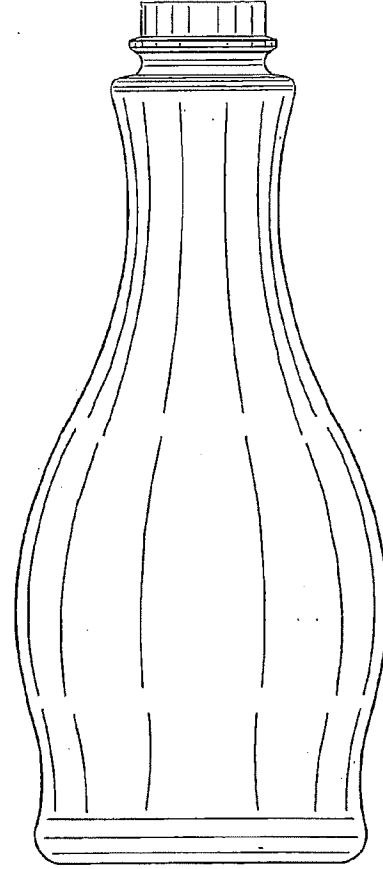


FIG. 4

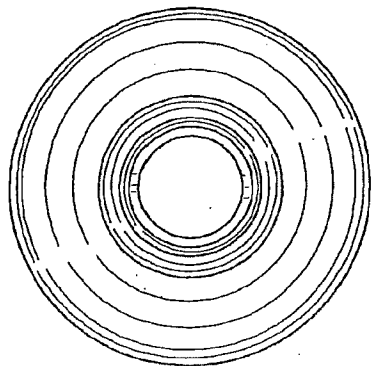


FIG. 5

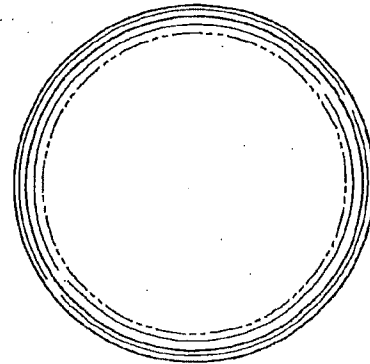


FIG. 6

EXHIBIT B

H. Frederick Rusche
Partner
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Direct: 314.480.1933
Fax: 314.480.1505
fred.rusche@huschblackwell.com

August 4, 2011

Via Federal Express (7973 8008 7764)

Mr. Greg Steltenpohl
CEO
Califia Farms

REDACTED

Re: TricorBraun, Inc.
U.S. Patent No. D640,560

Dear Mr. Steltenpohl:

It is my understanding that you did not receive our letter of July 25, 2011, copy of which is enclosed herewith. Please provide confirmation that you will comply with our client's demands, as outlined in our original correspondence, no later than Friday, August 19, 2011.

We look forward to your timely response.

Very truly yours,
HUSCH BLACKWELL LLP



H. Frederick Rusche

Enclosures
cc: TricorBraun, Inc.

FREDERICK RUSCHE
Partner
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Direct: 314.480.1933
Fax: 314.480.1505
fred.rusche@huschblackwell.com

July 25, 2011

Via Federal Express (7973 4065 3758)

Mr. Greg Steltenpohl
CEO
Califia Farms
33374 Lerdo Highway
Bakersfield, CA 93308

Re: TricorBraun, Inc.
U.S. Patent No. D640,560

Dear Mr. Steltenpohl:

The undersigned and this firm represent TricorBraun, Inc. ("TricorBraun"). TricorBraun is the country's leading supplier of rigid packaging. TricorBraun goes to great effort to protect its unique, proprietary designs, including securing design and utility patent protection.

As you may be aware, during the last few months of 2010 TricorBraun's design and engineering group developed a package design for a new juice product to be sold by Califia Farms. As is TricorBraun's typical practice, it sought design patent protection for this original and distinctive design. After TricorBraun presented this design to Califia Farms, it is our understanding that Califia Farms opted not to continue working with TricorBraun on the project. However, it has recently come to our client's attention that Califia Farms has now begun selling its "Cuties Juice" product in packaging that utilizes TricorBraun's proprietary and patented design. Photographs of two such Califia Farms "Cuties Juice" products are enclosed with this correspondence.

On behalf of TricorBraun, we hereby provide you with actual notice of TricorBraun's U.S. Patent No. D640,560 (the "560 patent"), which is directed to the package design at issue. A copy of the '560 patent is also enclosed. A review of the packaging of samples of your Cuties Juice brand products reveals that these packages fall within the scope of the '560 patent.

Therefore, we must demand on behalf of our client that you immediately cease and desist all manufacturing, importation, distribution, sale, and marketing of any Cuties Juice brand products, and any other products, using the packaging described herein and provide written

CONFIDENTIAL

Mr. Greg Stehenpahl
July 25, 2011
Page 2

confirmation that you have taken this action. Your response must be received by the undersigned no later than Monday, August 8, 2011.

This letter is not intended to be a complete recitation of our client's rights. We reserve the right to modify and amend the claims contained herein, and to assert other claims that may not have been asserted herein.

We look forward to your timely response.

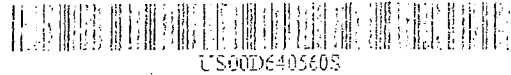
Very truly yours,
HUSCH BLACKWELL LLP



H. Frederick Rusche

Enclosures

cc: TricorBraun, Inc.



(12) United States Design Patent (10) Patent No.: US D640,583 S
 Snyder (43) Date of Patent: ** Jun. 28, 2011

(34) BOTTLE
 (75) Inventor: David A. Snyder, West Chicago, IL (US)
 (73) Assignee: TricorBraun Inc., St. Louis, MO (US)
 (40) Term: 14 Years
 (21) Appl. No.: 29/575,370
 (22) Filed: Sep. 21, 2010
 (51) LOC (9) Cl. 09-01
 (52) U.S. Cl. D9/500
 (58) Field of Classification Search D9/500,
 D9/502-505, 516, 529, 537-540, 544-545,
 D9/549, 558, 574-575, 682, 686, 688-691,
 D9/772, 776-780; D24/224; D7/509-511,
 D7/598, 591, 597, 679; 215/379, 381-382,
 215/384; 220/660, 662, 669, 675
 See application file for complete search history.

D529,805 S * 10/2008 Cadava D9 500
 D558,051 S * 12/2007 Melrose et al D9 540
 D529,563 S * 7/2010 Batschman D9 500
 * cited by examiner
 Primary Examiner — Ian Simmons
 Assistant Examiner — Dana L Sipes
 (74) Attorney, Agent, or Firm — H. Frederick Rusche;
 Husch Blackwell LLP

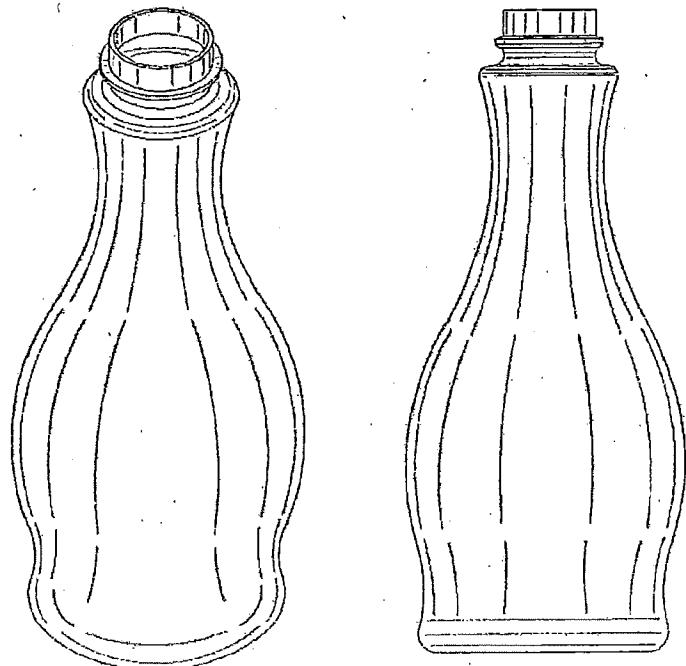
(57) CLAIM
 I claim the ornamental design for a bottle, as shown and described.

DESCRIPTION

FIG. 1 is a top perspective view of a bottle showing my new design;
 FIG. 2 is a front elevational view thereof;
 FIG. 3 is a left side elevational view thereof;
 FIG. 4 is a right side elevational view thereof;
 FIG. 5 is a top plan view thereof; and,
 FIG. 6 is a bottom plan view thereof.
 The broken dot-dot-dash line in the FIG. 6 bottom plan view defines the bounds of the claim and forms no part thereof.

(56) References Cited
 U.S. PATENT DOCUMENTS
 D148,078 S * 12/1947 Lelong D9/505
 D163,105 S * 5/1951 Ellena D9/633
 D211,978 S * 8/1968 Douglas D7/500

1 Claim, 2 Drawing Sheets



U.S. Patent

Jun. 28, 2011

Sheet 1 of 2

US D640,560 S

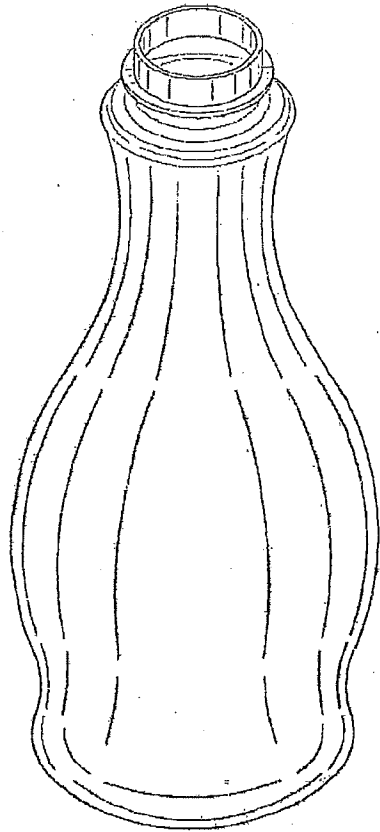


FIG. 1

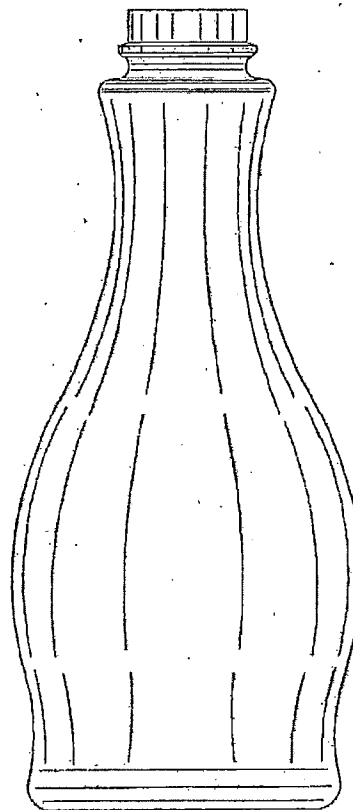


FIG. 2

U.S. Patent

Jun. 28, 2011

Sheet 2 of 2

US D640,569 B

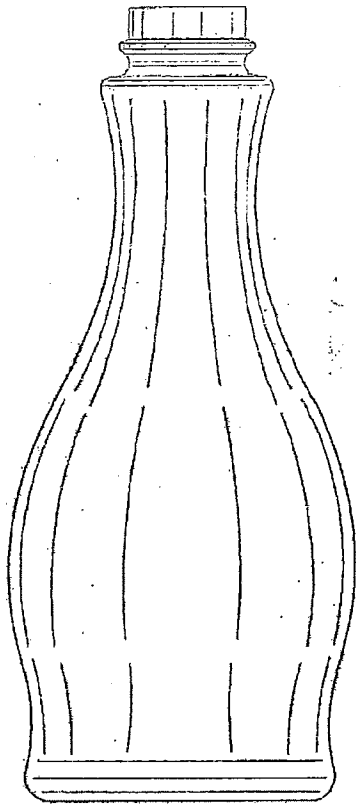


FIG. 3

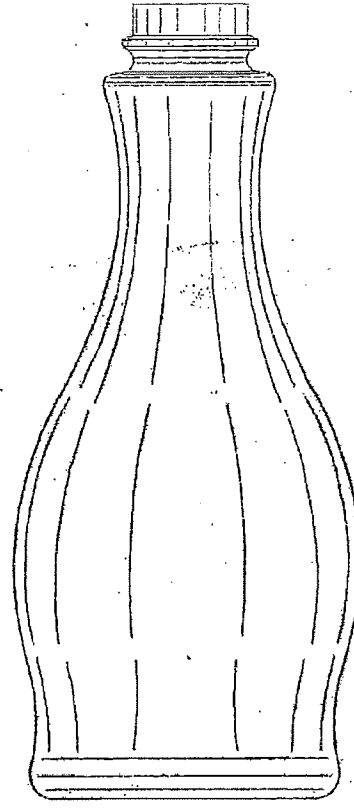


FIG. 4

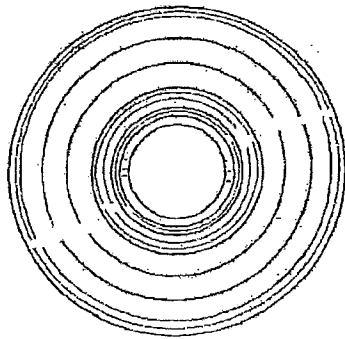


FIG. 5

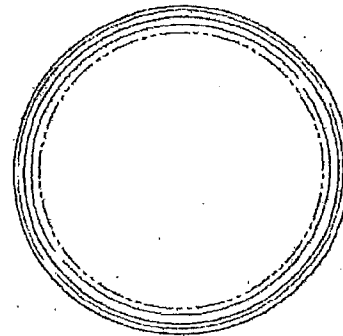


FIG. 6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge S. James Otero and the assigned discovery Magistrate Judge is Margaret A. Nagle.

The case number on all documents filed with the Court should read as follows:

CV11- 8933 SJO (MANx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

James C. Potepan, Esq. (SBN #1070)
James C. Hildebrand, Esq. (SBN #150319)
ROPER, MAJESKI, KOHN & BENTLEY
515 S. Flower Street, Suite 1100
Los Angeles, California 90071
Tel.: (213) 312-2000 - Fax: (213) 312-2001
jpotepan@rmkb.com/jhildebrand@rmkb.com
Attorneys for Plaintiff CALIFIA FARMS, L.P.

COPY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CALIFIA FARMS, L.P., a California limited
partnership

PLAINTIFF(S)

v.

TRICOBRAUN INC., a Missouri corporation; and
DOES 1 through 10,

DEFENDANT(S).

CASE NUMBER

CV11 08933 SJO (MAN)

SUMMONS

TO:DEFENDANT(S): TRICOBRAUN INC., a Missouri corporation

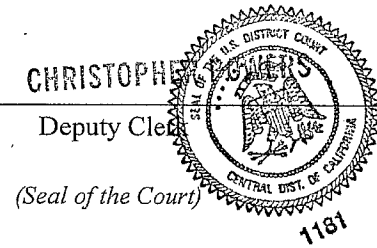
A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, James C. Potepan, Esq. and James C. Hildebrand, Esq. of Ropers, Majeski, Kohn & Bentley, whose address is 515 S. Flower Street, Suite 1100, Los Angeles, California 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: OCT 27 2011

By: CHRISTOPHER
Deputy Clerk



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) CALIFIA FARMS, L.P., a California limited partnership	DEFENDANTS TRICORBRAUN INC., a Missouri corporation; and DOES 1 through 10
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) James C. Potepan, Esq. (SBN #107370) James C. Hildebrand, Esq. (SBN #150319). Ropers, Majeski, Kohn & Bentley, 515 S. Flower St., Suite 1100 Los Angeles, California 90071; Tel.: (213) 312-2000; Fax: (213) 312-2001; jpotepan@rmkb.com/jhildebrand@rmkb.com	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input checked="" type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input checked="" type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				
IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																									

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)
 CLASS ACTION under F.R.C.P. 23: Yes No MONEY DEMANDED IN COMPLAINT: \$ _____

VI. CAUSE OF ACTION (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 Pursuant to 28 USC Sec. 1332, 35 USC Sec. 101 & 28 USC Sects. 2201 & 2202, Pltf. seeks a decla. judgt. as to US Design Patent D640,560.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <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 Act <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 Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State 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 Loan (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 <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">REAL PROPERTY</div> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. 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 <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 <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">IMMIGRATION</div> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<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 <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">BANKRUPTCY</div> <input type="checkbox"/> 22 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">CIVIL RIGHTS</div> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">FORFEITURE/PENALTY</div> <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	<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 <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">PROPERTY RIGHTS</div> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">SOCIAL SECURITY</div> <input type="checkbox"/> 61 HIA(1395ff) <input type="checkbox"/> 862 Black Lung (923) 405(g) <input type="checkbox"/> 863 DIWC/DIWW 405(g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <div style="background-color: #e0e0e0; text-align: center; font-weight: bold;">FEDERAL TAX SUITS</div> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: _____ CV11 08933
 AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). **IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). **RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. **VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Califia Farms, L.P., resides in Los Angeles County.	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
TricorBraun, Inc., resides in Missouri.	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
All claims arisen in Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): James C. Stepan Date 10/27/11

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))