

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ALEXSAM, INC.)	
)	Civil Action No. 2:08-cv-00015-MHS
Plaintiff,)	
)	
v.)	
)	
PIER 1 IMPORTS, INC.,)	
)	
Defendant.)	

NOTICE OF APPEAL

Notice is hereby given that Plaintiff, Alexsam, Inc. (“Alexsam”) appeals to the United States Court of Appeals for the Federal Circuit from the Final Judgment entered in this action on March 20, 2012 (Dkt. No. 290), including the jury’s verdict of non-infringement, to the extent the judgment and jury verdict were adverse to Alexsam. Alexsam further appeals from any and all intervening orders, decisions or rulings that gave rise to such final judgment and any subsequent orders, decisions or rulings that failed to correct such final judgment, to the extent such orders, decisions or rulings were adverse to Alexsam, including without limitation:

(a) The Order dated August 27, 2012 (Dkt. No. 309) denying Alexsam’s renewed motion for judgment as a matter of law regarding infringement, or, in the alternative, for a new trial (Dkt. No. 300).

(b) The Order dated March 20, 2012 (Dkt. No. 289) denying (i) Alexsam’s Renewed Motion For Judgment As A Matter Of Law Regarding Marking Under 35 U.S.C. § 287, Or, In The Alternative, Motion For A New Trial (Dkt. No. 271); (ii) Alexsam’s Renewed Motion For Judgment As A Matter Of Law As To Pier 1’s InComm License Defense (Dkt. No. 272); and

(iii) Alexsam's Renewed Motion For Partial Judgment As A Matter Of Law Regarding Pier 1's Invalidity Defenses (Dkt. No. 273).

(c) The oral Order on October 24, 2011 (Dkt. No. 256; Dkt. No. 268, Tr. at 2:20–22) and subsequent written Order dated November 2, 2011 (Dkt. No. 269) denying (i) Alexsam's Motion For Judgment As a Matter Of Law Regarding Marking Under 35 U.S.C. § 287 (Dkt. No. 252); (ii) Alexsam's Motion For Partial Judgment As a Matter Of Law Regarding Pier 1's Invalidity Defenses (Dkt. No. 251); (iii) Alexsam's Motion For Judgment As a Matter Of Law Regarding Infringement (Dkt. No. 250); (iv) Alexsam's Motion For Judgment As a Matter Of Law That The Alleged Kmart System Is Not Prior Art Under 35 U.S.C. § 102(a) (Dkt. No. 249); and (v) Alexsam's Motion For Judgment As a Matter Of Law As To Pier 1's InComm License Defense (Dkt. No. 248).

(d) The Order dated October 14, 2011 (Dkt. No. 237) to the extent it granted Defendant Pier 1 Imports, Inc.'s Motion To Exclude The Opinions Of Alexsam, Inc.'s Damages Expert Kristofer K. Swanson (Dkt. No. 213).

(e) The Order dated October 14, 2011 (Dkt. No. 236) denying Alexsam's Motion For Partial Summary Judgment Regarding Marking Under 35 U.S.C. § 287 (Dkt. No. 207).

(f) The Order dated October 14, 2011 (Dkt. No. 235) to the extent it denied Alexsam's Motion To Exclude Portions Of The Opinion Of Gregory E. Smith Regarding Damages (Dkt. No. 215).

(g) The Order dated October 14, 2011 (Dkt. No. 234) denying Alexsam's Daubert Motion To Exclude Portions Of The Opinions Of Lori Breitzke And Gregory E. Smith Regarding Alleged Non-Infringing Alternatives (Dkt. No. 214).

Respectfully submitted,

Date: September 26, 2012

/s/ Nicole L. Little

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CERTIFICATE OF SERVICE

The undersigned certifies that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 26th day of September, 2012.

/s/Nicole L. Little
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