

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHELLE E. DE SOUSA, *et al.*,

Plaintiffs,

v.

MOON BAY, *et al.*,

Defendants.

Civil Action No. 24-cv-1518

Judge Stickman

FILED UNDER SEAL

PLAINTIFFS' EXPEDITED INTERROGATORIES

AND NOW come Plaintiffs, by and through its attorneys, and serve the following Expedited Interrogatories on each Defendant in this action. In accordance with the Court Order dated November 13, 2024 (“TRO”), your responses are due no later than fourteen (14) days after these Interrogatories are served on you.

DEFINITIONS

1. Where a defined term is referenced herein and not defined herein, the defined term should be understood as it is defined in the Complaint, Plaintiff’s *Ex Parte* Application, and/or the TRO.
2. The terms “Defendant,” “you,” and “your” refer to the Defendant listed on Amended Schedule A, including all affiliates and subsidiaries, receiving these Interrogatories.
3. The terms “concerning” or “relating to” (or any forms thereof) mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating, or relevant to.

As indicated, the terms necessarily include information which is in opposition to as well as in support of the position(s) and claim(s) of the parties in this civil action.

4. The terms “communication” or “communications” refer to any transmission of information, the information transmitted, and any process by which information is transmitted, and will include written communications, electronic communications, and oral communications.

5. The term “person” refers to natural persons, firms, proprietorships, associations, partnerships, corporations and every other type of organization or entity.

6. The terms “document” or “documents” refer to all written, typed, printed, recorded, filmed or reproduced by any other mechanical process, photographic, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, in any form, whether originals or copies, now or formerly in your possession, custody, or control, including, but not limited to: letters; correspondence; e-mails; memoranda; records; books; minutes of all types of meetings; contracts; subcontracts; agreements; exhibits; attachments; intra-office and inter-office communications; analyses; bulletins; regulations, rules, directives, advisory opinions, manuals, proposals; estimates; recommendations; opinions; messages; instructions; notes; notebooks; measurements; designs; sketches; drawings; blueprints; data sheets; telephone records; tapes; computer stored data; computer disks; diaries; desk calendars; work sheets; reports; facsimiles; records of telephone conversations, meetings and conferences; notes and records of conversations or interviews; invoices; bills; statements; accounts; checks; drafts; notices; computer printouts; computer tapes; photographs; slides; negatives; motion pictures; video recordings; tape or other voice recordings and transcriptions thereof; data compilations from which information can be obtained, translated, if necessary, by you through detection devices into reasonably usable form; and any other

writings or recordings or data compilations from which information can be obtained in your actual or constructive possession, custody, or control, including drafts and multiple versions of documents containing marginalia or other comments or notes not appearing on the original. If any document was, but is no longer, in your possession or subject to your control, identify the document and identify its disposition, including, where applicable, the person who currently has possession and/or control of it.

7. The words “identify” or “identity” mean when used in reference to:
 - (a) a document, to state separately: (i) its type (letter, report, memorandum, etc.); (ii) its date; (iii) its subject matter; (iv) the identity of each author or signer; and (v) its present location and the identity of its custodian;
 - (b) an oral statement, communication, conference or conversation, to state separately: (i) its date and the place where it occurred; (ii) its substance; (iii) the identity of each person(s) participating in the communication or conversation; and (iv) the identity and location of all notes, memoranda or other documents memorializing, referring to or relating to the subject matter of the statement;
 - (c) a natural person or persons, to state separately: (i) the full name of each such person; (ii) his or her present or last known business address, or his or her present or last known residential address; and (iii) the employer of the person at the time to which the request or interrogatory is directed and the person’s title or position at that time; and
 - (d) an organization or entity (other than a natural person), a company, a corporation, a firm, an association, or a partnership, to state separately:
 - (e) the full name and type of organization or entity; (ii) the date and state of organization or incorporation, if a business entity; (iii) the address of each of its principal places of business and headquarters; and (iv) the nature of the business conducted or services rendered.
8. Respond separately and in writing to each interrogatory.
9. In answering these interrogatories, furnish all information that is known to you,

your attorneys, agents, advisers, employees or persons otherwise acting on your behalf. If any of these requests for information cannot be answered in full, answer them to the fullest extent

possible, state the reasons for your inability to answer the remainder, and state fully the information, knowledge, or belief you now have concerning the unanswered portions.

10. Each interrogatory shall be construed as referring to information now within the knowledge, possession, custody or control of you or your attorneys, agents, advisers, employees or persons otherwise acting on your behalf, as well as any information, knowledge, data, document, or communication that subsequently is obtained or discovered by you or by your attorneys, agents, advisers, employees or persons otherwise acting on your behalf, that demonstrates that any answer originally provided in response to these requests for information was either incorrect or incomplete. Such supplemental information is to be supplied promptly to the party propounding these interrogatories with a designation as to which request the information is responsive.

11. If you do not answer an interrogatory because you claim the information requested is privileged, as to each such interrogatory, state the privilege claimed, set forth the facts relied upon to support your claim of privilege, and identify each document and/or communication upon which you base your claim of privilege.

12. If any document forms a part of or the entire basis for any answer, identify that document.

13. If any responsive document or portion of a responsive document is withheld from production on a claim of privilege, work-product protection, or other discovery immunity, such document should be identified on a privilege log which states, as to each such document: the name, affiliation, and job title of its author(s); the name, affiliation, and job title of its recipient(s); the name, affiliation, and job title of any copyholder(s); the date of the document;

the basis for the claim of privilege, protection or immunity; and the request to which the document is responsive.

14. These interrogatories are ongoing, and you are required to file supplemental answers and/or provide additional documents as additional information becomes available.

INTERROGATORIES

1. Identify yourself, including stating your true name and physical address.

ANSWER:

2. Identify the name and location and URL of any and all websites that you own and/or operate and the name, location, account numbers and URL for any and all User Accounts and Merchant Storefronts on any Third Party Service Provider platform that you own and/or operate.

ANSWER:

3. Identify each of your Financial Accounts, including stating the account details for each account, which should include the account numbers and current account balances.

ANSWER:

4. State the steps taken by you to comply with the TRO.

ANSWER:

5. Identify each Infringing Product that you have sold.

ANSWER:

6. For each product identified by you in your answer to interrogatory number 5, state:

- (a) The identity of each individual involved in, or with knowledge of, the conception, research, and development of the product, including but not limited to the packaging in the products are packaged;
- (b) The date the product was launched, first sold, or offered for sale by you;
- (c) The number of units of products that you have sold since their launch, broken down by month;
- (d) The U.S. dollar sales that you have earned from the products since their launch, broken down by month;
- (e) The profits that you have earned from the products since their launch, broken down by month;
- (f) The identity of each individual with knowledge of the number of units sold, dollar sales, and profits that you have earned from the products since their launch;
- (g) The amount of products and/or packaging in which the products are packaged currently in inventory;
- (h) The identity of each entity involved in the research, conception, and/or development of the products and/or packaging in which the products are packaged;
- (i) The identity of each entity involved in manufacturing and/or supplying the products and/or packaging in which the products are packaged.

ANSWER:

/s/ Stanley D. Ference III

Stanley D. Ference III

Pa. ID No. 59899

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Brian Samuel Malkin

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Attorneys for Plaintiffs

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PLAINTIFFS' EXPEDITED REQUESTS FOR PRODUCTION OF DOCUMENTS

AND NOW come Plaintiffs, by and through their attorneys, and serve the following Expedited Requests for Production of Documents on each Defendant in this action. In accordance with the Court Order dated November 13, 2024 ("TRO"), your responses are due no later than fourteen (14) days after these Interrogatories are served on you.

DEFINITIONS

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6. The terms “document” or “documents” refer to all written, typed, printed, recorded, filmed or reproduced by any other mechanical process, photographic, or graphic matter of every type and description, however and by whomever prepared, produced, reproduced, disseminated, or made, in any form, whether originals or copies, now or formerly in your possession, custody, or control, including, but not limited to: letters; correspondence; e-mails; memoranda; records; books; minutes of all types of meetings; contracts; subcontracts; agreements; exhibits; attachments; intra-office and inter-office communications; analyses; bulletins; regulations, rules, directives, advisory opinions, manuals, proposals; estimates; recommendations; opinions; messages; instructions; notes; notebooks; measurements; designs; sketches; drawings; blueprints; data sheets; telephone records; tapes; computer stored data; computer disks; diaries; desk calendars; work sheets; reports; facsimiles; records of telephone conversations, meetings and conferences; notes and records of conversations or interviews; invoices; bills; statements; accounts; checks; drafts; notices; computer printouts; computer tapes; photographs; slides; negatives; motion pictures; video recordings; tape or other voice recordings and transcriptions thereof; data compilations from which information can be obtained, translated, if necessary, by you through detection devices into reasonably usable form; and any other

writings or recordings or data compilations from which information can be obtained in your actual or constructive possession, custody, or control, including drafts and multiple versions of documents containing marginalia or other comments or notes not appearing on the original. If any document was, but is no longer, in your possession or subject to your control, identify the document and identify its disposition, including, where applicable, the person who currently has possession and/or control of it.

7. The words “identify” or “identity” mean when used in reference to:
 - (a) a document, to state separately: (i) its type (letter, report, memorandum, etc.); (ii) its date; (iii) its subject matter; (iv) the identity of each author or signer; and (v) its present location and the identity of its custodian;
 - (b) an oral statement, communication, conference or conversation, to state separately: (i) its date and the place where it occurred; (ii) its substance; (iii) the identity of each person(s) participating in the communication or conversation; and (iv) the identity and location of all notes, memoranda or other documents memorializing, referring to or relating to the subject matter of the statement;
 - (c) a natural person or persons, to state separately: (i) the full name of each such person; (ii) his or her present or last known business address, or his or her present or last known residential address; and (iii) the employer of the person at the time to which the request or interrogatory is directed and the person’s title or position at that time; and
 - (d) an organization or entity (other than a natural person), a company, a corporation, a firm, an association, or a partnership, to state separately:
 - (e) the full name and type of organization or entity; (ii) the date and state of organization or incorporation, if a business entity; (iii) the address of each of its principal places of business and headquarters; and (iv) the nature of the business conducted or services rendered.

INSTRUCTIONS

1. Respond separately and in writing to each document request.
2. In answering these requests for information, furnish all the information that is known to you, your attorneys, agents, advisers, employees or persons otherwise acting on your

behalf. If any of these requests for information cannot be answered in full, answer them to the fullest extent possible, state the reasons for your inability to answer the remainder, and state fully the information, knowledge, or belief you now have concerning the unanswered portions.

3. Each request for information shall be construed as referring to information now within the knowledge, possession, custody or control of you or your attorneys, agents, advisers, employees or persons otherwise acting on your behalf, as well as any information, knowledge, data, document, or communication that subsequently is obtained or discovered by you or by your attorneys, agents, advisers, employees or persons otherwise acting on your behalf, that demonstrates that any answer originally provided in response to these requests for information was either incorrect or incomplete. Such supplemental information is to be supplied promptly to the party propounding these requests for information with a designation as to which request the information is responsive.

4. If you do not answer a request for information because you claim the information requested is privileged, as to each such request, state the privilege claimed, set forth the facts relied upon to support your claim of privilege, and identify each document and/or communication upon which you base your claim of privilege.

5. If any document forms a part of or the entire basis for any answer, identify that document.

6. If any responsive document or portion of a responsive document is withheld from production on a claim of privilege, work-product protection, or other discovery immunity, such document should be identified on a privilege log which states, as to each such document: the name, affiliation, and job title of its author(s); the name, affiliation, and job title of its recipient(s); the name, affiliation, and job title of any copyholder(s); the date of the document;

the basis for the claim of privilege, protection or immunity; and the request to which the document is responsive.

7. These requests are ongoing and you are required to file supplemental answers and/or provide additional documents as additional information becomes available.

REQUESTS FOR PRODUCTION

1. Produce all documents sufficient to identify your true name and physical address.

RESPONSE:

2. Produce all documents concerning the name and location and URL of any and all websites that you own and/or operate and the name, location, account numbers and URL for any and all User Accounts and Merchant Storefronts on any Third-Party Service Provider platform that you own and/or operate.

RESPONSE:

3. Produce all documents concerning your manufacture, sale and/or offer for sale of Infringing Product, including the complete sales records for any and all sales of Infringing Product, including number of units sold, price per unit, total gross revenues received (in U.S. dollars) and dates thereof.

RESPONSE:

4. Produce all documents sufficient to show the account details for all of your Financial Accounts, including the account numbers and current account balances.

RESPONSE:

5. Produce all documents concerning the steps taken by you to comply with the TRO.

RESPONSE:

6. For each Infringing identified by you in your answer to interrogatory number 5, produce a sample of the Infringing and all documents concerning:

- (a) the sales, profits, or revenue that you projected to earn from the product;
- (b) the number of units of product that you have sold;
- (c) the dollars sales that you have actually earned from the product;
- (d) the profits that you have actually earned from the product;
- (e) the launch or rollout of the product;
- (f) contracts you have with manufacturers or suppliers of the product and/or the packaging in which the product is packaged;

- (g) the manufacturers or suppliers of the product and/or the packaging in which the product is packaged; and
- (h) the customers to whom you sold the product and/or the packaging in which the product is packaged.

RESPONSE:

- 5. Produce all documents that refer to the Plaintiffs' Product.

RESPONSE:

- 6. Produce all documents that refer to Plaintiffs'.

RESPONSE:

- 7. Produce all documents that you or your agent had with Plaintiffs or any representative of Plaintiffs.

RESPONSE:

- 8. Produce all documents concerning any communications you or your agent had with any Third-Party Service Provider.

RESPONSE:

9. Produce all documents concerning the Plaintiffs' marks.

RESPONSE:

10. Produce all documents concerning Patent No. 8,152,591.

RESPONSE:

11. Produce all documents concerning communications from consumers that refer to the Plaintiffs' Product, including but not limited to communications from consumers that indicate confusion as to the source or origin of the Plaintiffs' Product and/or the Infringing Product.

RESPONSE:

12. Produce a copy of each web page on which you sold and/or offered for sale Infringing Product.

RESPONSE:

13. Produce all documents concerning communications from manufacturers, distributors, retailers, suppliers, vendors, or brokers about the Infringing Product.

RESPONSE:

14. Produce all documents concerning your customers for the Infringing Product, including documents sufficient to identify your customers.

RESPONSE:

/s/ Stanley D. Ference III

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PLAINTIFFS' EXPEDITED REQUESTS FOR ADMISSIONS

AND NOW comes Plaintiffs, Airigan Solutions, by and through their attorneys, and serve the following Expedited Requests for Admissions on each Defendant in this action. In accordance with Fed. R. Civ. P. 26 and 36, and with the Court Order dated November 13, 2024 (“TRO”), your responses are due no later than fourteen (14) days after these Requests for Admissions are served on you.

DEFINITIONS

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2. The terms “Defendant,” “you,” and “your” refer to the Defendant listed on Amended Schedule A, including all affiliates and subsidiaries, receiving these Requests for Production.
3. The terms “concerning” or “relating to” (or any forms thereof) mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, noting,

embodying, containing, mentioning, studying, analyzing, discussing, evaluating, or relevant to. As indicated, the terms necessarily include information which is in opposition to as well as in support of the position(s) and claim(s) of the parties in this civil action.

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if necessary, by you through detection devices into reasonably usable form; and any other writings or recordings or data compilations from which information can be obtained in your actual or constructive possession, custody, or control, including drafts and multiple versions of documents containing marginalia or other comments or notes not appearing on the original. If any document was, but is no longer, in your possession or subject to your control, identify the document and identify its disposition, including, where applicable, the person who currently has possession and/or control of it.

7. The words “identify” or “identity” mean when used in reference to:
 - (a) a document, to state separately: (i) its type (letter, report, memorandum, etc.); (ii) its date; (iii) its subject matter; (iv) the identity of each author or signer; and (v) its present location and the identity of its custodian;
 - (b) an oral statement, communication, conference or conversation, to state separately: (i) its date and the place where it occurred; (ii) its substance; (iii) the identity of each person(s) participating in the communication or conversation; and (iv) the identity and location of all notes, memoranda or other documents memorializing, referring to or relating to the subject matter of the statement;
 - (c) a natural person or persons, to state separately: (i) the full name of each such person; (ii) his or her present or last known business address, or his or her present or last known residential address; and (iii) the employer of the person at the time to which the request or interrogatory is directed and the person’s title or position at that time; and
 - (d) an organization or entity (other than a natural person), a company, a corporation, a firm, an association, or a partnership, to state separately:
 - (e) the full name and type of organization or entity; (ii) the date and state of organization or incorporation, if a business entity; (iii) the address of each of its principal places of business and headquarters; and (iv) the nature of the business conducted or services rendered.

INSTRUCTIONS

1. Respond separately and in writing to each request.

2. These requests for admission shall be construed as referring to information now within the knowledge, possession, custody or control of you or your attorneys, agents, advisers, employees or persons otherwise acting on your behalf, as well as any information, knowledge, data, document, or communication that subsequently is obtained or discovered by you or by your attorneys, agents, advisers, employees or persons otherwise acting on your behalf, that demonstrates that any answer originally provided in response to these requests for information was either incorrect or incomplete. Such supplemental information is to be supplied promptly to the party propounding these requests for information with a designation as to which request the information is responsive.

3. If you do not answer a request for admission because you claim the information requested is privileged, as to each such request, state the privilege claimed, set forth the facts relied upon to support your claim of privilege, and identify each document and/or communication upon which you base your claim of privilege.

4. If you deny a request for admission, set forth your reason and identify and produce any document relied upon in your denial.

REQUESTS FOR ADMISSIONS

1. At all times relevant hereto, Plaintiff owned U.S. Trademark Registrations for CLEAVA® and SNAPPY CAMI® brand mock camisoles.

ADMITTED: _____ **DENIED:** _____

2. At all times relevant hereto, Plaintiff owned U.S. Patent No. 8,152,591 entitled “GARMENT AND BRASSIERE ACCESSORY.”

ADMITTED: _____ **DENIED:** _____

3. At all times relevant hereto, Plaintiff owned certain photographs and artwork related to the promotion and packaging of Plaintiffs' Product ("Plaintiffs' Works").

ADMITTED: _____ **DENIED:** _____

4. At all times relevant hereto, Defendant knew that Plaintiff owned both Plaintiffs' Marks, Plaintiffs' Works, and Plaintiffs' Patent (collectively, "Plaintiffs' IP or intellectual property"), and Defendant knew that Plaintiffs had the exclusive right to use and license their intellectual property and the goodwill associated therewith.

ADMITTED: _____ **DENIED:** _____

5. Despite having the knowledge that you had no license or legal authority to do so, you engaged in the activity of promoting and otherwise advertising, selling, offering for sale, and/or distributing infringing goods under your Seller ID or Seller IDs.

ADMITTED: _____ **DENIED:** _____

6. You knew that you were copying Plaintiff's arked goods before you sold them.

ADMITTED: _____ **DENIED:** _____

7. You are offering and selling knock-off goods in order to directly compete with Plaintiffs' Product.

ADMITTED: _____ **DENIED:** _____

8. You have been named as a defendant in past counterfeiting cases.

ADMITTED: _____ **DENIED:** _____

9. You view the cost of defending this lawsuit and any damages that the Plaintiffs might recover as a cost of running your counterfeiting business.

ADMITTED: _____ **DENIED:** _____

10. You intentionally copied, counterfeited, and sold Plaintiff's goods in order to benefit from Plaintiffs' fame, reputation, and goodwill to divert Plaintiffs' profits into your business.

ADMITTED: _____ **DENIED:** _____

11. You cooperated, coordinated, and communicated with the other Defendants in order to take control of online market and search results for "CLEAVA" and/or "SNAPPI CAM" or other confusingly similar terms calculated to cause the online markete search engine to return your listing instead of Plaintiffs' Product when a buyer searched for those terms.

ADMITTED: _____ **DENIED:** _____

12. At all times relevant hereto, you have been engaged in the fraudulent promotion, advertisement, distribution, offering for sale, and/or sale of goods that are infringing copies of Plaintiffs' Product.

ADMITTED: _____ **DENIED:** _____

13. At all times relevant hereto, you had no authority to make, use, offer to sell, or sell, or import into the United States any device that infringes on any of the claims of the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

14. You intentionally make, use, offer to sell, or import into the United States copies of Plaintiffs' Product with English language packaging and instructions.

ADMITTED: _____ **DENIED:** _____

15. You made more than \$50,000.00 (United States Dollars) in profit on the sales of the infringing goods.

ADMITTED: _____ **DENIED:** _____

16. You made more than \$1,000,000.00 (United States Dollars) in profit on the sales of the infringing goods.

ADMITTED: _____ **DENIED:** _____

17. Your profits from selling the Infringing Product are greater than your funds that have been restrained in this action.

ADMITTED: _____ **DENIED:** _____

18. You began selling the Infringing Product after Plaintiffs obtained their patent and began advertising using Plaintiffs' Works.

ADMITTED: _____ **DENIED:** _____

19. You knew that you were copying Plaintiff's patented goods before you sold your goods.

ADMITTED: _____ **DENIED:** _____

20. You made more than \$2,000,000.00 (United States Dollars) in profit on the sales of the infringing goods.

ADMITTED: _____ **DENIED:** _____

21. You have sold more than 50,000 units of goods that infringe at least one claim of the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

22. You have sold more than 100,000 units of goods that infringe at least one claim of the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

23. You have sold more than 150,000 units of goods that infringe that infringe at least one claim of the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

24. You made at least \$20.00 profit on each infringing unit sold.

ADMITTED: _____ **DENIED:** _____

25. There is a consumer demand for the Plaintiffs' Product protected by the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

26. The consumer demand for the Plaintiff's Product is based on its patented features.

ADMITTED: _____ **DENIED:** _____

27. The consumer demand for the Plaintiff's Product is based on the patented invention.

ADMITTED: _____ **DENIED:** _____

28. Plaintiff has the capability to meet the consumer demand for Plaintiffs' Product.

ADMITTED: _____ **DENIED:** _____

29. There is no acceptable product that is an alternative to Plaintiff's Product that does not infringe at least one claim of the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

30. There is no acceptable substitute to Plaintiffs' Product that does not infringe at least one claim of the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

31. In the absence of your sales of your product which infringes that does not infringe at least one claim of the Plaintiffs' Patent, your customers would have purchased Plaintiffs' Product.

ADMITTED: _____ **DENIED:** _____

32. But for your infringement of Plaintiffs' Patent, Plaintiffs would have made each sale you made of product that that infringes at least one claim of the Plaintiffs' Patent..

ADMITTED: _____ **DENIED:** _____

33. All claims of Plaintiffs' Patent are valid.

ADMITTED: _____ **DENIED:** _____

34. You had actual knowledge of the Plaintiffs' Patent prior to the commencement of this lawsuit.

ADMITTED: _____ **DENIED:** _____

35. You did not investigate the scope of the claims of Plaintiffs' Patent and did not form a good-faith belief that any claim was invalid or not infringed.

ADMITTED: _____ **DENIED:** _____

36. Prior to commencement of this lawsuit you did not have an objectively reasonable defense to Plaintiff's claim of infringement of Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

37. You knew or should have known that your actions would infringe at least one claim of the Plaintiffs' Patent..

ADMITTED: _____ **DENIED:** _____

38. You willfully infringed at least one claim of the Plaintiffs' Patent.

ADMITTED: _____ **DENIED:** _____

39. You intentionally copied Plaintiffs' Works and used them to advertise and promote your patent infringing products.

ADMITTED: _____ **DENIED:** _____

40. You used identical or substantially similar versions of Plaintiff's Works to advertise and promote your patent infringing products.

ADMITTED: _____ **DENIED:** _____

/s/ Stanley D. Ference III

Stanley D. Ference III

Pa. ID No. 59899

courts@ferencelaw.com

Brian Samuel Malkin

Pa. ID No. 70448

bmalkin@ferencelaw.com

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