

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

CARLIS G. STEPHENS

Plaintiff,

vs.

NEIL P. ZIEGMANN, N.P.Z., INC.,
TINA SCHULTZ,
THIELEN MARKETING, INC.,
JAMES THIELEN a/k/a JIM THIELEN,
MINNESOTA TRAPLINE PRODUCTS, INC.,
TIMOTHY CAVEN, ROBERT CAVEN,
INGLIS FARMS, INC. d/b/a F & T FUR
HARVESTERS TRADING POST,
SHAWN INGLIS, HARRY NESTELL,
PHOENIX COMPOSITE SOLUTIONS, INC.,
d/b/a PCS OUTDOORS,
JOHN CHAGNON,
CUMBERLAND'S NORTHWEST TRAPPERS)
SUPPLY, INC.,
RURAL KING DISTRIBUTION &
MANAGEMENT, INC.,
ORSCHELN FARM AND HOME, LLC,
STEPHEN CHICK, JUSTIN CHICK,
JEB HOLLINGSHEAD,
OKIE CABLE & TRAP SUPPLY, LLC,
JAY BERLIN, THE SPORTSMAN'S GUIDE
INC.,
FLEMING OUTDOORS, LLC AND
ERIC FLEMING

Defendants.

Case No. _____

COMPLAINT

COMES NOW Plaintiff, Carlis G. Stephens, for his Complaint against Defendants, Neil P. Ziegmann, N.P.Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters

Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, The Sportsman's Guide, Inc., Jay Berlin, Fleming Outdoors, LLC and Eric Fleming, and states:

PARTIES

1. Carlis G. Stephens ("Carlis") is a citizen of Missouri who resides in Warrenton, Missouri.

2. Neil P. Ziegmann ("Ziegmann") is a citizen of Iowa who resides in Lake View, Iowa. He is the owner of N.P.Z., Inc. ("NPZ").

3. NPZ is a corporation organized and existing under the laws of Iowa. Its principal place of business is in Lake View, Iowa.

4. Tina Schultz ("Schultz") is a citizen of Iowa who resides in Carroll, Iowa. She is the daughter of Ziegmann.

5. James Thielen a/k/a Jim Thielen ("Thielen") is a citizen of Minnesota who resides in Buffalo, Minnesota. He is the owner of Thielen Marketing, Inc.

6. Thielen Marketing, Inc. ("Thielen Marketing") is a corporation organized and existing under the laws of Minnesota.

7. Timothy Caven and Robert Caven are citizens of Minnesota who reside in Pennock, Minnesota. They are the owners of Minnesota Trapline Products, Inc.

8. Minnesota Trapline Products, Inc. (“Minnesota Trapline”) is a corporation organized under the laws of Minnesota. Its principal office and place of business is in Pennock, Minnesota.

9. Shawn Inglis and Harry Nestell are citizens of Michigan residing in Alpena, Michigan. They are the owners of Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post.

10. Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post (“F & T Fur”) is a corporation organized under the laws of Michigan. It maintains its principal office in Alpena, Michigan.

11. John Chagnon (“Chagnon”) is a citizen of Michigan residing in Oscoda, Michigan. He is the manager of the Fur Trapping and Trading Division of Phoenix Composite Solutions, LLC d/b/a PSC Outdoors.

12. Phoenix Composite Solutions, Inc. d/b/a PCS Outdoors (“PCS Outdoors”) is a corporation organized and existing under the laws of Michigan. It maintains its principal office and place of business in Oscoda, Michigan.

13. Cumberland’s Northwest Trappers Supply, Inc. (“Cumberland’s Supply”) is a corporation organized under the laws of Minnesota. It maintains its principal office and place of business in Owatonna, Minnesota.

14. Rural King Distribution & Management, Inc. (“Rural King”) is a corporation organized under the laws of Illinois. It maintains its principal office and place of business in Olney, Illinois.

15. Stephen Chick and Justin Chick are citizens of the State of Missouri residing in Mexico, Missouri. They are the owners of Orscheln Farm and Home, LLC.

16. Orscheln Farm and Home, LLC (“Orscheln Farm”) is a Limited Liability Company organized under the laws of the State of Missouri. It maintains its principal office and place of business in Moberly, Missouri.

17. Jeb Hollingshead is a citizen of Oklahoma, residing in Crowder, Oklahoma. He is the owner of Okie Cable & Trap Supply, LLC.

18. Okie Cable & Trap Supply, LLC (“Okie Supply”) is a Limited Liability Company organized under the laws of the State of Oklahoma. Its principal office and place of business is in Crowder, Oklahoma.

19. The Sportsman’s Guide, Inc. (“The Guide”) is a corporation organized under the laws of Minnesota. Its principal office and place of business is in South St. Paul, Minnesota.

20. Jay Berlin is a citizen of Minnesota. He is the CEO of The Guide.

21. Fleming Outdoors, LLC (“Fleming Outdoors”) is a Limited Liability Company organized under the laws of Alabama. Its principal office and place of business is in Ramer, Alabama.

22. Eric Fleming is a citizen of Alabama, residing in Ramer, Alabama. He is the owner of Fleming Outdoors.

JURISDICTION AND VENUE

23. Carlis is the inventor U.S. Patent No. 8,881,447B2 (“the ‘447 Patent”), which provides for a shaped trigger that encompasses a substantial

cross-section portion of the hollow body permitting capture of the animals while also preventing theft of bait.

24. Defendants are infringing Carlis' '447 Patent by importing and selling modified Z-Traps with CrossFire triggers, by importing and selling E-Z Traps which have been modified to accept the CrossFire trigger, and by selling CrossFire trigger components for use in modifying the E-Z Traps. Ziegmann and NPZ also violated the Lanham Act, 15 U.S.C. § 1051, et seq., and the Patent Act, 35 U.S.C. § 1, et seq., by false advertising and false marking.

25. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because it arises under the Patent Act and the Lanham Act of the United States Code.

26. Personal jurisdiction exists over the Defendants, and each of them, because they have engaged in systematic business contacts with the State of Missouri in connection with the sale and promotion of animal traps which infringe the '447 Patent by selling, advertising and offering to sell modified Z-Traps with CrossFire triggers, E-Z Traps modified to accept CrossFire triggers and CrossFire triggers within the State of Missouri, by attending Trade Conventions in Missouri; and by advertisements published to, and directed to, the citizens of the State of Missouri.

27. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to these claims occurred in this District in the State of Missouri, and the Defendants

are otherwise subject to this Court's personal jurisdiction with respect to this action.

GENERAL ALLEGATIONS

28. On or about 2006, Carlis began work on improving existing "dog-proof" animal traps having a single-action trigger. Such traps generally used an elongated housing with a diameter large enough for an animal, such as a raccoon, to reach into an open end of the housing and grab bait positioned below a trigger near the bottom and closed end of the housing. When the bait is pulled upwards toward the housing's opening, it pulls the trigger and releases a spring and associated restraint that restrains the animal's arm in the housing. Such traps thus had a "pull-only trigger" because pushing down on the trigger did not release the spring and associated restraint.

29. In or about late 2006 and early 2007, Carlis began modifying dog-proof traps having pull-only triggers in order to increase the effectiveness of the traps and prevent "bait theft" by animals. These modifications included creating an extended latch having a notch on the outside of the housing and a "hook" on a portion of the trigger to engage the latch in order to create a "push-pull" trigger. Specifically, through this improvement, the spring and associated restraint were activated when an animal pulled or pushed on the trigger.

30. Carlis subsequently developed an animal trap that provides for a push-pull, shaped, trigger that encompasses a substantial cross-section portion of the hollow body permitting capture of the animals while also preventing theft of the bait.

31. On November 11, 2014 the United States Patent and Trademark Office duly and lawfully issued the '447 Patent entitled "Animal Trap", claiming the Animal Trap disclosed therein. The '447 Patent is based on an application filed on September 14, 2010 and subsequently continued. A copy of the '447 Patent is attached hereto as Exhibit B, in nineteen pages, and incorporated herein by reference.

32. The '447 Patent claims a push-pull, shaped, trigger that encompasses a substantial cross-section portion of the hollow body, including trigger members having a circular shape, a cross shape or a square shape. See claims 9, 12, 13, 14 and 15 on p. 19 of Exhibit B.

33. Defendants Ziegmann and NPZ modified their Z Traps to include a push-pull, cross-shaped trigger, Described as a CrossFire trigger, which encompasses a substantial cross-sectional portion of the hollow body, in violation of the '447 Patent. A copy of Ziegmann and NPZ's advertisement of their modified Z trap is attached as Exhibit C, in two pages, and incorporated herein by reference.

34. On February 1, 2013, Ziegmann and NPZ announced that they would begin using CrossFire triggers in all their traps in March 2013. See Exhibit D attached.

35. Carlis submitted the advertisement of Ziegmann and NPZ (Exhibit C) to the Patent Office as evidence that others were infringing his invention. The Patent Office agreed and issued the '447 Patent.

36. Carlis is the sole inventor and owner of all rights, title and interest in the '447 Patent.

37. The '447 Patent permits the humane capture of raccoons and other animals while preventing the animals from stealing the bait by using a shaped, push-pull, trigger which encompasses a substantial cross-section portion of the hollow body permitting capture of the animal while also preventing theft of the bait.

38. During November and December 2014 and January 2015 Carlis notified the Defendants orally and by email to cease and desist infringing the '447 Patent.

39. Plaintiff, Carlis, demands trial by a jury on all claims and all Counts.

COUNT I

(CLAIM FOR INFRINGEMENT OF THE '447 PATENT AGAINST ZIEGMANN AND NPZ)

40. Plaintiff realleges and incorporates herein by reference ¶¶ 1-39, as fully set forth above.

41. Ziegmann and NPZ, directly and through their agents, employees and servants, have, and continue to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement, and/or induce the infringement of the '447 Patent by directly and/or indirectly making, using, selling, offering for sell and/or importing products and selling products under the name Z Traps with CrossFire triggers that fall within the scope of one or more of the claims contained in the '447 Patent.

42. Ziegmann and NPZ, directly and through their agents, employees and servants, have, and continue to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement, and/or induce the infringement of the '447 Patent by importing and selling E-Z Traps modified to receive CrossFire triggers, and CrossFire trigger packages, thereby inducing their customers, and the ultimate purchasers of their animal traps to infringe the '447 Patent by adding the CrossFire triggers to the previously modified E-Z Traps. The CrossFire triggers employ a cross shape, push-pull, trigger to encompass a substantial cross-section portion of the hollow body of the Z Traps and E-Z Traps.

43. The acts of infringement of Defendants, Ziegmann and NPZ, were taken without permission or license from Carlis. Ziegmann and NPZ had actual knowledge of the '447 Patent after receiving oral and email communications from Carlis during December 2014 and January 2015. Ziegmann and NPZ have defiantly refused to cease selling, manufacturing and marketing the Z Trap with CrossFire trigger as set forth in Exhibit D. Ziegmann and NPZ have continued to manufacture, use, market and sell their infringing products, including the Z Trap with CrossFire trigger, and including the E-Z Trap modified to receive CrossFire triggers and by selling and marketing CrossFire triggers for use in the modified E-Z Traps, thereby willfully and intentionally infringing the '447 Patent.

44. Ziegmann and NPZ continue to advertise Z Traps with CrossFire triggers. One such advertisement is attached hereto as Exhibit E.

45. Ziegmann and NPZ have derived and received, and will continue to derive and receive, gains, profits, and advantages from the above-described acts of infringement in an amount that is not presently known to Carlis. By reason of the above-described infringing acts, Carlis has been damaged and will continue to be damaged in the future unless Ziegmann and NPZ are permanently enjoined from infringing, either directly or indirectly, the '447 Patent. Carlis is entitled to monetary relief, in excess of \$10,000,000.00, in an amount to be determined at trial.

46. As a result of the infringing acts of Ziegmann and NPZ, described above, Carlis has suffered and will continue to suffer great and irreparable injury, for which Carlis has no adequate remedy at law.

COUNT II

(CLAIM FOR INFRINGEMENT AGAINST JAMES THIELEN a/k/a JIM THIELEN AND THIELEN MARKETING, INC.)

47. Plaintiff realleges and incorporates herein by reference ¶¶ 1-39 and 41-46, as fully set forth above.

48. Defendants, Thielen and Thielen Marketing, directly and through their agents, employees and servants, have, and continue to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement, and/or induce the infringement of the '447 Patent by directly and/or indirectly making, using, selling, offering for sell and/or importing products and selling products under the name Z Traps with CrossFire triggers that fall within the scope of one or more of the claims contained in the '447 Patent. Thielen and Thielen Marketing import the Z Traps with CrossFire

triggers and the E-Z Traps modified to receive CrossFire triggers from China and sells some to members of the public and through distributors and sells the remainder to Ziegmann and NPZ.

49. Thielen and Thielen Marketing, directly and through their agents, employees and servants, have, and continue to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement, and/or induce the infringement of the '447 Patent by importing and selling E-Z Traps modified to receive CrossFire triggers and CrossFire trigger packages, thereby inducing their customers, and the ultimate purchasers of their animal traps to infringe the '447 Patent by adding the CrossFire triggers to the previously modified E-Z Traps. The CrossFire triggers employ a cross shape, push-pull, trigger to encompass a substantial cross-section portion of the hollow body of the Z Traps and E-Z Traps.

50. The acts of infringement of Defendants, Thielen and Thielen Marketing, were taken without permission or license from Carlis. Thielen and Thielen Marketing had actual knowledge of the '447 Patent. Defendants, Thielen and Thielen Marketing, have continued to manufacture, use, market and sell their infringing products, including the Z Trap with CrossFire trigger, and including the E-Z Trap modified to receive CrossFire triggers and by selling and marketing CrossFire triggers for use in the modified E-Z Traps, thereby willfully and intentionally infringing the '447 Patent.

51. Defendants, Thielen and Thielen Marketing, have derived and received, and will continue to derive and receive, gains, profits, and advantages

from the above-described acts of infringement in an amount that is not presently known to Carlis. By reason of the above-described infringing acts, Carlis has been damaged and will continue to be damaged in the future unless Schultz is permanently enjoined from infringing, either directly or indirectly, the '447 Patent. Carlis is entitled to monetary relief, in excess of \$10,000,000.00, in an amount to be determined at Trial.

52. As a result of the infringing acts of Defendants, Thielen and Thielen Marketing, described above, Carlis has suffered and will continue to suffer great and irreparable injury, for which Carlis has no adequate remedy at law.

COUNT III

(CLAIM FOR INFRINGEMENT OF THE '447 PATENT AGAINST SCHULTZ)

53. Plaintiff realleges and incorporates herein by reference ¶¶ 1-39, 41-46 and 48-52, as fully set forth above.

54. Defendant, Schultz, directly and through her agents, employees and servants, has, and continues to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement and/or induce the infringement of the '447 Patent by directly and/or indirectly purchasing E-Z Traps modified to receive CrossFire triggers and CrossFire triggers from Ziegmann and NPZ and reselling the E-Z Traps modified to receive CrossFire triggers and CrossFire triggers to members of the public and to the distributors described in Count IV for resale to members of the public. The E-Z Traps

modified to receive the CrossFire triggers and the CrossFire triggers fall within the scope of one or more of the claims contained in the '447 Patent.

55. Defendant, Schultz, directly and through her agents, employees and servants, have, has continued to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement, and/or induce the infringement of the '447 Patent by importing and selling E-Z Traps modified to receive CrossFire triggers, and CrossFire trigger packages, thereby inducing her customers, and the ultimate purchasers of her animal traps to infringe the '447 Patent by adding the CrossFire triggers to the previously modified E-Z Traps. The CrossFire triggers employ a cross shape, push-pull, trigger to encompass a substantial cross-section portion of the hollow body of the Z Traps and E-Z Traps.

56. The acts of infringement by Defendant, Schultz, were taken without permission or license from Carlis. Schultz had actual knowledge of the '447 Patent. Schultz has refused to cease selling and marketing the E-Z Traps modified to receive CrossFire triggers and CrossFire triggers. Schultz has continued to purchase, resale and market her infringing products, including the E-Z Traps modified to receive CrossFire triggers, and CrossFire triggers, thereby willfully and intentionally infringing the '447 Patent.

57. Defendant, Schultz, has derived and received, and will continue to derive and receive, gains, profits, and advantages from the above-described acts of infringement in an amount that is not presently known to Carlis. By reason of the above-described infringing acts, Carlis has been damaged and

will continue to be damaged in the future unless Schultz is permanently enjoined from infringing, either directly or indirectly, the '447 Patent. Carlis is entitled to monetary relief, in excess of \$10,000,000.00, in an amount to be determined at Trial.

58. As a result of the infringing acts of Defendant, Schultz, described above, Carlis has suffered and will continue to suffer great and irreparable injury, for which Carlis has no adequate remedy at law.

COUNT IV

(CLAIM FOR INFRINGEMENT OF THE '447 PATENT AGAINST DEFENDANTS MINNESOTA TRAPLINE, TIMOTHY CAVEN, ROBERT CAVEN, F & T FUR, SHAWN INGLIS, HARRY NESTELL, PCS OUTDOORS, JOHN CHAGNON, CUMBERLAND'S SUPPLY, RURAL KING DISTRIBUTION & MANAGEMENT, INC., ORSCHELN FARM, STEPHEN CHICK, JUSTIN CHICK, JEB HOLLINGSHEAD, OKIE SUPPLY, JAY BERLIN, GUIDE, FLEMING OUTDOORS AND ERIC FLEMING)

59. Plaintiff realleges and incorporates herein by reference ¶¶ 1-39, 41-46, 48-52 and 54-58, as fully set forth above.

60. Defendants, Minnesota Trapline, Timothy Caven, Robert Caven, F & T Fur, Shawn Inglis, Harry Nestell, PCS Outdoors, John Chagnon, Cumberland's Supply, Rural King, Orscheln Farm, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Supply, Jay Berlin, Guide, Fleming Outdoors and Eric Fleming, directly and through their agents, employees and servants, have, and continue to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement, and/or induce the infringement of the '447 Patent by directly and/or indirectly making, using, selling, offering for sell and/or importing products and selling products under the name Z

Traps with CrossFire triggers that fall within the scope of one or more of the claims contained in the '447 Patent.

61. Defendants, Minnesota Trapline, Timothy Caven, Robert Caven, F & T Fur, Shawn Inglis, Harry Nestell, PCS Outdoors, John Chagnon, Cumberland's Supply, Rural King, Orscheln Farm, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Supply, Jay Berlin, Guide, Fleming Outdoors and Eric Fleming, directly and through their agents, employees and servants, have, and continue to, knowingly, intentionally and willfully directly infringe, engage in acts of discriminatory infringement, and/or induce the infringement of the '447 Patent by importing and selling E-Z Traps modified to receive CrossFire triggers and CrossFire trigger packages, thereby inducing their customers, and the ultimate purchasers of their animal traps to infringe the '447 Patent by adding the CrossFire triggers to the previously modified E-Z Traps. The CrossFire triggers employ a cross shape, push-pull, trigger to encompass a substantial cross-section portion of the hollow body of the Z Traps and E-Z Traps.

62. The acts of infringement by Defendants, Minnesota Trapline, Timothy Caven, Robert Caven, F & T Fur, Shawn Inglis, Harry Nestell, PCS Outdoors, John Chagnon, Cumberland's Supply, Rural King, Orscheln Farm, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Supply, Jay Berlin, Guide, Fleming Outdoors and Eric Fleming, were taken without permission or license from Carlis. These Defendants had actual knowledge of the '447 Patent and have refused to cease selling and marketing the E-Z Traps modified to

receive CrossFire triggers and CrossFire triggers. These Defendants have continued to purchase, resale and market their infringing products, including the E-Z Traps modified to receive CrossFire triggers, and CrossFire triggers, thereby willfully and intentionally infringing the '447 Patent.

63. Defendants, Minnesota Trapline, Timothy Caven, Robert Caven, F & T Fur, Shawn Inglis, Harry Nestell, PCS Outdoors, John Chagnon, Cumberland's Supply, Rural King, Orscheln Farm, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Supply, Jay Berlin, Guide, Fleming Outdoors and Eric Fleming, have derived and received, and will continue to derive and receive, gains, profits, and advantages from the above-described acts of infringement in an amount that is not presently known to Carlis. By reason of the above-described infringing acts, Carlis has been damaged and will continue to be damaged in the future unless Defendants, Minnesota Trapline, Timothy Caven, Robert Caven, F & T Fur, Shawn Inglis, Harry Nestell, PCS Outdoors, John Chagnon, Cumberland's Supply, Rural King, Orscheln Farm, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Supply, Jay Berlin, Guide, Fleming Outdoors and Eric Fleming, are permanently enjoined from infringing, either directly or indirectly, the '447 Patent. Carlis is entitled to monetary relief, in excess of \$10,000,000.00, in an amount to be determined at Trial.

64. As a result of the infringing acts of Defendants, Minnesota Trapline, Timothy Caven, Robert Caven, F & T Fur, Shawn Inglis, Harry Nestell, PCS Outdoors, John Chagnon, Cumberland's Supply, Rural King, Orscheln Farm, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Supply, Jay Berlin,

Guide, Fleming Outdoors and Eric Fleming, described above, Carlis has suffered and will continue to suffer great and irreparable injury, for which Carlis has no adequate remedy at law.

COUNT V

(CLAIM FOR UNFAIR COMPETITION AGAINST ZIEGMANN AND NPZ)

65. Plaintiff realleges and incorporates herein by reference ¶¶ 1-39, 41-46, 48-52, 54-58 and 60-64, as fully set forth above.

66. Count V is for unfair competition against Ziegmann and NPZ under 15 U.S.C. § 1125(a)(1)(B).

67. Ziegmann is the inventor on the ‘642 Patent issued to Ziegmann on July 31, 2012. The ‘642 Patent is based on a provisional application filed on or about May 4, 2009. On information and belief, Ziegmann has issued a license to NPZ for the ‘642 Patent. The ‘642 Patent is titled “Raccoon Trap”.

68. The claimed subject matter of the ‘642 Patent pertains to a push-pull trigger mechanism for a raccoon trap featuring a notch on an extended latch and a “hook” on the portion of the trigger that engages the latch.

69. The ‘642 Patent does not include a CrossFire trigger or a shaped trigger, push-pull, that encompasses a substantial cross-section portion of the hollow body, including trigger members that have a circular shape, a cross shape or a square shape, as claimed by the ‘447 Patent.

70. The validity of the ‘642 Patent is at issue in Sudden Valley Supply, LLC vs. Neil Ziegmann and N.P.Z., Inc., Case No. 2013-CV-00053, United States District Court for the Eastern District of Missouri.

71. Irrespective of the validity of the '642 Patent, it does not apply to the CrossFire trigger.

72. Ziegmann and NPZ also claim ownership of Patent #8,371,062 ("the '062 Patent"). The '062 Patent covers staking of traps. It does not apply to the CrossFire trigger.

73. Ziegmann and NPZ have falsely advertised, and continue to falsely advertise, that Patents '642 and '062 protect and apply to the CrossFire trigger. Those advertisements are intentionally false. See Exhibit A attached, which includes the statement: "Ztraps Protected by Two (2) U.S. Patents #8,230,642 & #8,371,062". The advertisement states that the Ztraps include the new CrossFire triggers.

74. NPZ and Ziegmann stamp the '642 Patent number on their modified Ztraps with CrossFire triggers, falsely representing that the CrossFire triggers are protected by the '642 Patent. The '642 Patent does not specify, or claim, a shaped trigger with either a round, square or cross-shape that occupies a substantial cross-section of the hollow body. Instead the '642 Patent claims and specifies only a push-pull trigger. The trigger used in Ziegmann's application for the '642 Patent was a straight line trigger, not a shaped trigger, and did not occupy a substantial cross-section of the hollow body. Ziegmann and NPZ manufactured and/or imported and sold Ztraps with straight push-pull triggers while the application for the '642 Patent was pending, and thereafter. During 2013 Ziegmann and NPZ modified their Ztraps to include cross-shaped, push-pull, triggers which occupy a substantial cross-

section of the hollow body. Ziegmann and NPZ then stamped the '642 Patent number on the modified Ztraps with CrossFire triggers, falsely representing that the CrossFire triggers were protected by the '642 Patent. See Exhibit F attached, in five pages, which was printed from Ziegmann's website on June 17, 2015.

75. The false advertisement that the CrossFire trigger is protected by the '642 and '062 Patents and the false marking of the modified Ztraps with CrossFire triggers by stamping the '642 Patent number thereon, creates confusion among consumers, including the customers of Carlis and Ziegmann and NPZ, causing consumers and customers to believe that the CrossFire trigger is protected by the '642 and '062 Patents, which were issued to Ziegmann and licensed to NPZ when, instead, the CrossFire trigger infringes the '447 Patent issued to Carlis.

76. Plaintiff and Ziegmann and NPZ are competitors in the fields of manufacturing, marketing and selling of animal traps, including raccoon traps.

77. Plaintiff has been damaged by the acts of unfair competition committed by Defendants Ziegmann and NPZ, in a substantial amount, in excess of \$10,000,000.00.

COUNT VI

(CLAIM FOR FALSE ADVERTISING AGAINST ZIEGMANN AND NPZ)

78. Plaintiff realleges and incorporates herein by reference ¶¶ 1-39, 41-46, 48-52, 54-58, 60-64 and 67-77, as fully set forth above.

79. Count V is based upon the conduct of Ziegmann and NPZ which constitutes false advertising under 15 U.S.C. § 1125(a)(1)(B).

80. As a result of the false advertising by Defendants, Ziegmann and NPZ, Plaintiff has sustained substantial damages, in excess of \$10,000,000.00.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Carlis G. Stephens, respectfully prays that the Court enter Judgment in his favor and against Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming, jointly and severally, as follows:

1. For an Order adjudging that Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin

Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming, have willfully infringed the '447 Patent, under 35 U.S.C. § 271;

2. For a preliminary and permanent injunction enjoining Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming, and their respective officers, directors, agents, servants, employees and attorneys, and those persons in active concert or participation with Defendants from directly or indirectly infringing the "447 Patent, in violation of 35 U.S.C. § 271;

3. For an Order that Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb

Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming, be directed to account for all gains, profits, and advantages derived by their infringement, in violation of 35 U.S.C. § 271, and that all Defendants be directed to pay Carlis G. Stephens all damages suffered by Carlis G. Stephens, pursuant to 35 U.S.C. § 284;

4. For an Order trebling the damages and/or for exemplary damages in favor of Carlis G. Stephens because of Defendants', Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Flemin, willful conduct, pursuant to 35 U.S.C. § 284;

5. For an Order adjudging that this is an exceptional case;

6. For an award in favor of Carlis G. Stephens and against Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc.,

d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming, for attorney's fees and costs incurred in connection with this action, pursuant to 35 U.S.C. § 285, et seq. and, with respect to Ziegmann and NPZ, pursuant to 15 U.S.C. § 1117;

7. For an Order that Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming, be directed to file with this Court and serve on Carlis G. Stephens, within thirty (30) days after the service of the injunction, a report in writing, under oath, setting forth in detail the manner and form in which said Defendants have complied with the injunction;

8. For an Order that Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a

F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming, be ordered to account for and pay over to Carlis G. Stephens all earnings, profits, receipts, and advantages derived by them, or any of them, through the marketing and sale of the Z Trap with CrossFire trigger, and/or the E-Z Trap modified for acceptance of the CrossFire trigger, and the CrossFire triggers, and any other animal traps in violation of the '447 Patent, and to account for all damages sustained by Carlis G. Stephens as a result of those infringing activities;

9. For an award of Pre-Judgment and Post-Judgment interest and costs in favor of Plaintiff, Carlis G. Stephens, and against Defendants, Neil P. Ziegmann, N.P. Z., Inc., Tina Schultz, Thielen Marketing, Inc., James Thielen a/k/a Jim Thielen, Minnesota Trapline Products, Inc., Timothy Caven, Robert Caven, Inglis Farms, Inc. d/b/a F & T Fur Harvesters Trading Post, Shawn Inglis, Harry Nestell, Phoenix Composite Solutions, Inc., d/b/a PCS Outdoors, John Chagnon, Cumberland's Northwest Trappers Supply, Inc., Rural King Distribution & Management, Inc., Orscheln Farm and Home, LLC, Stephen Chick, Justin Chick, Jeb Hollingshead, Okie Cable & Trap Supply, LLC, Jay Berlin, The Sportsman's Guide, Inc., Fleming Outdoors, LLC and Eric Fleming.

10. For such other and further relief as this Court may deem just and proper.

/s/ David M. Duree

David M. Duree, MBE 21003

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