2. This Court has personal jurisdiction over Defendants because Defendants
 are incorporated, domiciled, and/or do business within this judicial district.

3. This action arises out of wrongful acts by Defendants within this judicial district and Plaintiff is located and has been injured in this judicial district by Defendants' alleged wrongful acts. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the claims asserted arise in this district.

#### THE PARTIES

- 4. Plaintiff Deckers Outdoor Corporation ("Deckers") is a corporation organized and existing under the laws of the state of Delaware with an office and principal place of business in Goleta, California. Deckers designs and markets footwear identified by its many famous trademarks including its UGG® trademark.
- 5. Upon information and belief, Defendant Target Corporation ("Target") is a corporation organized and existing under the laws of the state of Minnesota with an office and principal place of business located at 1000 Nicollet Mall, Minneapolis, Minnesota 55403.
- 6. Upon information and belief, Defendant Nina Footwear Corp. dba Nina Shoes ("Nina Shoes") is a corporation organized and existing under the laws of the state of Delaware with an office and principal place of business located at 200 Park Avenue South, 3<sup>rd</sup> Floor, New York, New York 10003.
- 7. Deckers is unaware of the names and true capacities of Defendants, whether individual, corporate and/or partnership entities named herein as DOES 1 through 10, inclusive, and therefore sues them by their fictitious names. Deckers will seek leave to amend this complaint when their true names and capacities are ascertained. Deckers is informed and believes and based thereon alleges that said Defendants and DOES 1 through 10, inclusive, are in some manner responsible for the wrongs alleged herein, and that at all times referenced each was the agent and servant of the other Defendants and was acting within the course and scope of said agency and employment.

8. Deckers is informed and believes, and based thereon alleges, that at all relevant times herein, Defendants and DOES 1 through 10, inclusive, knew or reasonably should have known of the acts and behavior alleged herein and the damages caused thereby, and by their inaction ratified and encouraged such acts and behavior. Deckers further alleges that Defendants and DOES 1 through 10, inclusive, have a non-delegable duty to prevent or not further such acts and the behavior described herein, which duty Defendants and DOES 1 through 10, inclusive, failed and/or refused to perform.

### **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

#### A. Deckers' UGG® Brand

- 9. Deckers has been engaged in the design, distribution, marketing, offering for sale, and sale of footwear since 1975. Deckers owns several brands of footwear including UGG®, Koolaburra®, Teva®, Sanuk® and Hoka One One®.
- 10. Deckers' UGG® brand remains one of the most recognized and relevant comfort shoe brands in the industry. Since 1978, when the UGG® brand was founded, the popularity of UGG® boots has steadily grown across the nation and even the globe. The UGG® brand has always been and remains highly coveted by consumers. This commitment to quality has helped to propel the UGG® brand to its current, overwhelming level of popularity and cemented its status as a luxury brand.
- 11. It has now been sixteen years since UGG® boots were first featured on Oprah's Favorite Things® in the year 2000, and Oprah emphatically declared on national television how much she "LOOOOOVES her UGG boots." The popularity of UGG® brand footwear has grown exponentially since then with celebrities including Kate Hudson and Sarah Jessica Parker among a myriad of others regularly donning them. UGG® sheepskin boots have become a high fashion luxury item and can be found on fashion runways around the world.
- 12. Deckers' UGG® products are distributed and sold to consumers through authorized retailers throughout the United States at point-of-sale and on the Internet,

including through its UGG® Concept Stores and its website <a href="www.ugg.com">www.ugg.com</a>.

## B. Defendants' Infringing Activities

- 13. Upon information and belief, Target is engaged in the retail sale of a wide range of apparel and footwear. Target's retail stores are located nationwide, including within this judicial district. Target's products can also be purchased online at <a href="https://www.target.com">www.target.com</a> (the "Target Website"), which is also available to consumers nationwide.
- 14. Upon information and belief, Nina Shoes manufactures, designs, advertises, markets, distributes, offers for sale and/or sells footwear for women. Nina Shoes sells its products to various retail customers as well as through its own online retail store, <a href="www.ninashoes.com">www.ninashoes.com</a>, which is available to consumers nationwide.
- 15. The present lawsuit arises from Defendants' willful infringement of Deckers' UGG® "Bailey Button" boot design, to which Deckers owns design patent rights, by certain of Defendants' footwear products ("Accused Products"), an example of which is shown below.



Defendants' Accused Product

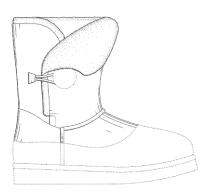
- 16. Upon information and belief, Deckers hereon avers that Nina Shoes sold the Accused Products to Target.
- 17. Deckers is informed and believes and herein alleges that Defendants are competitors and have copied Deckers' boot design in an effort to exploit Deckers' reputation in the market.

- 18. Upon information and belief, Defendants may have sold additional products that infringe upon design patents owned by Deckers. Deckers may seek leave to amend as additional information becomes available through discovery.
- 19. Deckers has not granted a license or any other form of permission to Defendants with respect to its trademarks, design patents, trade dresses, or other intellectual property.
- 20. Deckers is informed and believes and herein alleges that Defendants have acted in bad faith and that Defendants' acts have misled and confused and were intended to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendants' Accused Products with Deckers, or as to the origin, sponsorship, or approval of Defendants' Accused Products by Deckers.

# FIRST CLAIM FOR RELIEF

# (Patent Infringement - U.S. Patent No. D599,999)

- 21. Deckers incorporates herein by reference the averments of the preceding paragraphs as though fully set forth herein.
- 22. Deckers is the owner of numerous design patents to the various styles of footwear it offers under its UGG® brand. These design patents include but are not limited to the "Bailey Button" boot (U.S. Patent No. D599,999 issued on September 15, 2009), a true and correct copy of which is attached hereto and incorporated herein as Exhibit A (" '999 Patent").
- 23. Deckers is the owner by assignment of all right, title and interest in and to the '999 Patent.
- 24. Defendants have used, caused to be produced, distributed, advertised, marketed, offered for sale, sold within the United States, and/or have imported into the United States footwear that is substantially similar to the '999 Patent in direct violation of 35 U.S.C. § 271. An example of the Accused Products is shown at the far right of the '999 Patent drawing and genuine UGG® Bailey Button boot below:







**Design Patent D599,999** 

**UGG® Bailey Button Boot** 

**Defendants' Accused Product** 

- 25. Defendants' aforesaid infringing acts are without Deckers' permission or authority and are in total disregard of Deckers' right to control its intellectual property.
- 26. As a direct and proximate result of Defendants' infringing conduct, Deckers has been injured and will continue to suffer injury to its business and reputation unless Defendants are restrained by this Court from infringing Deckers' '999 Patent.
- 27. Defendants' acts have damaged and will continue to damage Deckers, and Deckers has no adequate remedy at law.
- 28. Deckers marks all footwear products embodying the design of the '999 Patent with "Pat. No. 599,999" on a product label in compliance with 35 U.S.C. § 287.
- 29. Given the widespread popularity and recognition of Deckers' Bailey Button boot and the patent notice provided on the products themselves, Deckers avers and hereon alleges that Defendants had pre-suit knowledge of Deckers' rights to the '999 Patent and has intentionally copied said design on its own brand of products in an effort to pass them off as if they originated, are associated with, are affiliated with, are sponsored by, are authorized by, and/or are approved by Deckers.
- 30. In fact, Deckers has previously sued Target for infringement of the '999 Patent. Target's pattern of infringing on the '999 design patent is further evidence of willfulness and the intent to unfairly trade off of the goodwill established by Deckers in its intellectual property.

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- 31. On information and belief, Defendants' acts herein complained of constitute willful acts and intentional infringement of the '999 Patent.
- 32. In light of the foregoing, Deckers is entitled to injunctive relief prohibiting Defendants from infringing the '999 Patent and to recover damages adequate to compensate for the infringement, including Defendants' profits pursuant to 35 U.S.C. § 289. Deckers is also entitled to recover any other damages as appropriate pursuant to 35 U.S.C. § 284.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff Deckers Outdoor Corporation respectfully prays for judgment against Defendants Target Corporation and Nina Footwear Corp. dba Nina Shoes as follows:

- A judgment that Defendants have infringed Deckers' '999 Patent and that 1. said infringement was willful;
- 2. An order granting temporary, preliminary and permanent injunctive relief restraining and enjoining Defendants, their agents, servants, employees, officers, associates, attorneys, and all persons acting by, through, or in concert with any of them from using Deckers' intellectual property, including, but not limited to:
- manufacturing, importing, advertising, marketing, promoting, a. supplying, distributing, offering for sale, or selling the Accused Products or any other products which bear Deckers' '999 Patent and/or the overall appearance thereof;
- b. committing any other act which falsely represents or which has the effect of falsely representing that the goods and services of Defendants are licensed by, authorized by, offered by, produced by, sponsored by, or in any other way associated with Deckers:
- 3. Ordering Defendants to recall from any distributors and retailers and to deliver to Deckers for destruction or other disposition all remaining inventory of all Accused Products and related items, including all advertisements, promotional and marketing materials therefore, as well as means of making same;

1	4. Ordering Defendants to file with this Court and serve on Deckers within			
2	thirty (30) days after entry of the injunction a report in writing, under oath setting forth			
3	in detail the manner and form in which Defendants have complied with the injunction;			
4	5. Ordering an accounting by Defendants of all gains, profits and advantages			
5	derived from their wrongful acts pursuant to 35 U.S.C. § 289;			
6	6.	6. Awarding Deckers all of Defendants' profits and all damages sustained by		
7	Deckers as a result of Defendants' wrongful acts, and such other compensatory			
8	damages as the Court determines to be fair and appropriate;			
9	7. Awarding treble damages in the amount of Defendants' profits or			
10	Deckers' damages, whichever is greater, for willful infringement;			
11	8. Awarding applicable interest, costs, disbursements and attorneys' fees;			
12	9.	Such other relief as may	be ju	st and proper.
13	Dated:	November 23, 2016	BLAI	KELY LAW GROUP
14				
15			By:	/s/ Jessica C. Covington
16				Brent H. Blakely Cindy Chan
17				Jessica C. Covington  Attorneys for Plaintiff  Deckers Outdoor Corporation
18				
19	DEMAND FOR JURY TRIAL  Durguent to Rule 38(b) of the Federal Rules of Civil Presedure Plaintiff Dealers			
20	Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Deckers Outdoor Corporation hereby demands a trial by jury as to all claims in this litigation.			
21	Outdoor Co	orporation hereby demands	saun	ar by jury as to an claims in this intigation.
22	Dated:	November 23, 2016	RI AI	KELY LAW GROUP
23	Dateu.	November 23, 2010	DLAI	XELT LAW OROUT
24			By:	/s/ Jessica C. Covington
25			Dy.	Brent H. Blakely Cindy Chan
26				Jessica C. Covington
27				Attorneys for Plaintiff Deckers Outdoor Corporation
28				