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Attorneys For Plaintiff,
SEIRUS INNOVATIVE ACCESSORIES, INC.

FILED
ORIGINAL
10 APR 27 PM 3:42
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: MTD
DEPUTY

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2211 Michelson Drive
Suite 400
Irvine, CA 92612

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SEIRUS INNOVATIVE ACCESSORIES, INC., a Utah corporation,

Plaintiff,

v.

GORDINI U.S.A., INC., a Vermont corporation; GORDINI CANADA, INC., a Canadian corporation,

Defendants.

Case No. '10 CV 0892 W AJB

COMPLAINT FOR:

1. **PATENT INFRINGEMENT**
2. **INDUCING PATENT INFRINGEMENT**
3. **FEDERAL TRADE DRESS INFRINGEMENT [15 U.S.C. § 1125(a)]**
4. **FALSE DESIGNATION OF ORIGIN [15 U.S.C. §1125(a)]**
5. **FEDERAL UNFAIR COMPETITION [15 U.S.C. § 1125(a)]**
6. **STATE UNFAIR COMPETITION [Cal. Bus. & Prof. Code § 17200 *et seq.*]**
7. **UNJUST ENRICHMENT**

DEMAND FOR JURY TRIAL

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For its claims against defendants GORDINI U.S.A., INC. and GORDINI CANADA, INC. ("DEFENDANTS"), plaintiff SEIRUS INNOVATIVE ACCESSORIES, INC. ("SEIRUS"), hereby alleges as follows:

PARTIES

1. SEIRUS is a Utah corporation with its principal place of business at 13975 Danielson Street, Poway, California 92064. SEIRUS is engaged in the business of selling men's, women's, and children's action and outdoor apparel and accessories, including face masks.

2. Upon information and belief, GORDINI U.S.A., INC. ("GORDINI U.S.A.") is a Vermont corporation with a principal place of business at 67 Allen Martin Drive, Essex Junction, Vermont, 05452. Upon information and belief, GORDINI U.S.A. is engaged in the business of selling men's, women's, and children's outdoor apparel and accessories, including cold weather head gear and face masks.

3. Upon information and belief, GORDINI CANADA, INC. ("GORDINI CANADA") is a Canadian corporation with a principal place of business at 5711 Ferrier Street, Montreal, Quebec, Canada. Upon information and belief, GORDINI CANADA is engaged in the business of selling men's, women's, and children's outdoor apparel and accessories, including cold weather head gear and face masks.

JURISDICTION AND VENUE

4. This civil action for infringement and unfair competition arises under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, and under California state law governing unjust enrichment and unfair competition, specifically California Business and Professions Code §§ 17200 *et seq.*.

5. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a) and (b), and supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

6. Upon information and belief, DEFENDANTS have either directly or through their agents transacted business in the State of California and within this judicial district, and expected or reasonably should have expected their acts to have consequence in the State of California and

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within this judicial district, thus subjecting DEFENDANTS to the personal jurisdiction of this Court.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b) as DEFENDANTS are doing business in this judicial district and therefore may be found in this district, and/or a substantial part of the events giving rise to the claims alleged herein occurred within this district.

FACTS COMMON TO ALL CLAIMS

(A) DEFENDANTS' INFRINGEMENT OF SEIRUS' PATENTS

8. SEIRUS is the owner of United States Letters Patent No. 5,214,804 (the "'804 PATENT") which issued on June 1, 1993 and is titled "PROTECTIVE MASK WITH SCARF," and United States Letters Patent No. 6,272,690 (the "'690 PATENT") which issued on August 14, 2001 and is titled "HEAD COVERING."

9. DEFENDANTS are offering for sale and, upon information and belief, have sold in this judicial district and elsewhere throughout the United States, the following products that fall within the scope of at least one claim of the '804 PATENT: LAVAWOOL CONVERTIBLE FACE MASK, LAVAWOOL FULL FACE BALACLAVA ("'804 PATENT ACCUSED PRODUCTS").

10. DEFENDANTS are also offering for sale and, upon information belief, have sold in this judicial district and elsewhere throughout the United States, the following products that fall within the scope of at least one claim of the '690 PATENT: LAVAWOOL FULL FACE BALACLAVA ("'690 PATENT ACCUSED PRODUCTS").

(B) DEFENDANTS' INFRINGEMENT OF SEIRUS' TRADE DRESS IN PRODUCTS AND PACKAGING

(i) SEIRUS' PRODUCT TRADE DRESS

11. By virtue of the extensive use, sale and advertising by SEIRUS and others on behalf of SEIRUS, the shape, form and appearance of SEIRUS products (hereinafter the

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"SEIRUS PRODUCT TRADE DRESS"), are inherently distinctive and have acquired distinctiveness and secondary meaning to signify SEIRUS as the manufacturer and the source of these goods.

(ii) SEIRUS' PACKAGING TRADE DRESS

12. By virtue of the extensive use, sale and advertising by SEIRUS and others on behalf of SEIRUS, the shape, form and appearance in use of the packaging of SEIRUS products (hereinafter the "SEIRUS PACKAGING TRADE DRESS"), has acquired secondary meaning in the market for cold-weather headgear.

13. DEFENDANTS are offering for sale and, upon information and belief, have sold in this judicial district and elsewhere throughout the United States, the following products, that copy, imitate, palm off as, and pass off their products as members of the family of products that contain the SEIRUS PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS: LAVAWOOL CONVERTIBLE FACE MASK, LAVAWOOL FULL FACE BALACLAVA (the "ACCUSED TRADE DRESS PRODUCTS").

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
(Against all Defendants for Patent Infringement)
[35 U.S.C. § 271, et seq.]

14. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and every allegation in the foregoing paragraphs, as though fully set forth herein.

15. As alleged herein, DEFENDANTS are infringing at least one claim of the '804 and/or '690 PATENTS literally and/or under the doctrine of equivalents.

16. As a direct and proximate result of DEFENDANTS' infringement of the '804 and/or '690 PATENTS, SEIRUS has been damaged in an amount to be proved at trial, but in an amount not less than a reasonable royalty, and includes lost sales, and/or lost profits.

17. Based upon their prior knowledge of SEIRUS' patent rights, and other facts to be proved at trial, DEFENDANTS know and have known of their infringement of the '804 and/or '690 PATENTS. Based on these facts and those to be proved at trial, DEFENDANTS' infringement is willful and done with intentional disregard of SEIRUS' rights in the '804 and/or

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'690 PATENTS, so as to render this case exceptional within the purview of 35 U.S.C. §§ 284, and 285, such that SEIRUS is entitled to enhanced damages, costs, and an award of attorneys' fees.

18. SEIRUS has been and continues to be damaged by the unlawful infringing activities of DEFENDANTS and will be irreparably harmed unless the unlawful infringing activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. § 283.

SECOND CLAIM FOR RELIEF
(Against all Defendants for Inducing Patent Infringement)
[35 U.S.C. § 271, et seq.]

19. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and every allegation in the foregoing paragraphs, as though fully set forth herein.

20. Upon information and belief, DEFENDANTS have been and are now unlawfully inducing others to infringe and/or contributorily infringe, literally or under the doctrine of equivalents, the claim of the '804 and/or '690 PATENTS by using, offering to sell, advertising for sale and selling DEFENDANTS' products in this judicial district and throughout the United States as follows: LAVAWOOL CONVERTIBLE FACE MASK, LAVAWOOL FULL FACE BALACLAVA.

21. SEIRUS is marking its products that fall within the scope of the '804 and '690 PATENTS as required by 35 U.S.C. § 287; DEFENDANTS have otherwise had knowledge and notice of the '804 and/or '690 PATENTS and their activities constitute knowing and willful patent infringement. SEIRUS has been and continues to be damaged by the unlawful infringing activities of DEFENDANTS and will be irreparably harmed unless the unlawful infringing activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. § 271(b).

22. Upon information and belief, SEIRUS has suffered and continues to suffer lost sales and in turn damages as a direct result of the unlawful infringement of the '804 and/or '690 PATENTS by DEFENDANTS. Under 35 U.S.C. § 284, SEIRUS is entitled to damages to be

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established at trial or upon an accounting adequate to compensate for the infringement, including lost profits, but not less than a reasonable royalty.

23. Upon information and belief, DEFENDANTS' infringement of the '804 and '690 PATENTS is willful and done with an intent to harm SEIRUS or in reckless disregard for the rights of SEIRUS. Therefore, this is an exceptional case and SEIRUS is entitled to enhanced damages under 35 U.S.C. § 284.

24. This is an exceptional case under 35 U.S.C. § 285 entitling SEIRUS to its reasonable attorneys' fees.

25. SEIRUS has been and continues to be damaged by the unlawful infringing activities of the DEFENDANTS and will be irreparably harmed unless the unlawful infringing activities are preliminarily and permanently enjoined by this Court as provided by 35 U.S.C. § 283.

THIRD CLAIM FOR RELIEF
(Against all Defendants for Federal Trade Dress Infringement)
[15 U.S.C. § 1125(a)]

26. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and every allegation in the foregoing paragraphs, as though fully set forth herein.

27. DEFENDANTS' actions in connection with the sale, offering for sale, distribution or advertising of the ACCUSED TRADE DRESS PRODUCTS in interstate commerce, without the consent of SEIRUS, constitute willful, deliberate and intentional infringement of the SEIRUS PACKAGING TRADE DRESS and SEIRUS PRODUCT TRADE DRESS, and have caused and continue to cause a likelihood of confusion, in violation of 15 U.S.C. § 1125.

28. By reason of the foregoing, SEIRUS has been injured in an amount to be proven. In addition, as a result of DEFENDANTS' unlawful acts, SEIRUS has suffered and will continue to suffer irreparable harm, and SEIRUS has no adequate remedy at law with respect to this injury. Unless the acts of trademark infringement are enjoined by this Court, SEIRUS will continue to suffer a risk of irreparable harm. DEFENDANTS' actions have been knowing, intentional, wanton, and willful, entitling SEIRUS to damages, treble damages, profits, attorneys' fees, statutory damages, and the costs of this action.

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FOURTH CLAIM FOR RELIEF
(Against all Defendants for False Designation of Origin)
[15 U.S.C. § 1125(a)]

29. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and every allegation in the foregoing paragraphs, as though fully set forth herein.

30. DEFENDANTS' actions in connection with the sale, offering for sale, distribution or advertising of the ACCUSED TRADE DRESS PRODUCTS in interstate commerce, without SEIRUS' consent, is a false designation of origin, and have caused and continue to cause a likelihood of confusion, mistake, and deception as to source, sponsorship, affiliation, and/or connection in the minds of the public.

31. DEFENDANTS' false designation of origin is in violation of §43(a) of the Lanham Act, 15 U.S.C. §1125(a)(1).

32. By reason of the foregoing, SEIRUS has been injured in an amount not yet fully determined, but believed to be in excess of $75,000. In addition, as a result of DEFENDANTS' acts of infringement, SEIRUS has suffered and will continue to suffer irreparable harm, and SEIRUS has no adequate remedy at law with respect to this injury. Unless DEFENDANTS' acts of infringement are further enjoined by this Court, SEIRUS will continue to suffer a risk of irreparable harm.

33. DEFENDANTS' actions have been knowing, intentional, wanton, and willful, entitling SEIRUS to damages, treble damages, profits, attorney's fees, and the costs of this action pursuant to 15 U.S.C. § 1117 in this Court's discretion.

FIFTH CLAIM FOR RELIEF
(Against all Defendants for Unfair Competition)
[15 U.S.C. § 1125(a)(1)]

34. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and every allegation in the foregoing paragraphs, as though fully set forth herein.

35. SEIRUS manufactures and sells products and lines of products, and by virtue of the extensive, use, sale and advertising by SEIRUS, the associated SEIRUS PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS have become inherently distinctive and

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have acquired distinctiveness, secondary meaning, and sufficient fame to signify SEIRUS as the manufacturer and source of said products and lines of products.

36. Upon information and belief, DEFENDANTS have unlawfully and without license or right, copied, imitated, and otherwise created a collection of products and lines of products including the ACCUSED TRADE DRESS PRODUCTS, all of which emulate, imitate, palm off as, pass off as and copy the SEIRUS PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS to thereby emulate, imitate, palm off as, and pass off their products as SEIRUS products.

37. The activities of DEFENDANTS in advertising, selling and offering to sell each of the ACCUSED TRADE DRESS PRODUCTS, separately and together, is likely to cause confusion, mistake, and deception as to the source and origin thereof so that purchasers thereof and others will likely be confused and believe the ACCUSED TRADE DRESS PRODUCTS emanate from SEIRUS. In turn, DEFENDANTS are unfairly competing and misrepresenting their products to be those of SEIRUS in violation of 15 U.S.C. § 1125(a).

38. The activities of DEFENDANTS in advertising for sale, offering for sale, and selling the ACCUSED TRADE DRESS PRODUCTS constitute unlawful and tortious unfair competition, palming off and passing off, and misrepresentation as to the source of goods in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1).

39. SEIRUS believes it has suffered and continues to suffer lost sales and, in turn, damages as a direct result of the unlawful and unfair competition of DEFENDANTS. Under 15 U.S.C. § 1117, SEIRUS is entitled to damages, including lost profits and the costs of this action, to be shown at trial or upon an accounting.

40. On information and belief, DEFENDANTS' unfair competition in violation of 15 U.S.C. § 1125(a)(1) is willful and done with an intent to harm SEIRUS or in reckless disregard for the rights of SEIRUS such that SEIRUS is entitled to triple damages under 15 U.S.C. § 1117(b).

41. Under 15 U.S.C. § 1117(b), this is an exceptional case and SEIRUS is entitled to recover its attorneys' fees.

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42. SEIRUS has been and continues to be damaged by the unlawful unfair competition of DEFENDANTS and will be irreparably harmed unless the unlawful infringing activities are permanently enjoined by this Court under the provisions of 15 U.S.C. § 1116. SEIRUS is entitled to an injunction enjoining and restraining DEFENDANTS from further acts of unfair competition.

SIXTH CLAIM FOR RELIEF
(Against all Defendants for Unfair Competition)
[Cal. Bus. & Prof. Code § 17200 *et seq.*]

43. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and every allegation in the foregoing paragraphs, as though fully set forth herein.

44. California Business & Professions Code § 17200 *et seq.* provides that unfair competition means and includes "any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising."

45. By and through DEFENDANTS' conduct, including the conduct detailed above, DEFENDANTS have engaged in activities that constitute unlawful, unfair, and fraudulent business practices prohibited by Business & Professions Code § 17200 *et seq.*

46. DEFENDANTS' acts of intentional and willful trade dress infringement as alleged above constitute unfair competition actionable under the laws of the State of California as unlawful business acts or practices in that, *inter alia*, said acts violate the federal Lanham Act. Specifically, and without limitation, DEFENDANTS' actions of designing, manufacturing, packaging, selling, distributing, and/or offering for sale in interstate commerce products bearing the SEIRUS PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS, without consent of SEIRUS, have caused and continue to cause a likelihood of confusion, mistake, and deception in the minds of the public. Furthermore, said actions have a significant negative impact on the commercial value of and market for SEIRUS' products under the SEIRUS PRODUCT TRADE DRESS and SEIRUS PACKAGING TRADE DRESS, as well as the value of and market for other products bearing the SEIRUS name.

47. DEFENDANTS' acts of infringement as alleged above constitute unfair competition actionable under the laws of the State of California as fraudulent business acts or

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practices, in that, *inter alia*, said acts are likely to confuse the public as to the origin of the products.

48. DEFENDANTS' acts of infringement as alleged above constitute unfair competition actionable under the laws of the State of California as deceptive and false advertising, in that, *inter alia*, said acts are likely to cause confusion, mistake, and deception.

49. Such acts and omissions described above are unlawful, unfair, fraudulent, deceptive, misleading, and untrue and constitute a violation of Business & Professions Code §17200 *et seq*. SEIRUS reserves the right to identify additional violations by DEFENDANTS as may be established through discovery.

50. As a result of DEFENDANTS' said acts of unfair competition, SEIRUS has suffered and will continue to suffer irreparable harm, and SEIRUS has no adequate remedy at law with respect to this injury. Unless the acts of unfair competition are enjoined by this Court, SEIRUS will continue to suffer irreparable harm.

51. As a direct and legal result of DEFENDANTS' unlawful, unfair, and fraudulent conduct described above, DEFENDANTS have been and will continue to be unjustly enriched with ill-gotten gains.

SEVENTH CLAIM FOR RELIEF
(Against all Defendants for Unjust Enrichment)

52. SEIRUS refers to, re-alleges, and incorporates herein by this reference, each and every allegation in the foregoing paragraphs, as though fully set forth herein.

53. DEFENDANTS' acts of misappropriation and illegal use of SEIRUS' respective intellectual property rights and valuable goodwill associated with the rights have resulted in DEFENDANTS being unjustly enriched at SEIRUS' expense.

54. SEIRUS has invested heavily in the advertisement, promotion and building of goodwill related to the aforementioned intellectual property.

55. SEIRUS is therefore entitled to restitution of all ill-gotten profits related to the aforementioned intellectual property rights that have been retained by DEFENDANTS.

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WHEREFORE, SEIRUS requests that this Court enter judgment in its favor, and against DEFENDANTS as follows:

1. For judgment that DEFENDANTS have infringed, contributorily infringed and/or induced the infringement of, at least one claim of the '804 PATENT and/or '690 PATENT;

2. That SEIRUS recover damages against DEFENDANTS under 35 U.S.C. § 284 in an amount to be determined at trial or by accounting for the lost profits, but no less than a reasonable royalty, on all sales of each of the infringing products alleged above and any others that are subsequently discovered in the course of this proceeding, plus pre-judgment and post-judgment interest;

3. That the damages awarded pursuant to the preceding paragraph be increased to three times the amount awarded because this is an exceptional case under 35 U.S.C. § 284;

4. That the Court declare this is an exceptional case and SEIRUS be awarded all of its attorneys' fees in connection with this matter under 35 U.S.C. § 285;

5. That the Court preliminarily and/or permanently enjoin and restrain DEFENDANTS, their officers, agents, servants, employees and those persons in active concert or participation with DEFENDANTS, from further acts of infringement for the remaining life of the '804 PATENT and '690 PATENT under 35 U.S.C. § 283;

6. That the Court preliminarily and permanently enjoin DEFENDANTS and their employees, servants, agents, affiliates, distributors, dealers, attorneys, successors and/or assigns, and all persons in active concert or participation with DEFENDANTS, from manufacturing, using, selling, offering to sell, importing for sale, advertising, displaying, or using any of the ACCUSED TRADE DRESS PRODUCTS, or any products likely to cause confusion, mistake, and deception, or to misappropriate SEIRUS' intellectual property;

7. That the Court award SEIRUS damages for lost profits, loss of goodwill or other damages as appropriate;

8. For restitution of all ill-gotten profits related to the intellectual property rights at issue herein that have been retained by DEFENDANTS.

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9. For judgment that SEIRUS be awarded damages under U.S.C. § 1117 for all of its lost profits, the profits of DEFENDANTS, and the costs of this action;

10. That the damages awarded under the preceding paragraph are to be increased to three times the amount awarded under 15 U.S.C. § 1117(b);

11. That DEFENDANTS, their officers, agents, servants, employees and those persons in active concert of participation with any of them, be permanently enjoined from further acts of unfair competition in violation of 15 U.S.C. § 1125(a)(1);

12. That the Court direct the destruction of DEFENDANTS' current advertising, promotional and related materials and products, as they relate to such activity in the United States, that bear the SEIRUS PRODUCT TRADE DRESS and/or SEIRUS PACKAGING TRADE DRESS and/or any other confusingly similar trade dress, and DEFENDANTS' current inventory of products pursuant to 15 U.S.C. § 1118 and other applicable laws;

13. That the Court award punitive damages for intentional and willful acts;

14. That the Court award SEIRUS its costs, expenses, and attorneys' fees in this action pursuant to 15 U.S.C. § 1117, 35 U.S.C. § 235, and other applicable laws; and

15. For such other and further relief as the Court deems proper.

Dated: April 27, 2010

GORDON & REES LLP

By: _____

Matthew D. Murphey
Kimberly D. Howatt
Lindsay J. Hulley
Marc A. Holmquist
Attorneys for Plaintiff
SEIRUS INNOVATIVE ACCESSORIES, INC.

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DEMAND FOR JURY TRIAL

Plaintiff SEIRUS hereby demands a jury trial on all issues as to which a jury is available, as provided by Rule 38 the Federal Rules of Civil Procedure.

Dated: April 27, 2010

GORDON & REES LLP

By: _____

Matthew D. Murphey
Kimberly D. Howatt
Lindsay J. Hulley
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Attorneys for Plaintiff
SEIRUS INNOVATIVE ACCESSORIES, INC.

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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

ORIGINAL

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
SEIRUS INNOVATIVE ACCESSORIES, INC., a Utah corporation

DEFENDANTS
GORDINI U.S.A., INC., a Vermont corporation; GORDINI CANADA., a Canadian corporation

FILED
10 APR 27 PM 3:36
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant ____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
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Attorneys (If Known)

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II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury—Med. Malpractice
- ☐ 365 Personal Injury — Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus – Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☒ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding | ☐ 2 Removed from State Court | ☐ 3 Remanded from Appellate Court | ☐ 4 Reinstated or Reopened | ☐ 5 Transferred from another district (specify) | ☐ 6 Multidistrict Litigation | ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity):**
15 U.S.C. §§ 1051 *et. seq.* and 35 U.S.C. §§ 271 *et. seq.*

Brief description of cause:
Patent Infringement, Federal Trade Dress Infringement, False Designation of Origin and Unfair Competition

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 **DEMAND $**

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ____ DOCKET NUMBER See Notice of Related Cases filed herewith

DATE April 27, 2010

SIGNATURE OF ATTORNEY OF RECORD Kimberly D. Howatt

FOR OFFICE USE ONLY

RECEIPT # 12885 AMOUNT $350 APPLYING IFP ____ JUDGE ____ MAG. JUDGE ____

CR MB 04-27-10

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Court Name: USDC California Southern
Division: 3
Receipt Number: CAS012885
Cashier ID: mbain
Transaction Date: 04/27/2010
Payer Name: AMERICAN MESSENGER SERVICE

CIVIL FILING FEE
For: SEIRUS INNOVATIVE V GORDINI
Case/Party: D-CAS-3-10-CV-000892-001
Amount: $350.00

CHECK
Check/Money Order Num: 5580
Amt Tendered: $350.00

Total Due: $350.00
Total Tendered: $350.00
Change Amt: $0.00

There will be a fee of $45.00
charged for any returned check.