

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

BISON DESIGNS, LLC, a Colorado limited liability company,

Plaintiff,

vs.

ACME MERCHANDISE AND APPAREL, INC.,
a Massachusetts corporation;
ELAINE BUTTER, an individual; and
DOES 1 through 10, inclusive,

Defendants.

VERIFIED COMPLAINT AND JURY DEMAND

COMES NOW Plaintiff, Bison Designs, LLC, ("Plaintiff" or "Bison"), by its attorneys,
Kamlet, Shepherd & Reichert, LLP, and states as follows:

JURISDICTION

1. This is an action for patent infringement arising under 35 U.S.C. § 271, for copyright infringement arising under 17 U.S.C. § 501, for unfair competition arising under the Lanham Act of 1946, as amended, 15 U.S.C. § 1125(a), and for breach of related state and common law duties. The Court has subject matter jurisdiction over this case and the parties pursuant to 28 U.S.C. §§ 1331, 1338, 1367(a), and 15 U.S.C. § 1121. The Court has personal jurisdiction over the defendants pursuant to Fed. R. Civ. P. 4(k)(1) and/or the Colorado Long Arm Statute, Colo. Rev. Stat. § 13-1-124, because the defendants conduct business in and sell their infringing product in the State of Colorado. This Complaint includes common law claims

over which this Court has jurisdiction under 28 U.S.C. § 1338(b), in that said claims are joined with substantial and related claims under the Patent Laws of the United States of America.

VENUE

2. Venue is proper in the United States District Court of the District of Colorado pursuant to 28 U.S.C. §§ 1391(a) and 1400(a), on the grounds that the infringement, unfair competition and other wrongful acts that gave rise to these claims occurred in this federal district, and on the grounds that the defendants and their agents now, at all times material hereto, do business in the State of Colorado within this federal district.

THE PARTIES

3. Plaintiff Bison Designs, LLC ("Bison") is, and at all relevant times herein was, a limited liability company duly organized and existing under the laws of the State of Colorado with its principal place of business situated at 735 S. Lincoln Street, Longmont, Colorado 80501. Bison designs and sells promotional products throughout the United States of America.

4. Brian James Kelleghan ("Kelleghan") is, and at all relevant times herein was, the inventor of "Foot Shaped Bottle Opener," protected by U.S. Design Patent No. D442,448, which patent issued on May 22, 2001 (the "'448 Patent"). Kelleghan assigned the '448 Patent to Bison.

5. Kelleghan is, and at all relevant times herein was, the author of "Foot," protected by U.S. Copyright Registration No. VA 1-160-023, which patent issued on January 28, 2002. Bison is the Copyright Claimant of Registration No. VA 1-160-023.

6. Bison is informed and believes, and based thereon alleges, that defendant ACME Merchandise and Apparel, Inc. ("ACME") is, and at all relevant times herein was, a domesticated foreign corporation duly organized and existing under the laws of the State of

Massachusetts with its principal place of business located at 46-47 Blackburn Center, Gloucester, Massachusetts, 01930, and that ACME's registered agent for service of process is Michael Butter, 6 Gap Head Road, Rockport, Massachusetts, 01966.

7. Bison is informed and believes, and based thereon alleges, that defendant Elaine Butter ("Butter") is, and at all relevant times herein was, an individual residing in the State of Massachusetts and President of ACME Apparel and Merchandise, Inc.

8. Bison is informed and believes, and based thereon alleges, that defendant Butter is, and at all relevant times was, an officer, manager, and controlling member of ACME Apparel and Merchandise, Inc. who directly participated in, authorized or ratified the infringing activity alleged herein.

9. Defendants, Does 1 through 10, inclusive, are sued herein under fictitious names and capacities because their identities are unknown to Bison. When the true names and capacities are ascertained, Bison will amend this Complaint by inserting the same herein. Each and every allegation of this complaint which charges the other defendants shall also charge Does 1 through 10, inclusive, and each of them.

10. Defendants Does 1 through 10, inclusive, and each of them, at all times mentioned in this Complaint, were the agents and employees of the co-defendants and in doing the things hereinafter alleged were acting within the course and scope of such agency and with the permission and consent of their co-defendants.

FACTUAL ALLEGATIONS

11. Beginning on or about September 2000, Bison began to market and sell "Foot Shaped Bottle Opener" in the United States of America as Bison Designs' "Foot". The Foot is

made of durable, lightweight aluminum and is available in six different high quality, anodized finishes that can be customized with company names, logos, artwork and other graphic material. A true and correct depiction of Foot appears on Bison's Web page, located at http://www.bisondesigns.com/mm5/merchant.mvc?Screen=PROD&Store_Code=BD&Product_Code=131FOOT&Category_Code=Bottle_Openers, a copy of which is attached as Exhibit A.

12. On October 23, 2000, Keleghan filed a United States Patent Application in the United States Patent and Trademark Office ("USPTO") to protect the ornamental design of "Foot Shaped Bottle Opener" and assigned said patent application to Bison.

13. ACME purchased three separate orders of the "Foot Shaped Bottle Opener" in 2000. Upon information and belief, the openers were all marked "patent pending" per Bison's standard business practice.

14. On May 22, 2001, the USPTO duly and legally issued to Kelleghan U.S. Design Patent No. D442,448 (the "'448 Patent") for "Foot Shaped Bottle Opener" which has been assigned to Bison. True copies of the '448 Patent and the Notice of Recordation and Assignment are attached hereto as Exhibits B and B1, respectively.

15. ACME purchased at least one order of the "Foot Shaped Bottle Opener" in 2001. Upon information and belief, the openers were marked with the patent number per Bison's standard business practice. True and correct copies of an ACME purchase order dated June 21, 2001, and a Bison invoice dated July 13, 2001, are attached hereto as Exhibit F.

16. Bison was and continues to be the first and original inventor of "Foot Shaped Bottle Opener," now sold as Bison Designs' Foot.

17. Bison is, and at all relevant times mentioned herein was, the lawful assignee of the '448 Patent.

18. Bison has not licensed nor assigned any rights under the '448 Patent to the defendants, nor to any agent of the defendants.

19. Beginning on or about July 2001, Bison has placed the required statutory patent notice on Bison Designs' Foot.

20. On January 28, 2002, the United States Copyright Office duly and legally issued to Bison Registration No. VA 1-160-023 for "Foot". A true copy of Certificate of Registration No. VA 1-160-023 is attached hereto as Exhibit G.

21. Kelleghan was and continues to be the first and original author of "Foot", now sold as Bison Designs' Foot.

22. Beginning before January 22, 2007 and continuing through the present, defendants ACME and Butter designed, manufactured, and sold their own version of Bison's Foot Shaped Bottle Opener marked with the Corona trademark.

23. The defendants' version is substantially similar in design and shape to Bison's Foot Shaped Bottle Opener. Moreover, the defendants' version is available in at least two of the same colors in anodized aluminum texture having a smooth and bright finish as those used by Bison. A true and correct copy of the defendants' version of Bison's Foot Shaped Bottle Opener is attached and incorporated herein as Exhibit C.

24. Bison is informed and believes, and based thereon alleges, that the defendants' version of Bison's Foot Shaped Bottle Opener was, and is, marketed, sold, and offered for sale throughout the United States, including but not limited to, the State of Colorado.

25. Bison is, and at all relevant times mentioned herein, was, the lawful owner of the unregistered yet valid and protected trade dress, or overall impression created upon the consumer, which includes features in the size, colors, texture, finish, and choice of material, associated with Bison's Foot. Specifically, the Foot trade dress is defined as the composite image created by the Foot shape, and the anodized aluminum texture having a smooth and bright finish.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

26. On or about April 10, 2007, by and through counsel, Bison notified Butter and ACME by certified mail letter transmission of their infringement of Bison's U.S. intellectual property rights. The letter was received by ACME on April 13, 2007 as shown by the return receipt. In the letter, Bison directed Butter and ACME to discontinue selling and offering for sale Bison's product designs, specifically the Foot Shaped Bottle Opener, and provided a list of Plaintiff's protected products so that Butter and ACME could avoid infringement of the same. A copy of the notice letter dated April 10, 2007, is attached as Exhibit D. A copy of the return receipt is attached as Exhibit D1.

27. ACME did not respond to Bison's letter.

28. On or about July 17, 2007, by and through counsel, Bison again notified Butter and ACME by FedEx letter transmission of their infringement of Bison's U.S. intellectual property rights. The letter was received by ACME on July 18, 2007 as shown by the delivery confirmation. In the letter, Bison again directed Butter and ACME to discontinue selling and offering for sale Bison's product designs, specifically the Foot Shaped Bottle Opener, and again provided a list of Bison's protected products so that Butter and ACME could avoid infringement

of same. Bison further directed that ACME cancel all pending orders for the Foot Shaped Bottle Opener, turn over remaining inventory to Bison, and provide a complete accounting of sales. A copy of the notice letter dated July 12, 2007, is attached as Exhibit E. A copy of the delivery confirmation is attached as Exhibit E1.

29. As of the present date, the defendants have not yet contacted Bison or Bison's counsel. As a result, Bison has instigated the instant lawsuit.

30. Bison is informed and believes, and based thereon alleges, that thereafter and since April 13, 2007, the defendants did not and have not discontinued the sale and offer for sale of products, namely the defendants' versions of "Foot Shaped Bottle Opener," which infringes Bison's intellectual property rights.

31. Bison is informed and believes, and based thereon alleges, that the defendants, after receiving Bison's written notices dated April 10, 2007 and July 12, 2007, in which the defendants were notified of Bison's intellectual property rights, continue to manufacture, import, sell, display and/or distribute infringing and/or potentially infringing products within this judicial district, and elsewhere.

32. Bison is informed and believes, and based thereon, alleges that the defendants are willfully manufacturing, importing, selling, displaying and/or distributing the infringing products in derogation of Bison's intellectual property rights.

33. Bison is informed and believes, and based thereon, alleges that by manufacturing, importing, selling, and/or distributing the defendants' infringing products, or the defendant's version of Bison's Foot, the defendants are also infringing the trade dress associated with Bison's Foot, which is protected under Section 1125(a) of the Lanham Act.

34. Bison is informed and believes, and based thereon alleges, that in comparing the general impression made by the defendants' articles upon the eye of the ordinary purchaser or user, the defendants' trade dress is likely to cause confusion with Bison's trade dress associated with Bison's Foot.

35. Bison is informed and believes, and based thereon alleges, that the trade dress associated with Bison's Foot has acquired secondary meaning.

36. Bison is informed and believes, and based thereon alleges, that the trade dress associated with Bison's Foot is non-functional and purely ornamental.

37. Bison is informed and believes, and based thereon alleges, that the defendants' close similarity of the trade dress associated with Bison's Foot, in a plethora of detail, raises a serious question of copying and intent to confuse consumers, which further constitutes unfair competition.

FIRST CLAIM FOR RELIEF
(Patent Infringement – Against All Defendants and Does 1 through 10)

38. Bison realleges and incorporates by reference each and every allegation contained in the previous paragraphs, as though fully set forth herein.

39. The defendants, and each of them, have infringed and continue to infringe the claims of Bison's '448 Patent by applying their patented designs, or a colorable imitation thereof, to an article of manufacture, and thereafter using, selling or distributing said products within this judicial district and elsewhere throughout the United States.

40. Bison is informed and believes, and based thereon alleges, that the defendants' colorable imitations appropriate the novelty in the Bison's invention, which distinguished it from the prior art.

41. Bison is further informed and believes, and based thereon alleges, that the design of the defendants' colorable imitation and the Bison's invention are substantially the same, such as to deceive consumers into purchasing one supposing it to be the other.

42. Unless restrained and enjoined, the defendants' acts of infringement as alleged above will cause Bison to suffer irreparable injury.

43. By reason of the defendants' infringement of Bison's '448 Patent as alleged above, Bison has lost sales of its products, which it otherwise would have made. The defendants are liable to Bison for the lost profits and/or reasonable royalty and any additional profits of the defendants attributable to such infringement. Said damages are in an amount which is not yet fully ascertainable.

44. The defendants, and each of them, had knowledge of Bison's '448 Patent at least as early as early as April 13, 2007 before committing acts of continuing infringement, as alleged above. Notwithstanding the defendants' knowledge that their colorable imitation was and is an infringing device of Bison's '448 Patent, the defendants manufactured, sold and/or distributed these imitations in this judicial district and elsewhere. Said acts of the defendants, and each of them, were done willfully, maliciously, intentionally and in bad faith, making this an exceptional case under 35 U.S.C. § 285. Bison is therefore entitled to and hereby requests enhanced damages and statutory penalties pursuant to 35 U.S.C. § 284 and § 289.

45. Bison has incurred, and will continue to incur, attorneys' fees and court costs arising from the acts of the defendants as alleged herein. Bison seeks the recovery of attorneys' fees and costs as the prevailing party in this action.

SECOND CLAIM FOR RELIEF

(Copyright Infringement – Against All Defendants and Does 1 through 10)

46. Bison realleges and incorporates by reference each and every allegation contained in the previous paragraphs, as though fully set forth herein.

47. As set forth above, Bison's products contain designs wholly original to Bison, and are copyrightable subject matter under the laws of the United States.

48. Bison has duly registered, and has a Certificate of Registration for its Foot Shaped Bottle Opener, Registration No. VA 1-160-023.

49. Bison is the owner of the above-referenced copyright.

50. Upon information and belief, the defendants have copied and/or are using without permission Bison's copyright protected design, in violation of Bison's copyright.

51. By reason of the acts set forth herein, the defendants have infringed, and are infringing, Bison's copyrights.

52. Unless restrained and enjoined, the defendants' acts of infringement as alleged above will cause Bison to suffer irreparable injury.

53. By reason of the defendants' infringement of Bison's Registration No. VA 1-160-023 as alleged above, Bison has lost sales of its products, which it otherwise would have made. The defendants are liable to Bison for the lost profits and/or reasonable royalty and any additional profits of the defendants attributable to such infringement. Said damages are in an amount which is not yet fully ascertainable.

54. In the alternative, the defendants are liable for enhanced statutory damages under 17 U.S.C. § 504(c).

55. Bison has incurred, and will continue to incur attorneys' fees and court costs arising from the acts of the defendants as alleged herein. Bison seeks the recovery of attorneys' fees and costs as the prevailing party in this action.

THIRD CLAIM FOR RELIEF
(Trade Dress Infringement – Against All Defendants and Does 1 through 10)

56. Bison realleges and incorporates by reference each and every allegation contained in the previous paragraphs, as though fully set forth herein.

57. The defendants, and each of them, have infringed and continue to infringe the trade dress associated with Bison's Foot by applying Bison's designs, or a colorable imitation thereof, to an article of manufacture, and thereafter using, selling or distributing said products within this judicial district and elsewhere throughout the United States.

58. Bison is further informed and believes, and based thereon alleges, that the designs or trade dress of the defendants' colorable imitations and the Bison's trade dress are substantially the same, such as to cause confusion and deceive consumers into purchasing one supposing it to be the other.

59. The acts of the defendants and each of them, as alleged herein, constitute trade dress infringement in violation of Section 1125(a) of the Lanham Act.

60. Unless restrained and enjoined, the defendants' acts of infringement as alleged above, will cause Bison to suffer irreparable injury.

61. As a direct and proximate result of the aforesaid conduct, and as a foreseeable consequence thereof, Bison has sustained general damages in an amount that will be proven at the time of trial.

62. Bison has incurred, and will continue to incur attorneys' fees and court costs arising from the acts of the defendants as alleged herein. Bison seeks the recovery of attorneys' fees and costs as the prevailing party in this action.

63. Bison is informed and believes, and based thereon alleges, that the actions of the defendants were willful and malicious and done with the intent to injure Bison. Therefore, Bison is entitled to recover, and hereby requests, exemplary damages from the defendants.

64. The wrongful acts of the defendants, as alleged herein, unless restrained and enjoined by order of this Court, will cause great and irreparable injury to Bison, its reputation, and goodwill. Bison has no adequate remedy at law for the injuries that have been, and will continue to be, sustained in this action.

FOURTH CLAIM FOR RELIEF
(Unfair Competition – Against All Defendants and Does 1 through 10)

65. Bison realleges and incorporates by reference each and every allegation contained in the previous paragraphs, as though fully set forth herein.

66. The acts of the defendants, as alleged herein, constitute unfair or fraudulent business practices that are damaging to the public in violation of Section 1125(a) of the Lanham Act.

67. As a direct and proximate result of the aforesaid conduct, and as a foreseeable consequence thereof, Bison has sustained general damages in an amount that will be proven at the time of trial.

68. Bison has incurred, and will continue to incur, attorneys' fees and court costs arising from the acts of the defendants as alleged herein. Bison seeks the recovery of attorneys' fees and costs as the prevailing party in this action.

69. Bison is informed and believes, and based thereon alleges, that the actions of the defendants were willful and malicious and done with the intent to injure Bison. Therefore, Bison is entitled to recover, and hereby requests, exemplary damages from the defendants.

70. The wrongful acts of the defendants, as alleged herein, unless restrained and enjoined by order of this Court, will cause great and irreparable injury to Bison, its reputation, and goodwill. Bison has no adequate remedy at law for the injuries that have been, and will continue to be, sustained in this action.

FIFTH CLAIM FOR RELIEF
(Accounting – Against All Defendants and Does 1 through 10)

71. Bison realleges and incorporates by reference each and every allegation contained in the previous paragraphs, as though fully set forth herein.

72. Bison is informed and believes, and based thereon alleges, that the defendants, and each of them, have manufactured, imported, sold, and/or distributed products which directly infringe on Bison's '448 Patent. The infringement by the defendants has deprived Bison of sales and/or royalties, which it otherwise would have made and resulted in the unjust enrichment of the defendants at the expense and to the detriment of Bison, among other damage. The defendants' actions have resulted in improper profits, revenues, and other financial gains to the defendants for which Bison, in equity and good conscience, is rightfully entitled to reimbursement.

73. Bison is informed and believes, and based thereon alleges, that the defendants, and each of them, have reproduced, made, distributed, and/or displayed products which directly infringe on Bison's Copyright Registration No. VA 1-160-023. The infringement by the defendants has deprived Bison of sales and/or royalties, which it otherwise would have made and

resulted in the unjust enrichment of the defendants at the expense and to the detriment of Bison, among other damage. The defendants' actions have resulted in improper profits, revenues, and other financial gains to the defendants for which Bison, in equity and good conscience, is rightfully entitled to reimbursement.

74. Bison is informed and believes, and based thereon alleges, that the defendants, and each of them, have applied Bison's designs, or a colorable imitation thereof, to an article of manufacture, and thereafter used, sold or distributed said products which directly infringe on Bison's trade dress. The infringement by the defendants has deprived Bison of sales and/or royalties, which it otherwise would have made and resulted in the unjust enrichment of the defendants at the expense and to the detriment of Bison, among other damage. The defendants' actions have resulted in improper profits, revenues, and other financial gains to the defendants for which Bison, in equity and good conscience, is rightfully entitled to reimbursement.

75. Bison does not know the precise number of infringing products sold or the amount of revenue and profits realized by the defendants, and each of them, which information is uniquely within the knowledge of the defendants. Bison is, therefore, entitled to an accounting, at the defendants' expense, to determine the amount of profits the defendants have unjustly obtained by their acts of infringement.

SIXTH CLAIM FOR RELIEF

(For Injunctive Relief – Against All Defendants and Does 1 through 10)

76. Bison realleges and incorporates by reference each and every allegation contained in the previous paragraphs, as though fully set forth herein.

77. By reason of the wrongful acts and unlawful conduct as hereinabove alleged, the defendants, and each of them, have infringed and continue to infringe the claims of the '448

Patent by making, using, selling or distributing within this judicial district and elsewhere throughout the United States, the above-described products embodying the inventions claimed in said patent.

78. By reason of the wrongful acts and unlawful conduct as hereinabove alleged, the defendants, and each of them, have infringed and continue to infringe Copyright Registration No. VA 1-160-023 by reproducing, making, distributing and/or displaying within this judicial district and elsewhere throughout the United States, the above-described products embodying the original work of authorship claimed in said copyright registration.

79. By reason of the wrongful acts and unlawful conduct as hereinabove alleged, the defendants, and each of them, have infringed and continue to infringe Bison's trade dress by applying Bison's designs, or a colorable imitation thereof, to an article of manufacture, and thereafter using, selling or distributing said products within this judicial district and elsewhere throughout the United States, the above-described products embodying Bison's trade dress.

80. Unless and until so enjoined and restrained by order of this Court, the defendants, and each of them, will continue to cause great and irreparable harm and damage to Bison. Bison has no adequate remedy at law for the damages it will suffer should the defendants be permitted to continue the wrongful conduct alleged herein. Without injunctive relief, it will be extremely difficult and impracticable to ascertain the exact amount of damages that Bison will sustain as a result of the defendants' continuing infringing conduct.

SEVENTH CLAIM FOR RELIEF

(For Constructive Trust – Against All Defendants and Does 1 through 10)

81. Bison realleges and incorporates by reference each and every allegation contained in the previous paragraphs, as though fully set forth herein.

82. All revenue and profits that the defendants have wrongfully and unjustly obtained as a result of their acts of infringement are subject to an equitable lien and constructive trust for the benefit of Bison. Bison therefore requests that this Court impose a constructive trust on the proceeds of the sales of any infringing products, wrongfully in the hands of the defendants, and the portion thereof which are in the hands of others, whether or not the defendants herein, in order to preserve said proceeds for Bison.

PRAYER FOR RELIEF

On The First Claim for Relief

WHEREFORE, Plaintiff prays for judgment as follows:

1. For an award against the defendants, jointly and severally, for actual damages, including lost profits and a reasonable royalty, according to proof;
2. For an award of all gains, profits, and advantages derived by the defendants by their infringement of Bison's '448 Patent;
3. For enhanced statutory damages;
4. For injunctive relief in the form of a preliminary and permanent injunction, enjoining the defendants from manufacturing, importing, selling, marketing and/or distributing any products that infringe on Bison's '448 Patent;
5. For an order directing the defendants to deliver up to be impounded during the pendency of this action all of the allegedly infringing products;
6. For an order directing the defendants' remaining inventory of infringing products to be delivered up to the custody of the Court for destruction;
7. For reasonable attorneys' fees under 35 U.S.C. § 285, according to proof;

8. For interest at the maximum legal rate on all damages from the date first incurred until paid, if applicable;

On The Second Claim for Relief

9. For an award against the defendants, jointly and severally, for actual damages and all profits derived by them by their infringement of Bison's Copyright Registration No. VA 1-160-023 under 17 U.S.C. § 504(b), or, in the alternative, for enhanced statutory damages under 17 U.S.C. § 504(c);

10. For injunctive relief in the form of a preliminary and permanent injunction, enjoining the defendants from infringing Bison's Copyright Registration No. VA 1-160-023;

11. For an order directing the defendants to deliver up to be impounded during the pendency of this action all of the allegedly infringing products;

12. For an order directing the defendants' remaining inventory of infringing products to be delivered up to the custody of the Court for destruction;

13. For reasonable attorneys' fees and costs under 17 U.S.C. § 505, according to proof;

14. For interest at the maximum legal rate on all damages from the date first incurred until paid, if applicable;

On The Third and Fourth Claims for Relief

15. For restitution of all revenue and profits from the defendants' unfair business practices;

16. For the recovery of attorneys' fees and costs;

17. For exemplary damages;

18. For injunctive relief in the form of a preliminary and permanent injunction enjoining the defendants from engaging the future acts of consumer confusion and unfair or deceptive business practices;

On The Fifth Claim for Relief

19. For an accounting of all profits derived from Defendants' infringement of Bison's '448 Patent, at the defendants' expense;

20. For an accounting of all profits derived from the defendants' infringement of Bison's Copyright Registration No. VA 1-160-023, at the defendants' expense;

21. For an accounting of all profits derived from the defendants' infringement of Bison's trade dress, at the defendants' expense;

On The Sixth Claim for Relief

22. For injunctive relief in the form of a preliminary and permanent injunction, enjoining the defendants from manufacturing, importing, selling, marketing and/or distributing any products which infringe Bison's '448 Patent;

23. For injunctive relief in the form of a preliminary and permanent injunction, enjoining the defendants from reproducing, making, distributing and/or displaying any products which infringe Bison's Copyright Registration No. VA 1-160-023;

24. For injunctive relief in the form of a preliminary and permanent injunctions, enjoining the defendants from applying Bison's designs, or a colorable imitation thereof, to an article of manufacture, and thereafter using, selling or distributing said products which infringe Bison's trade dress;

On The Seventh Claim for Relief

25. For imposition of a constructive trust on all revenues and profits from the defendants' infringement of Bison's '448 Patent;

26. For imposition of a constructive trust on all revenues and profits from the defendants' infringement of Bison's Copyright Registration No. VA 1-160-023;

27. For imposition of a constructive trust on all revenues and profits from the defendants' infringement of Bison's trade dress;

On All Claims for Relief

28. For attorney fees, costs, expert witness fees, and pre- and post-judgment interest as permitted by law;

29. Punitive damages as provided by law; and

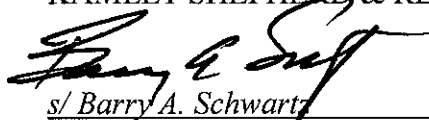
30. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff hereby demands trial by jury on all issues so triable.

Respectfully submitted this 6th day of February, 2008.

KAMLET SHEPHERD & REICHERT, LLP



s/ Barry A. Schwartz

Barry A. Schwartz, No. 17981

KAMLET SHEPHERD & REICHERT, LLP

1515 Arapahoe Street

Tower 1, Suite 1600

Denver, CO 80202

Phone: (303) 825-4200

Fax: (303) 825-1185

E-mail: bschwartz@ksrlaw.com

COUNSEL FOR PLAINTIFF BISON DESIGNS, LLC

PLAINTIFF'S ADDRESS:

735 S. Lincoln

Longmont, Colorado 80501

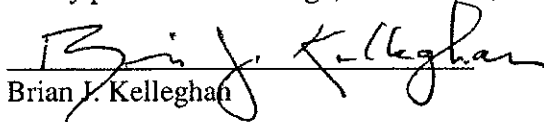
VERIFICATION

STATE OF COLORADO)

COUNTY OF BOULDER)

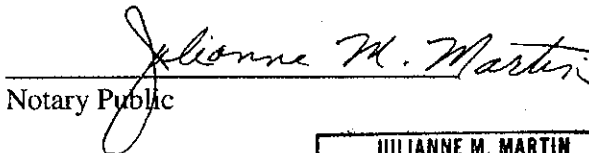
I, Brian J. Kelleghan, being first duly sworn, do now depose and say:

I am the President of Bison Designs, LLC, which is the Plaintiff in this action. I have read the foregoing Complaint and am familiar with its contents. I hereby state that the facts contained within are true and correct to the best of my personal knowledge, information, and belief.


Brian J. Kelleghan

[SEAL]

Subscribed and sworn to before me this 30th day of JANUARY 2008.


Notary Public

My commission expires 2/18/2008

