BUCHALTER NEMER
A PROFESSIONAL CORPORATION
LOS ANGELES

BN 20504819V1 COUNTERCLAIM

Case No. 8:15-cv-01756-R (FFMx)

Defendant and Counterclaimant Styles for Less, Inc. ("Counterclaimant"), by and through its undersigned counsel, complains and alleges against Plaintiff and Counter-Defendant Bragel International, Inc. ("Counter-Defendant") as follows:

- 1. Counterclaimant is a corporation organized and existing under the laws of the State of California, with its principal place of business at 1205 North Miller Street, #120, Anaheim, California.
- 2. Counterclaimant is informed and believes, and on that basis alleges, that Counter-Defendant is a corporation organized and existing under the laws of the State of California, with its principal place of business at 3833 Pomona Boulevard, Pomona, California.
- 3. The Court has personal jurisdiction over Counter-Defendant by virtue of its filing of an Amended Complaint ("Complaint") in this matter.
- 4. This Counterclaim arises under Title 35 of the United States Code, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a). Federal jurisdiction of the claims asserted herein is proper on the basis of supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) and pursuant to 28 U.S.C. §2201, et seq.
- 5. To the extent that this action remains in this District, venue is appropriate for this Counterclaim because Counter-Defendant has consented to the propriety of venue in this Court by filing its claims for patent infringement in this Court.

COUNT ONE

DECLARATORY JUDGMENT OF NON-INFRINGEMENT

- 6. Counterclaimant incorporates and realleges paragraphs 1-5 of this Counterclaim as if set forth in full herein.
- Counter-Defendant has filed an action for patent infringement against
 Counterclaimant.

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- 8. By its Complaint, Cross-Defendant alleges that Counterclaimant has infringed its U.S. Patent 7,144,296 B2 (the "'296 Patent"), and that as the owner of the '296 Patent, it is entitled to relief for Counterclaimant's alleged infringement of the '296 Patent. Counterclaimant has denied these allegations and contends that it does not infringe the '296 patent or any valid and enforceable claims thereof. A justiciable controversy therefore exists between Counter-Defendant and Counterclaimant. By this Counterclaim, Counterclaimant seeks a declaratory judgment pursuant to 28 U.S.C. §2201(a) that it does not infringe the '296 patent or any valid and enforceable claims thereof.
- 9. A judicial declaration is necessary and appropriate at this time in order that Counterclaimant may ascertain its rights and duties with respect to the '296 patent.

COUNT TWO

DECLARATORY JUDGMENT OF INVALIDITY

- 10. Counterclaimant incorporates and realleges paragraphs 1-9 of this Counterclaim as if set forth in full herein.
- 11. By its Complaint, Counter-Defendant alleges that the '296 patent was duly and lawfully issued. Counterclaimant denies these allegations and contends that the '296 patent is invalid under 35 U.S.C. §§ 101, 102, 103, and/or 112. A justiciable controversy therefore exists between Counter-Defendant and Counterclaimant.
- 12. By this Counterclaim, Counterclaimant seeks a declaratory judgment pursuant to 28 U.S.C. §2201(a) that the '296 patent is invalid under 35 U.S.C. §§ 101, 102, 103, and/or 112.
- 13. A judicial declaration is necessary and appropriate at this time in order that Counterclaimant may ascertain its rights and duties with respect to the '296 patent.

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PRAYER FOR RELIEF 1 WHEREFORE, Counterclaimant respectfully requests the following relief: That Counter-Defendant's Complaint be dismissed with prejudice, and 3 1. that Counter-Defendant take nothing by way of its Complaint; 4 That Counter-Defendant is not entitled to any of its requested relief, or 5 2. any relief whatsoever; 6 Declaratory Judgment that Counterclaimant has not infringed any valid 7 3. and enforceable claims of the asserted patent under the doctrine of equivalents, or under any subsection of 35 U.S.C. §271; 9 Declaratory Judgment that the claims of the asserted patent are invalid; 4. 10 that Counterclaimant be awarded its costs and disbursements in this action; 11 That this case be declared as exceptional pursuant to 35 U.S.C. § 285 5. 12 and that Counterclaimant be awarded its reasonable attorneys' fees and costs in this 13 action; and 14 That Counterclaimant be granted such other and further relief as this 6. 15 Court deems just and proper. 16 17 **BUCHALTER NEMER** DATED: April 5, 2016 A Professional Corporation 18 19 By: 20 Attorneys for Defendant 21 and Counterclaimant STYLES FOR LESS, INC. 22 23 24 25 26 27

Panties Plus, Inc. v. Bragel International, Inc.

1		<u>DE</u>	MAND FOR TRIAL BY JURY
2	7.	Counterclaim	ant hereby demands a trial by jury on all issues so triable.
3	DATED:	April 5, 2016	BUCHALTER NEMER
4		•	A Professional Corporation
5	- -		
6			By: /s/ MATTHEW L. SEROR
7			Attorneys for Defendant and Counterclaimant STYLES FOR LESS, INC.
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