



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-02703-CMA-CBS

COCONA, INC., a Delaware corporation,

Plaintiff/Counterclaim-Defendant,

v.

COLUMBIA SPORTSWEAR COMPANY, an Oregon company,

Defendant.

and

VF OUTDOOR, LLC, a Delaware limited liability company,

Defendant/Counterclaim-Plaintiff.

**PLAINTIFF'S RESPONSES TO DEFENDANT VF OUTDOOR, LLC'S FIRST SET OF
INTERROGATORIES TO COCONA, INC.**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff Cocona, Inc. ("Cocona" or "Plaintiff"), by and through its undersigned counsel, responds to Defendant VF Outdoor, LLC's ("VF" or "Defendant") First Set of Interrogatories to Cocona, Inc. (the "Requests") as follows.

PRELIMINARY STATEMENT

1. These responses are made solely for the purpose of this action, and are made on the basis of information which is presently known by and available to Cocona. Each response is subject to all appropriate objections (including, but not limited to, objections to confidentiality, relevancy, propriety, and admissibility) which would require

the exclusion of any statement contained herein if the Requests were answered by a witness present and testifying in a Court. Cocona further reserves the right to make any and all evidentiary objections to the introduction of information or any of the documents included in any production into evidence at the trial of this action or at any motion or hearing, or otherwise, and reserves the right to raise any or all of the objections referred to herein in the event that any motion for protective order is brought, and to raise these objections in response to the introduction of any information or documents at trial.

2. No admissions of any nature whatsoever are implied or should be inferred. Nothing herein shall be construed as an admission or acceptance by Cocona with respect to the admissibility or relevance of any information or document or fact, of the relevance, truth, or accuracy of any characterization or statement of any kind contained in the Requests.

3. Cocona has not yet completed its investigation of the facts relating to this action; has not yet interviewed all witnesses in this action; has not yet completed their discovery in this action; and has not yet completed its preparation for trial. Consequently, Cocona expressly reserves its rights to make such additional or different responses as may be appropriate in light of further discovery, investigation, or time.

4. Cocona reserves its right to continue its investigation and discovery of facts, witnesses, and documents which may reveal additional information about the issues in this case. In addition, Cocona reserves the right to produce, refer to, and offer into evidence any additional documents, facts, and evidence at the time of trial which may be ascertained through its continuing discovery and trial preparation,

notwithstanding the reference to facts, evidence, documents, and things in this Response.

GENERAL OBJECTIONS TO INTERROGATORIES

Cocona interposes the following general objections to the Interrogatories. These objections are made to the Interrogatories and are incorporated by this reference into each of the specific responses which are set forth below.

1. Cocona objects to the Interrogatories to the extent that they seek information which is protected from discovery and disclosure by the attorney-client privilege and/or the attorney work product doctrine, or by any other applicable privilege(s). Cocona and its counsel intends to and do claim these privileges with respect to all such information and materials.

2. Cocona objects to the Interrogatories on the grounds that they are overbroad as to scope and time, burdensome, and oppressive and is designed to cause Cocona unwarranted annoyance and expense to determine precisely which information and documents and other materials should be produced as to each request for information or categories of documents which are not stated with reasonable particularity.

3. Cocona objects to the extent that the Interrogatories seek information which is not within its possession, custody or control or is within the possession, custody or control of third parties.

4. Cocona objects to the Interrogatories on the grounds that they seek information that are protected from disclosure and discovery by virtue of Cocona's right

to non-disclosure of confidential information, proprietary information, trade secrets, or other documents under case law, statute, regulation, or order or that are otherwise protected.

5. Cocona objects to the Interrogatories to the extent that they seek information generated, sent, or received after the date of commencement of this litigation, for purposes of this litigation.

6. Cocona objects to the Interrogatories to the extent that they seek information which are protected from discovery or disclosure by virtue of the rights of others to confidentiality and/or privacy. Cocona objects to each and every Interrogatory to the extent that it calls for information which is confidential or proprietary to, or the trade secrets of, third parties.

7. Cocona objects to the Interrogatories to the extent that they are excessive, burdensome and are intended to maximize Cocona's litigation costs even though much of the information is of marginal relevance to the issues in the case.

8. Cocona objects to each and every Interrogatory insofar as it is vague, ambiguous, indefinite, overly broad, unduly burdensome, duplicative, cumulative, unintelligible or otherwise unclear as to the precise information sought. Cocona objects on this basis particularly when the Interrogatory is unduly burdensome in view of the costs necessary to investigate weight against VF's need for the information.

9. Cocona objects to each and every Interrogatory to the extent that it seeks information that is neither relevant to any claim or defense in this action nor reasonably calculated to lead to the discovery of admissible evidence.

10. Cocona objects to each and every Interrogatory as unduly burdensome and oppressive to the extent that it purports to require Cocona to search its facilities and inquire of Cocona's employees other than those facilities and employees that would reasonably be expected to have responsive information. Cocona responses are based upon: (1) a reasonable search, given the time allotted to Cocona to respond to the Requests, of facilities and files that could reasonably be expected to contain responsive information, and (2) inquiries of Cocona employees and/or representatives who could reasonably be expected to possess responsive information.

11. Cocona objects to each and every Interrogatory to the extent that it seeks information already in the possession of VF or in the public domain or otherwise is as readily available to VF as they are to Cocona.

12. Each of the foregoing objections is hereby incorporated into each of the following responses to the individual Requests.

Subject to and without waiving these objections, Cocona submits the following Responses to Defendant VF Outdoor, LLC's First Set of Interrogatories to Cocona, Inc.

INTERROGATORIES

INTERROGATORY NO. 1: If you contend that VF's preliminary invalidity contentions dated April 4, 2017 (D.C.COLO.LPtR 8), or any subsequent invalidity contentions, are not accurate, then for each Asserted Claim of the Patent-In-Suit, identify all facts that support your contention, including explaining any contention that a document cited in VF's invalidity contentions is not prior art, how the prior art does not disclose a claim element or elements, and how any of the combinations of prior art in VF's invalidity contentions teach away from each other or are otherwise not properly combinable.

OBJECTIONS: This Interrogatory, served on March 20, 2017, refers to and seeks responses regarding documents that were not served on Cocona until April 4, 2017 or later. Cocona objects to this Interrogatory on the grounds that Cocona has had an insufficient and unreasonably short period of time to formulate a response to VF's preliminary invalidity contentions and related documents. Additionally, Cocona cannot respond to "any subsequent invalidity contentions" that have not yet been created or served on Cocona. Cocona will respond to this Interrogatory within a reasonable period of time. Cocona objects to this Interrogatory to the extent it asks Cocona to explain or prove a negative, including, for example, how certain documents are "not prior art." Cocona objects to this Interrogatory on the grounds it is vague and ambiguous, as it does not define the meaning of the phrase "any of the combinations." Cocona objects to this Interrogatory on the grounds that it seeks information protected by the attorney-client privilege or attorney work product doctrine. Cocona further objects to the extent

this Interrogatory purports to shift the burden of proving the invalidity of the claims of the Patent-in-Suit from VF to Cocona. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: Cocona will provide information responsive to this Interrogatory, if any, in accordance with the deadline to serve its Response to Invalidity Contentions and Claims Chart(s) set forth in the Revised Scheduling Order in a Patent Case dated January 26, 2017.

INTERROGATORY NO. 2: If you contend that VF's preliminary non-infringement contentions dated April 4, 2017 (D.C.COLO.LPtR 6), or any subsequent non-infringement contentions, are not accurate, then for each Asserted Claim of the Patent-In-Suit, identify all facts that support your contention, including explaining any contention by you that VF's non-infringement contentions improperly interpret a limitation of an Asserted Claim and/or improperly interpret or understand intrinsic or extrinsic evidence.

OBJECTIONS: This Interrogatory, served on March 20, 2017, refers to and seeks responses regarding documents that were not served on Cocona until April 4, 2017 or later. Cocona objects to this Interrogatory on the grounds that Cocona has had an insufficient and unreasonably short period of time to formulate a response to VF's preliminary non-infringement contentions and any related documents. Additionally, Cocona cannot respond to "any subsequent non-infringement contentions" that have not

yet been created or served on Cocona. Cocona will respond to this Interrogatory within a reasonable period of time. Cocona objects to this Interrogatory as vague and ambiguous, because it does not define the meaning or scope of “intrinsic or extrinsic evidence.” Cocona objects to this Interrogatory on the grounds that it seeks information protected by the attorney-client privilege or attorney work product doctrine. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: Cocona set forth its infringement contentions, including factual support, in accordance with the Revised Scheduling Order in a Patent Case dated January 26, 2017, including serving an amended infringement claim chart on March 20, 2017 in response to requests for clarification from VF. To the extent that VF’s preliminary non-infringement contentions dispute Cocona’s infringement contentions, Cocona’s infringement contentions speak for themselves. To the extent that VF’s preliminary non-infringement contentions include factual assertions and to the extent that Cocona disputes the accuracy of those factual assertions, Cocona will amend its response to this Interrogatory once it has had sufficient time to analyze VF’s preliminary non-infringement contentions.

INTERROGATORY NO. 3: If Cocona asserts that the subject matter of any claim of the Patent-In-Suit would not have been obvious to a person of ordinary skill in the art at the time the alleged invention described by such claim was made, set forth in full and

complete detail all facts relating to or supporting such assertion, including, but not limited to, facts relating to “objective indicia” or “secondary considerations” that support the alleged validity of such claim, any nexus existing between such “objective indicia” or “secondary considerations” and any claim limitation, and identify each person having knowledge of, and all documents and things relating to, the foregoing.

OBJECTIONS: Cocona objects to this Interrogatory to the extent that it seeks the identification and production of documents. Requests for production of documents must be propounded pursuant to Fed. R. Civ. P. 34. Cocona objects to this Interrogatory to the extent it is unreasonably duplicative of Request for Production No. 11. Cocona objects to this Interrogatory to the extent it asks Cocona to explain or prove a negative, including, for example, that the ‘287 Patent “would not have been obvious to a person of ordinary skill in the art.” The ‘287 Patent is presumptively valid. Cocona objects to this Request as vague and ambiguous as to the meaning of “objective indicia,” “secondary considerations,” and “nexus,” which are not defined. Cocona further objects to the extent that this Interrogatory purports to shift the burden of proving the invalidity of any of the claims of the ‘287 Patent from VF to Cocona. Cocona objects to this Interrogatory on the grounds that it seeks information protected by the attorney-client privilege and/or attorney work product doctrine. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: Cocona asserts that the subject matter of the claims of the Patent-in-Suit would not have been obvious to a person of ordinary skill in the art. Starting in the early

2000's, the outdoor industry was searching for an alternative to the heavy and stiff 3-layer laminate waterproof breathable garment known as a "hard shell" jacket. A need existed for a lighter weight, more breathable alternative to a "hard shell" that could be used in high aerobic activities or be packable. One way to accomplish the goal of making a lighter weight alternative to a "hard shell" was to remove the inner layer of fabric. However, removing the inner layer of fabric also resulted in the removal of a layer of protection for the membrane contained in the laminate. Two alternatives were sold to consumers, one which used a "drop in" liner to replace the inner layer of fabric and one which used a protective print layer to replace the inner layer of fabric. This second alternative, which became commonly referred to as a "2.5 layer" garment, was intended to provide protection for the membrane without reducing breathability. However, the addition of the ink layer proved to have a negative impact on the breathability of the membrane and reduced the comfort level of a wearer. Thus, there was a trade-off between membrane protection and comfort.

The invention taught in the '287 Patent is a novel way to add protection for the membrane while at the same time achieving other benefits for the wearer such as odor management, moisture vapor transport, and increased human comfort through the inclusion of active particles in the print or ink layer. At the time Dr. Haggquist filed the application that resulted in the '287 Patent, no one else in the industry was using active particles as described in the '287 Patent in the ink layer to achieve performance benefits. The evidence of this can be seen from the successful sale of products practicing the inventions taught in the '287 Patent.

Specifically, in or around 2010, Cocona licensed several textile companies to produce 2.5 layer fabrics or products that included active particles as taught in the '287 Patent in the ink or print layer. Cocona also began to work with companies like VF to produce 2.5 layer garments with active particles in the ink or print layer as taught in the '287 Patent.

Cocona will produce documents pursuant to Fed. R. Civ. P. 33(d) that evidence the sales of 2.5 layer fabrics and garments that include active particles as taught in the '287 Patent.

VF's prior and continued willful infringement illustrates how the invention taught in the '287 Patent was non-obvious at the time of invention and indicates the existence of a long-felt but unmet need and commercial success. Cocona will supplement its response once VF makes full responses to Cocona's discovery requests and in view of the applicable Scheduling Order in this case.

INTERROGATORY NO. 4: Separately for each claim of the Patent-In-Suit, describe in full and complete detail the facts concerning the conception and reduction to practice of the alleged invention. To be complete, your response should state the specific dates of such alleged conception and reduction to practice, identify each person involved in such conception and reduction to practice and their respective contributions, describe the location and circumstances of the conception and reduction to practice, and identify all documents and things tending to establish, refute or identify the dates, locations, individuals or circumstances sought in this interrogatory.

OBJECTIONS: Cocona objects to this Interrogatory to the extent that it seeks the identification and production of documents. Requests for production of documents must be propounded pursuant to Fed. R. Civ. P. 34. Cocona objects to this Interrogatory as vague and ambiguous, because it does not define the meaning of the following terms or phrases: “conception,” “involved,” “contributions,” “circumstances,” and “tending to.” Cocona objects to this Interrogatory on relevance grounds, as all “facts concerning the conception and reduction to practice” of the ‘287 Patent are not relevant to the infringement or validity of the ‘287 Patent. Cocona objects to this Interrogatory to the extent it seeks information that is protected from disclosure and discovery by virtue of Cocona’s right to non-disclosure of confidential information, proprietary information, trade secrets, or other information or documents under case law, statute, regulation, or order or that are otherwise protected.

RESPONSE:

Dr. Gregory Haggquist is the sole inventor of the inventions taught in the Patent-in-Suit. Dr. Haggquist is the inventor on a number of patents related to incorporating active particles in fibers, fabrics and various types of materials, among others. As taught by Dr. Haggquist, the addition of active particles, if done properly, will add the desired properties of odor management, human performance enhancement, and human comfort.

Beginning in or around March 2006, Dr. Haggquist began testing different ways to incorporate active particles with a protective layer directly into a membrane. Through testing conducted at laboratory facilities operated by Cocona in Longmont, Colorado,

Dr. Haggquist determined that two layers were needed rather than a single layer. He tried two different approaches: incorporating active particles in both layers or incorporating active particles in one layer. Both concepts worked, but Dr. Haggquist determined that the preferred method was a first layer with no active particles and a second layer with active particles. To minimize the impact of including a second layer, Dr. Haggquist experimented with limited coverage, such as printing with dots that incorporated active particles. The limited coverage ranged from dot patterns to artistic patterns on the membrane with the active particles acting as a pigment and an active particle. Dr. Haggquist reduced the inventions taught in the '287 Patent to practice on or around May 2006.

INTERROGATORY NO. 5: Describe in detail the entire basis for your contention in paragraphs 33-53 of the First Amended Complaint and Jury Demand, or any future amended complaint, that VF has infringed, and continues to infringe, one or more claims of the Patent-In-Suit by making, using, selling, offering to sell and/or importing products, including at least its DRYVENT™ 2.5L Laminate products, including an element-by-element analysis of how the DRYVENT™ 2.5L Laminate allegedly infringes each Asserted Claim.

OBJECTIONS: Cocona objects to this Interrogatory on the grounds that it seeks information that Cocona has already disclosed to VF. Cocona objects to this Interrogatory on the grounds that it seeks information related to “any future amended complaint” that has not yet been filed. Cocona objects to this Interrogatory to the extent

that it seeks information which is protected from discovery and disclosure by the attorney-client privilege and/or the attorney work product doctrine. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: Please see Cocona's Infringement Contentions and Disclosure of Infringement Claim Chart as to VF Outdoor, LLC, dated February 21, 2017, and amended on March 20, 2017 and related documents.

INTERROGATORY NO. 6: Describe in detail the entire basis for your contention in paragraphs 50 of the First Amended Complaint and Jury Demand, or any future amended complaint, that VF has also infringed the Patent-In-Suit by contributing to the infringement of the Patent-In-Suit by others and/or by inducing others to infringe the Patent-In-Suit.

OBJECTIONS: Cocona objects to this Interrogatory to the extent it seeks information related to "any future amended complaint" that has not yet been filed. Cocona objects to the Interrogatory to the extent it seeks information that cannot fully and accurately respond without the benefit of full discovery. Cocona objects to this Interrogatory to the extent that it seeks information which is protected from discovery and disclosure by the attorney-client privilege and/or the attorney work product doctrine. Cocona objects to this Interrogatory to the extent it seeks information already disclosed to VF. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and

all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: Based on VF's discovery responses to date, it appears that VF may be purchasing the Accused Products, or the components thereof, from various third-party manufacturers. Assuming that this is the case, VF is in possession of documents and information responsive to this Interrogatory, including information regarding how the Accused Products are designed and manufactured. To date, despite on-point discovery requests, VF has not produced documents or information sufficient to determine VF's relationship or communications with each of the third party suppliers and manufacturers identified in VF's document production. As a result, Cocona does not have knowledge regarding whether the products VF is purchasing from third party manufacturers were designed solely by the third party manufacturers or whether the products were produced in response to instructions, technical specifications, or technical requirements provided by VF. To the extent that VF provided instructions, technical specifications, or technical requirements to third party manufacturers that resulted in the creation of the Accused Products, such information may be responsive to this Interrogatory. Given VF's prior relationship with Cocona, including but not limited to the creation and marketing of FLASHDRY™ products, VF was aware of the proprietary invention taught in the '287 Patent as well as the '287 Patent itself prior to this lawsuit. There are no noninfringing uses for the DryVent™ 2.5L fabrics identified in Cocona's Amended Infringement Claim Chart. Cocona expressly reserves the right to supplement its response to this Interrogatory with information learned during the course of discovery.

INTERROGATORY NO. 7: For the Patent-in-Suit, identify all prior art, including each patent, publication, patent application, instances of prior public use or sale and all other prior art references of any sort, specifically identifying the prior art references that have been asserted by others against the Patent-in-Suit and/or the Application Publication and the allegations they made, and identify all documents and things relating to the foregoing.

OBJECTIONS: Cocona objects to this Interrogatory to the extent that it seeks the identification and production of documents. Requests for production of documents must be propounded pursuant to Fed. R. Civ. P. 34. Cocona objects to this Interrogatory to the extent it is unreasonably duplicative of VF's Requests for Production Nos. 3, 5, 6, 12 and 13. Cocona objects to this Interrogatory to the extent it seeks information already disclosed to VF, or publicly available information, to which Cocona has no greater access than VF. Cocona objects to this Interrogatory on the grounds it is vague and ambiguous as to the meaning of "prior art references" and "all documents and things related to the foregoing." Cocona objects to this Interrogatory as overbroad and unduly burdensome, because it seeks "all documents and things related to the foregoing," without limitation, which could include anything relating to the '287 Patent or this lawsuit. Cocona objects to this Interrogatory to the extent it requests documents subject to the attorney-client privilege and/or the attorney work product doctrine. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: Cocona is not aware of any “prior art references” that have been asserted by others against the Patent-in-Suit and/or the Application Publication. Cocona identified any potentially relevant references to the United States Patent Office during prosecution of the ‘287 Patent.

INTERROGATORY NO. 8: With regard to the level of ordinary skill in the art pertaining to the Patent-in-Suit: state Cocona’s contention of the art area to which the subject matter of each Patent-in-Suit pertains and identify all evidence which allegedly supports this contention; and state Cocona’s contention of the level of ordinary skill in the art and identify all evidence which allegedly supports this contention.

OBJECTIONS: Cocona objects to this Interrogatory on the grounds that Cocona cannot fully and accurately respond without the benefit of full discovery. Cocona objects to this Interrogatory on the grounds that it is improperly compound. Cocona objects to this Interrogatory to the extent that it seeks the identification and production of documents. Requests for production of documents must be propounded pursuant to Fed. R. Civ. P. 34.

RESPONSE: To understand the concepts taught in the ‘287 Patent, a person of ordinary skill in the art would require knowledge gained through education and experience of the following: (1) chemical materials, including polymers and materials that undergo sorption science; (2) light and its interaction with matter; and (3) waterproof, breathable materials and garments. Four-year college degrees in Chemistry, Chemical Engineering, Polymer Chemistry, or Physics would be

appropriate, or, at a minimum, the completion of courses in chemistry, organic chemistry, physical chemistry, polymer science, or proto-physical chemistry. A person of ordinary skill in the art would also have industrial experience related to the production of laminate waterproof breathable textiles, the development of waterproof breathable garments, or membranes.

INTERROGATORY NO. 9: Apart from the instant litigation, identify all entities against which Cocona has ever asserted or intimated, by suggesting or offering a license, or in any other way (hereafter, "assertion"), that any person has infringed or would infringe any claim of the Application Publication, the Patent-In-Suit, any Related Patents, and/or any Foreign Counterparts thereof, and for each assertion, state in detail the circumstances surrounding each such assertion, including Cocona's bases for the assertion, and identify all related documents and persons having knowledge of the assertion.

OBJECTIONS: Cocona objects to this Interrogatory to the extent that it seeks the identification and production of documents. Requests for production of documents must be propounded pursuant to Fed. R. Civ. P. 34. Cocona objects to this Interrogatory to the extent it is unreasonably duplicative of Request for Production Nos. 4 and 12. Cocona objects to this Interrogatory on relevance grounds.

RESPONSE: Cocona has not asserted or intimated that any person has infringed or would infringe any claim of the '287 Patent, related patents, or any foreign counterparts, aside from the allegations contained in this action.

INTERROGATORY NO. 10: Please identify all Prior Art of which individuals associated with the filing or prosecution of the application that led to the Patent-In-Suit were aware of: (A) on or prior to May 9, 2006; (B) between the dates of May 9, 2006, and February 3, 2015; and (C) after the date of February 3, 2015.

OBJECTIONS: Cocona objects to this Interrogatory to the extent that it seeks the identification and production of documents. Requests for production of documents must be propounded pursuant to Fed. R. Civ. P. 34. Cocona objects to this Interrogatory to the extent it is unreasonably duplicative of Request for Production Nos. 3 and 5. Cocona objects to this Interrogatory to the extent it seeks information already disclosed to VF, or is publicly available, to which Cocona has no greater access than VF, including the prosecution history of the '287 Patent. Cocona objects to this Interrogatory as vague and ambiguous, because it does not define the phrases "associated with" or "aware of." Cocona objects to this Interrogatory to the extent it seeks information not within Cocona's possession, custody or control. Cocona objects to this Interrogatory because the term "Prior Art" is a term of art that requires a legal interpretation. Cocona objects that the term "Prior Art," as defined by VF, is overbroad and encompasses material that is not prior art, as that term is used in 35 U.S.C. §§ 102 and 103, because references to claim elements may predate the patent application but do not amount to prior art because they do not practice the patent claims.

RESPONSE: All Prior Art known to Cocona was disclosed to the United States Patent and Trademark Office ("USPTO") in the normal course during the prosecution of the

application that led to the '287 Patent. Please see the responses to Request for Production of Documents Nos. 3 and 5 for more information about Prior Art disclosed to the USPTO.

INTERROGATORY NO. 11: Please identify the dates and results of all Prior Art searches you conducted and whether any of the Prior Art located by you was disclosed to the USPTO during prosecution of the application that led to the Patent-In-Suit.

OBJECTIONS: Cocona objects to this Interrogatory to the extent that it seeks the identification and production of documents. Requests for production of documents must be propounded pursuant to Fed. R. Civ. P. 34. Cocona objects to this Interrogatory to the extent it seeks information already disclosed to VF or publicly available, to which Cocona has no greater access than VF, including the prosecution history of the '287 Patent. Cocona objects to this Request as overbroad, as the "dates and results of all Prior Art searches" is not expressly limited to the '287 Patent. Cocona objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege and/or attorney work product doctrine. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: Cocona incorporates by reference its response to Interrogatory No. 10. Cocona did not conduct any Prior Art searches related to the '287 Patent. All Prior Art known to Cocona was disclosed to the USPTO during the prosecution of the application that led to the '287 Patent.

INTERROGATORY NO. 12: Please state the priority date for each claim of the Patent-In-Suit and the factual basis for asserting that priority date.

OBJECTIONS: Cocona objects to this Interrogatory on the grounds that it calls for a legal conclusion. Cocona further objects to this Interrogatory on the grounds that it calls for information that is protected by the attorney client privilege and/or work product doctrine. Through responding to this Interrogatory, Cocona in no way waives or otherwise limits any and all privileges that it may have that may apply to the information sought in this Interrogatory.

RESPONSE: The priority date for each claim of the '287 Patent is May 9, 2006, the date of filing for Provisional Application No. 60/799,426.

INTERROGATORY NO. 13: Please identify the factual basis demonstrating how Plaintiff and/or each of its licensees have complied with the marking requirements of 35 U.S.C. § 287.

OBJECTIONS: Cocona objects to this Interrogatory on the grounds that it calls for a legal conclusion. Cocona objects to this Interrogatory on relevance grounds. Cocona objects to this Interrogatory to the extent it seeks information not within Cocona's possession, custody or control. Cocona objects to this Interrogatory as overbroad, as it is not limited in scope to the '287 Patent.

RESPONSE: Since February 3, 2015—the date of issuance for the '287 Patent—Cocona has not granted any licenses to any licensee that is making or selling products

that practice any of the inventions taught in the '287 Patent nor has Cocona made, had made, used, imported, or sold any products that practice any of the inventions taught in the '287 Patent. Accordingly, to the best of Cocona's knowledge, the marking requirements of 35 U.S.C. § 287 do not apply to any products currently available for sale.

INTERROGATORY NO. 14: Please identify each product that has ever been sold or offered for sale by Plaintiff that is covered by any of the asserted claims of the '287 patent, and for each such product, identify the claim, and furnish a claim chart analyzing how each such claim covers each such product.

OBJECTIONS: Cocona objects to this Interrogatory to the extent it depends on a legal determination of "covered by any of the asserted claims of the '287 patent" when such determinations have not yet been made. Cocona objects to this Interrogatory on relevance grounds. Cocona objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege and/or attorney work product doctrine.

RESPONSE: Cocona has not sold or offered for sale any product that is covered by any of the asserted claims of the '287 Patent.

Dated this 19th day of April, 2017.

KUTAK ROCK LLP

s/ Chad T. Nitta

Chad T. Nitta

Blair E. Kanis

1801 California St., Suite 3000

Denver, CO 80202

Tel: 303-297-2400

Fax: 303-292-7799

chad.nitta@kutakrock.com

blair.kanis@kutakrock.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of April, 2017, a true and correct copy of the foregoing **PLAINTIFF'S RESPONSES TO DEFENDANT VF OUTDOOR, LLC'S FIRST SET OF INTERROGATORIES TO COCONA, INC.** was served via electronic mail only on the following:

Peter A. Gergely
MERCHANT & GOULD, P.C.
1801 California St., Suite 3300
Denver, CO 80202
Tel: 303-357-1246
PGergely@merchantgould.com
*ATTORNEYS FOR DEFENDANT
VF OUTDOOR, LLC*

s/ Becky Franson
KUTAK ROCK LLP