

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

COANHE, LTD,)
)
 Plaintiff,)
)
 v.)
)
 JOSH ROYAL, Individually, BABE COVER,)
 LLC, and AVENTUS LLC)
)
 Defendants.)
)
)
)

Civil Case No.: 2:22-cv-1639-BHH

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Coanhe, Ltd (“Plaintiff”) brings this action pursuant to 35 U.S.C. § 1 *et seq.*, 17 U.S.C. § 501, *et. seq.*, and S.C. Code Ann. § 39-5-20 *et seq.* seeking injunctive relief and damages against Defendant Josh Royal, Defendant Babe Cover, LLC, and Defendant Aventus LLC (collectively, “Defendants”) for willful patent infringement, willful copyright infringement, and unfair trade practices, and alleges as follows:

PARTIES

1. Plaintiff Coanhe, Ltd is a South Carolina corporation with a principal place of business at 43 Gadsden Street, Charleston, South Carolina 29401.
2. On information and belief, Defendant Josh Royal is an individual residing at 229 Grand Park Blvd, Charleston, South Carolina 29492.
3. On information and belief, Defendant Babe Cover, LLC is a limited liability company, organized and existing under the laws of the State of Wyoming, having a principal place of business at 1876 Horse Creek Rd., Cheyenne, Wyoming 82009.

4. On information and belief, Defendant Aventus LLC is a limited liability company, organized and existing under the laws of the State of Delaware, having a principal place of business at 2 Office Park Court #103, Columbia, South Carolina 29223.

JURISDICTION AND VENUE

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

6. This Court has personal jurisdiction over Defendants consistent with the principles underlying the U.S. Constitution and S.C. Code Ann. § 36-2-803.

7. On information and belief, Defendant Josh Royal (“Royal”) has and continues to regularly and intentionally conduct business in this State and District by, *inter alia*, offering and providing services, and otherwise engaging in business activities in this State and District. Additionally, on information and belief Royal resides in this State and District and therefore is subject to personal jurisdiction in the same.

8. On information and belief, Defendant Babe Cover, LLC (“Babe Cover”) has and continues to regularly and intentionally conduct business in this State and District by, *inter alia*, offering for sale, selling, distributing goods, and otherwise engaging in business activities in this State and District.

9. On information and belief, Babe Cover sells/has sold goods via third party retailers in this State and District and provides an online storefront via its domain at www.babecover.com that is available to customers and prospective customers within this State and District. Printouts of the www.babecover.com website showing that Babe Cover, LLC offers for sale the infringing products via online retail in the United States and offers to ship the infringing products to customers throughout the United States are attached hereto at Exhibit A.

10. On information and belief, Defendant Aventus LLC (“Aventus”) has and continues to regularly and intentionally conduct business in this State and District by, *inter alia*, offering and providing services, and otherwise engaging in business activities in this State and District. Additionally, Aventus has a principal place of business in this State and District and therefore is subject to personal jurisdiction in the same.

11. Exercising personal jurisdiction in this State and District comports with notions of fairness and reasonableness. Defendants have and continue to conduct business in the United States and offer goods and services across the country, including this State and District, so the burden on Defendants of litigating in this District is minimal. Plaintiff has an interest in obtaining convenient and effective relief in its home state. The State of South Carolina has an interest in adjudicating the dispute because Plaintiff’s business is located in the State, and the claims pertain to matters invoking South Carolina law.

12. Alternatively, Defendants are also subject to personal jurisdiction in this District pursuant to Fed. R. Civ. P. 4(k)(2), because Plaintiff’s claims against Defendants arise under federal law and Defendants’ contacts with the United States satisfy due-process requirements.

13. Venue is proper in this Court under the provisions of 28 U.S.C. §§ 1391 and 1400(b). Plaintiff is located in this District, a substantial part of the events giving rise to Plaintiff’s claims occurred in this State and District, and Defendants are subject to personal jurisdiction in this State.

FACTUAL BACKGROUND

Plaintiff’s Patent and Copyright Rights

14. Plaintiff Coanhe, Ltd is in the business of designing, manufacturing, and selling innovative discreet female genitalia concealment products.

15. Plaintiff's products are sold throughout the United States via Plaintiff's retail website at www.noshobelow.com and Plaintiff's Amazon retail web page available at <https://www.amazon.com/NOSHO-Concealer-Reusable-Invisible-Adhesive/dp/B085QNY7FP>.

16. Plaintiff is the owner, by recorded assignment, of all right, title, and interest in and to United States Design Patent No. D894529 ("D'529 Patent") entitled "Flexible Garment Insert." The Patent was duly and lawfully issued by the United States Patent and Trademark Office ("PTO") on September 1, 2020 from an application filed on September 25, 2019. The D'529 Patent relates to a novel and non-obvious ornamental design for a discreet female genitalia concealment product, as shown and described therein. The D'529 Patent and its claimed invention are presumed valid pursuant to 35 U.S.C. § 282. A true and correct copy of the D'529 Patent is attached hereto as Exhibit B.

17. Plaintiff has developed, manufactured, and made commercially available the Noshobelow feminine lines concealer ("Noshobelow Product"), which reflects the design that is the subject of the D'529 Patent.

18. Plaintiff is also the owner, by recorded assignment, of all right, title, and interest in and to United States Patent Application No. 17/665,103 ("Patent Application") entitled "Intimate Concealer Device." The Patent Application was filed on February 4, 2022. A true and correct copy of the Patent Application as-filed is attached hereto as Exhibit C.

19. On information and belief, products sold under the D'529 Patent by Plaintiff have been properly marked pursuant to 35 U.S.C. § 287.

20. Plaintiff is the owner of Copyright Registration No. TX0009120584 ("Copyright Registration") for the original packaging text as described therein ("Noshobelow Work"). A true and correct copy of the Copyright Registration is attached hereto as Exhibit D.

21. Pursuant to 17 U.S.C. § 101 *et seq.*, Plaintiff has exclusive rights in the Copyright Registration and has secured its copyright rights for the Copyright Registration with the Copyright Office in accordance with its rules and regulations.

Royal's Unlawful Activities

22. On information and belief, Defendant Royal is engaged in the fraudulent business of making, using, offering for sale, selling, and importing through established streams of commerce throughout the United States, including to customers and potential customers in this State and District, infringing discreet female genitalia concealment products, which are sold through or by Royal's fully-controlled entities, Babe Cover and Aventus (the "Infringing Products").

23. On information and belief, Royal has used his various entities, including Babe Cover and Aventus to make, use, offer for sale, sell, and import through established streams of commerce throughout the United States, including to customers and potential customers in this State and District, the Infringing Products.

24. Royal had explicit knowledge of Plaintiff's Nosho Product prior to the first sale of any of the Infringing Products.

25. In April of 2020, Royal, founder and chairman of Aventus, personally contacted Plaintiff's Owner, Corbin Henderson, after allegedly hearing about the Nosho Product on a podcast, to solicit Plaintiff's interest in Aventus's direct-to-consumer sales and marketing services. Royal promised that with his and Aventus's assistance, within twelve (12) months he could garner Plaintiff at least 500 bulk orders a day for the Nosho Product, with average order values greater than \$150. *See* Declaration of Corbin Henderson, ¶ 7, Exhibit E ("Henderson Declaration"). .

26. On May 30, 2020, Royal informed Plaintiff that Royal personally wanted a controlling interest in the patented Nosho Product so he could “scale at his discretion.” *See* Henderson Declaration, ¶ 8.

27. On June 4, 2020, as part of the business discussions between Plaintiff and Royal, Plaintiff provided Royal with samples of the patented Nosho Product. *See* Henderson Declaration, ¶ 9.

28. On information and belief, while Royal was in active business negotiations with Plaintiff, Royal sent the patented Nosho Product to a third-party manufacturer to replicate. *See* Henderson Declaration, ¶ 10.

29. On June 8, 2020, Plaintiff sent a text message to Royal stating:

I do not feel comfortable moving beyond a licensing agreement. I think that your offer of what you wanted for a percentage was so far off what I would consider fair, and I don't see us being able to come together. I've put two scenarios out there and both were very far from what you thought. If you think 1m/month then I would think an agreement where you are free to sell the product and do your own thing would be a good thing for you. I understand if you think at that point it isn't worth your time.

See Henderson Declaration, ¶ 11.

30. On June 8, 2020, Royal sent a text message to Plaintiff stating:

You can get a little bit from a lot. Or a little bit from nothing. I am surprised you thought my offer was a bad offer. Unless you come up with 100s of thousands of dollars and some background in several aspects of digital marketing which will be very hard to find that type of talent in Charleston SC. You can keep shipping these from your living room or you can partner with someone who has access to the funding this project would need. Licensing deal makes no sense, this isn't a proprietary product. You have 15+ competitors fighting for the same market share, it could be 16. If you're not Okay with my offer make a counter, but I refuse a licensing deal.

See Henderson Declaration, ¶ 12.

31. On June 9, 2020, Plaintiff sent a text to Royal stating:

After speaking with my lawyer, we think a simple licensing agreement is the best route for us to take. I've proposed 1 year, 8% of invoice paid quarterly. I understand your hesitation with the one year, and we can put in auto renewals based on certain thresholds being met. If

you'd be interested in the licensing agreement in some form, I am open to a counter. If the addition of this product to your portfolio for the profit it will generate is not worth your time, I understand. If not maybe we should talk about the performance based marketing we first discussed.

See Henderson Declaration, ¶ 13.

32. On June 9, 2020, Royal sent a text message to Plaintiff stating in relevant part, “I won't do this for a licensing deal, **I can do this on my own if I wanted.**” See Henderson Declaration, ¶ 14, emphasis added.

33. On information and belief, on June 9, 2020, Royal created, via domain proxy registrant, the www.babecover.com domain. A print-out from the WHOIS records for the www.babecover.com domain is attached hereto as Exhibit F.

34. On information and belief, on July 8, 2020, Royal created a Facebook Page for the Babe Cover Product available at <https://www.facebook.com/OriginalBabeCover/about/> (“Babe Cover Facebook page”). A print-out of the Babe Cover Facebook Page showing the advertising and offering for sale of the Babe Cover Product is attached hereto as Exhibit G.

35. On information and belief, Royal filed articles of incorporation for Babe Cover, LLC on October 16, 2020.

36. On information and belief, in early 2021, Royal approached stores in Mount Pleasant, South Carolina, including Gwynn's and Bits of Lace, to sell the Babe Cover Product, which he referred to as “his new product.” See Henderson Declaration, ¶ 15.

37. Plaintiff did not give Royal authorization or license to make, use, offer to sell, sell or import into the United States the infringing Babe Cover Product. See Henderson Declaration, ¶ 16.

38. Royal has directly infringed, and continues to directly infringe, the D'529 Patent by making, using, offering to sell, selling and/or importing discreet female genitalia concealment

products, including the Infringing Products, having substantially the same ornamental design as the design claimed in the D'529 Patent, in violation of 35 U.S.C. §§ 271(a) and 289.

39. On information and belief, Royal is actively, intentionally, and/or knowingly inducing the infringement of the D'529 Patent by encouraging and promoting the use by others of discreet female genitalia concealment products that infringe the D'529 Patent, including but not limited to the Infringing Products as provided by or through Babe Cover in violation of 35 U.S.C. § 271(b).

40. On information and belief, Royal has had actual knowledge of its infringement of the D'529 Patent since at least its first sale of the Infringing Products.

41. Royal has had constructive knowledge of the D'529 Patent because the Nosho Product has been properly marked pursuant to 35 U.S.C. § 287(a).

42. On information and belief, Royal formed the Babe Cover entity for the primary purpose of making, using, offering for sale, selling, and importing through established streams of commerce throughout the United States, including to customers and potential customers in this State and District, the infringing Babe Cover Product.

43. On information and belief, Royal exercised complete domination over Babe Cover with respect to the infringing manufacture, use, importation, and offer for sale of the Babe Cover Product.

44. On information and belief, Royal exercised complete domination over Aventus with respect to the fraudulent offer of direct-to-consumer marketing services to Plaintiff and the infringing manufacture, use, importation, and offer for sale of the Babe Cover Product.

45. On December 9, 2021, counsel for Plaintiff sent Defendants Royal and Babe Cover a letter outlining Plaintiff's rights in the D'529 Patent and copyright rights in the Nosho Work and

requesting that Defendants Royal and Babe Cover stop infringing the same. A copy of this letter is attached hereto as Exhibit H.

46. On December 10, 2021, Plaintiff's counsel received a responsive email from a general Babe Cover email address, which email was on information and belief, sent directly from Royal. In this email, Royal stated,

This company is in accordance of the law in the Cayman Islands. Furthermore. Josh Royal is not involved in this company. Legal posturing and requesting documents without a subpoena is not going to help here. We are well aware of our rights. According to our initial research it appears that Ms. Henderson has not been as successful in her marketing and wishes to file claim towards a business with better a better marketing budget, and successful operations of Ecommerce businesses. Corbinne has zero innovation skills as this product was handed to her with no sales, and these products are sold everywhere. Including similar products sold by Kim Kardashian. Please let me know how you wish to proceed, and if not keep in mind we have a pretty strong counsel that can make this very expensive for anyone that files suit. We look forward to hearing from you with a more amicable solution.

A copy of this email is attached hereto as Exhibit I.

47. On December 22, 2021, Plaintiff's counsel responded to Royal's December 10, 2021 email with an email stating,

We have considered your response of December 10. As an initial matter, we note that you have failed to identify yourself or in what capacity you are writing. Turning, however, to your substantive assertions, it is unclear what is meant by your statement that Baby Cover, LLC is "in accordance of the law in the Cayman Islands." Babe Cover, LLC is a Wyoming limited liability company subject to patent infringement liability and other claims. Accordingly, we ask that you forward our demand letter to your legal counsel, whom you referenced, so that said counsel may substantively evaluate our claims and advise you accordingly.

Id.

48. On December 22, 2021, Royal, through the general Babe Cover email address, sent another email reply to Plaintiff's counsel saying,

Advise me of what? A demand letter is not a court ordered subpoena. I'm not handing you over anything. You can contact my lawyer Mac McQuillin at Haynsworth Sinkler Boyd.

Tell your client when she wakes up from her Xanax induced coma that she can call me if she has a problem. Merry Christmas

Id.

49. Plaintiff's counsel repeatedly reached out to Royal's identified counsel, Mac McQuillin at Haynsworth Sinkler Boyd, on December 23, 2021, January 12, 2022, and January 20, 2022 via email and voicemail, but have received no response from Mr. McQuillin to-date. Copies of Plaintiff's counsel's email correspondences to Mr. McQuillin are attached hereto as Exhibit J.

50. None of the reasons provided by Royal for refusing to cease infringement of Plaintiff's patent and copyright rights are legally valid.

51. Royal's actions have been intentional, willful, malicious, and in complete disregard of Plaintiff's rights.

52. Royal's activities have caused and will continue to cause damage to Plaintiff by, *inter alia*, harming Plaintiff's sales, distribution, goodwill, and reputation.

53. Plaintiff is suffering irreparable harm and damage as a result of Royal's acts in an amount not yet determined.

54. Royal's unlawful conduct has irreparably harmed Plaintiff, and unless enjoined, will continue to harm Plaintiff through injury and loss to Plaintiff's business, reputation, and goodwill. Plaintiff has no adequate remedy at law to redress these injuries.

Babe Cover's Unlawful Activities

55. On information and belief, Defendant Babe Cover is engaged in the business of making, using, offering for sale, selling, and importing through established streams of commerce throughout the United States a discreet female genitalia concealment product ("Babe Cover Product").

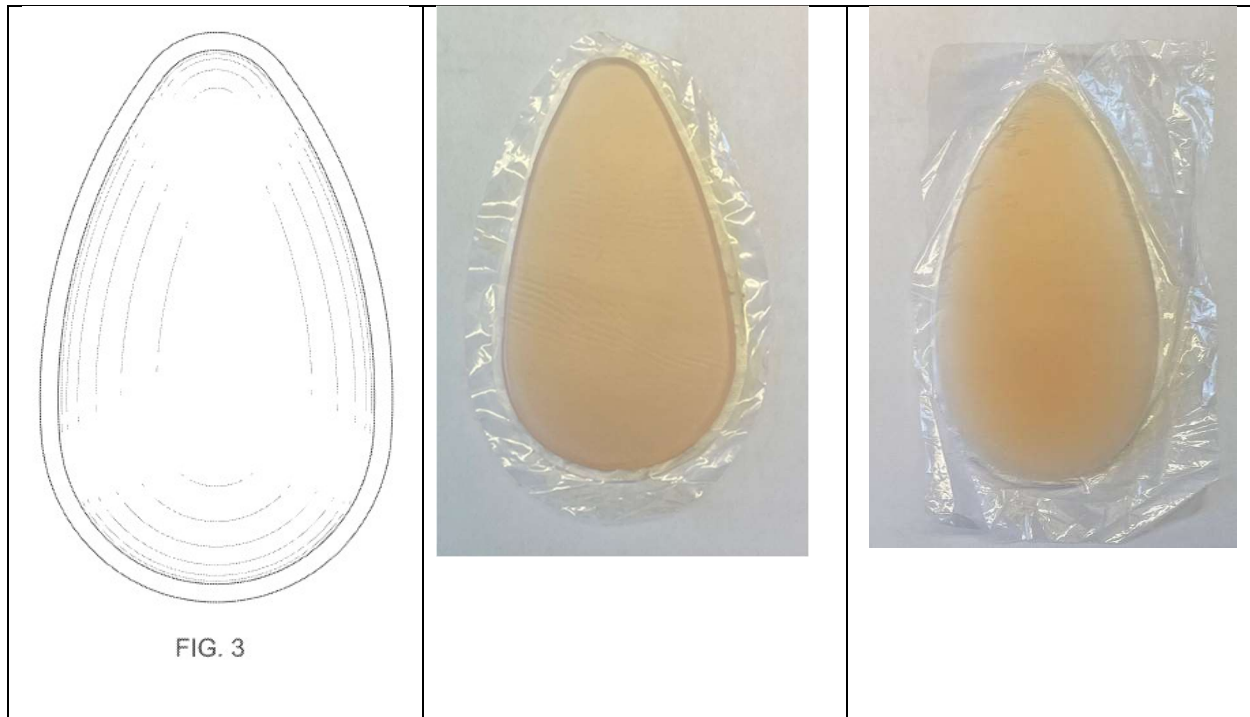
56. On information and belief, Royal formed the Babe Cover entity for the primary purpose of making, using, offering for sale, selling, and importing through established streams of commerce throughout the United States, including to customers and potential customers in this State and District, the infringing Babe Cover Product.

57. The Babe Cover Product reflects the design patented in the D'529 Patent.

58. Babe Cover's manufacture, use, offer for sale, sale, and importation of the Babe Cover Product infringes the claim of the D'529 Patent.

59. Comparisons of the product designs claimed in Figure 3 of the D'529 Patent, the Nosho Product, and the Babe Cover Product are shown in the table below. The photographs are true and accurate images of the Nosho Product and Babe Cover Product, which was purchased from Babe Cover. Below, representative images of the D'529 Patent (Figure 3), the Nosho Product, and the Babe Cover Product demonstrate how the Babe Cover Product infringes the patented product design in the D'529 Patent and how it is a clear replica of the Nosho Product:

D894529	NOSHO PRODUCT	BABE COVER PRODUCT
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60. Babe Cover has been distributing, advertising, offering for sale and selling, and presently is offering for sale and selling the Babe Cover Product throughout the United States through its website, located at <https://www.babecover.com/> and third party retailers, including local brick and mortar retailers in the Charleston, South Carolina area. *See Exhibit A.*

61. Babe Cover describes the Babe Cover Product on its website at www.babecover.com as “[a] **patented** medical grade Eco-Friendly Silicone pad uniquely designed to adhere discreetly to any bottom garment eliminating Frontal Wedgies!” *See Exhibit A, emphasis added.*

62. On information and belief, Babe Cover owns no patent rights in any products similar to the Babe Cover Product.

63. Plaintiff did not authorize, license, or otherwise permit Babe Cover to make, use, offer to sell, sell or import into the United States the infringing Babe Cover Product. *See Henderson Declaration, ¶ 16.*

64. Babe Cover has directly infringed, and continues to directly infringe, the D'529 Patent by making, using, offering to sell, selling and/or importing discreet female genitalia concealment products, including the Babe Cover Product, having substantially the same ornamental design as the design claimed in the D'529 Patent, in violation of 35 U.S.C. §§ 271(a) and 289.

65. On information and belief, Babe Cover has had actual knowledge of its infringement of the D'529 Patent since at least its first sale of the Babe Cover Product.

66. Babe Cover has had constructive knowledge of the D'529 Patent because the Nosho Product has been properly marked pursuant to 35 U.S.C. § 287(a).

67. Babe Cover places the Babe Cover Product in packaging that is visually and dimensionally substantially similar to the copyrighted packaging of the Nosho Product, including the following substantially similar text (the "Infringing Packaging"):

"...eliminating unwanted bunching, lines, and contours. The Nosho is washable, reusable, and completely dependable...Remove plastic backing and adhere to desired position on garment, widest side toward the front. After use, hand wash with soap and air dry...."

See Copyright Registration, Exhibit D.

"Eliminate bunching, lines and contouring. BABE COVER BELOW is washable, reusable, and completely discrete...Remove backing and adhere BABECOVER BELOW in desired position in garment...After use, remove from garment, hand wash, and let air dry."

See Babe Cover Product packaging, Exhibit K.

68. Babe Cover's actions have been intentional, willful, malicious, and in complete disregard of Plaintiff's copyright and patent rights.

69. Babe Cover's activities have caused and will continue to cause damage to Plaintiff by, *inter alia*, harming Plaintiff's sales, distribution, goodwill, and reputation.

70. Plaintiff is suffering irreparable harm and damage as a result of Babe Cover's acts in an amount not yet determined.

71. Babe Cover's unlawful conduct has irreparably harmed Plaintiff, and unless enjoined, will continue to harm Plaintiff through injury and loss to Plaintiff's business, reputation, and goodwill. Plaintiff has no adequate remedy at law to redress these injuries.

Aventus's Unlawful Activities

72. On information and belief, Defendant Aventus is a direct-to-consumer sales and marketing provider.

73. Aventus, through its related entity, Babe Cover, is engaged in the business of making, using, offering for sale, selling, and importing through established streams of commerce throughout the United States, including to customers and potential customers in this State and District, the Babe Cover Product.

74. Aventus's manufacture, use, offer for sale, sale, and importation of the Babe Cover Product infringes the claim of the D'529 Patent.

75. In April of 2020, Aventus entered into business discussions with Plaintiff regarding Aventus's direct-to-consumer marketing services. *See* Henderson Declaration, ¶ 7.

76. On information and belief, while Aventus was in active business negotiations with Plaintiff, Aventus sent Plaintiff's patented Nosho Product to a third party manufacturer to replicate. *See* Henderson Declaration, ¶ 10.

77. On Aventus's website at www.ventus.com, Aventus displays an alleged review from Babe Cover stating:

Aventus has been an instrumental part of our success since day one. As a female D2C product, customer engagement can be tricky. Aventus was able to navigate us through a very successful launch and then matured with us as we went from start-up to established

brand. Their scalability goes unmatched, we went from 100 calls a day to over 500 calls a day in just under 60 days at ease.

See Print-out from www.ventus.com attached hereto as Exhibit L.

78. On information and belief, Aventus, in conjunction with its related entity, Babe Cover, places the Babe Cover Product in packaging that is visually and dimensionally substantially similar to the packaging of Plaintiff's Products, including substantially similar text, as previously described herein. See Exhibits D and K.

79. On information and belief, the Babe Cover Facebook page is managed by Aventus. See Exhibit G.

80. Aventus describes the Babe Cover Product on the Babe Cover Facebook Page as “[a] **patented** feminine line concealer that adhered discreetly and comfortably to your favorite garments eliminating unwanted lines.” *Id.*, emphasis added.

81. On information and belief, neither Babe Cover nor Aventus owns any patent rights in any products similar to the Babe Cover Product.

82. Plaintiff did not authorize, license, or otherwise permit Aventus to make, use, offer to sell, sell or import into the United States the infringing Babe Cover Product. See Henderson Declaration, ¶ 16.

83. Aventus has directly infringed, and continues to directly infringe, the D'529 Patent by making, using, offering to sell, selling and/or importing discreet female genitalia concealment products, including the Babe Cover Product, having substantially the same ornamental design as the design claimed in the D'529 Patent, in violation of 35 U.S.C. §§ 271(a) and 289.

84. On information and belief, Aventus is actively, intentionally, and/or knowingly inducing the infringement of the D'529 Patent by encouraging and promoting the use by others of discreet female genitalia concealment products that infringe the D'529 Patent, including but not

limited to the Babe Cover Product as provided by or through Babe Cover in violation of 35 U.S.C. § 271(b).

85. On information and belief, Aventus has had actual knowledge of its infringement of the D'529 Patent since at least the first sale of the Babe Cover Product.

86. Aventus has had constructive knowledge of the D'529 Patent because the Nosho Product has been properly marked pursuant to 35 U.S.C. § 287(a).

87. Aventus's actions have been intentional, willful, malicious, and in complete disregard of Plaintiff's copyright and patent rights.

88. Aventus's activities have caused and will continue to cause damage to Plaintiff by, *inter alia*, harming Plaintiff's sales, distribution, goodwill, and reputation.

89. Plaintiff is suffering irreparable harm and damage as a result of Aventus's acts in an amount not yet determined.

90. Aventus's unlawful conduct has irreparably harmed Plaintiff, and unless enjoined, will continue to harm Plaintiff through injury and loss to Plaintiff's business, reputation, and goodwill. Plaintiff has no adequate remedy at law to redress these injuries.

COUNT I
Infringement of Design Patent No. D894529

91. Plaintiff realleges and incorporates herein by reference the foregoing paragraphs.

92. On information and belief, Defendants have made, used, imported, offered for sale, and sold discreet female genitalia concealment products having substantially the same ornamental design as the design claimed in the D'529 Patent, in violation of 35 U.S.C. §§ 271(a) and 289.

93. Defendants have infringed and continue to infringe the D'529 Patent within the meaning of 35 U.S.C. 271 by, without Plaintiff's authority, making, using, offering to sell, selling,

or encouraging and promoting the use by others of the Infringing Products within the United States, and/or importing the Infringing Products into the United States.

94. Defendants have committed the acts of infringement complained of herein without the consent or authorization of Plaintiff.

95. Plaintiff has been damaged by Defendants' infringing conduct.

96. Defendants' infringement of the D'529 Patent has irreparably harmed Plaintiff, and unless enjoined, will continue to harm Plaintiff.

97. Plaintiff is entitled to damages from Defendants pursuant to 35 U.S.C. §§ 284 and 289 and injunctive relief from this Court pursuant to 35 U.S.C. § 283.

COUNT II
Copyright Infringement – 17 U.S.C. § 501

98. Plaintiff realleges and incorporates by reference the foregoing paragraphs.

99. Plaintiff owns valid and enforceable copyright rights in the Nosho Work.

100. Defendants Royal, Babe Cover, and Aventus have substantially reproduced, prepared derivative works of, distributed, and/or displayed publicly the Infringing Packaging, which is identical or substantially similar to the copyrighted Nosho Work, in violation of 17 U.S.C. §§ 106 and 501.

101. Defendants Royal, Babe Cover, and Aventus have knowingly and willfully infringed Plaintiff's rights in the Nosho Work by virtue of their role in the creation, use, and distribution of the Infringing Packaging.

102. As a result of Defendants Royal, Babe Cover, and Aventus's infringement, Plaintiff has suffered damages, including lost sales and lost profits.

103. Plaintiff is entitled to damages in an amount to be proven at trial, including both actual damages and profits attributable to the infringement not taken into account in computing actual damages, pursuant to 17 U.S.C. § 504.

104. Defendants Royal, Babe Cover, and Aventus's infringement of the Nosho Work, in violation of 17 U.S.C. §§ 106 and 501, has caused irreparable injury to Plaintiff. Upon information and belief, unless restrained and enjoined, Defendants Royal, Babe Cover, and Aventus will continue to infringe the Nosho Work.

105. Plaintiff's remedy at law is not adequate to redress the harm Defendants Royal, Babe Cover, and Aventus have caused and will continue to cause until their conduct is restrained, entitling Plaintiff to injunctive relief pursuant to 17 U.S.C. § 502 and the equitable authority of this Court.

COUNT III

Unfair Trade Practices – S.C. Code Ann. § 39-5-20 *et seq.*

106. Plaintiff realleges and incorporates herein by reference the foregoing paragraphs.

107. Defendants' acts alleged herein have been willful, reckless, wanton, egregious, unfair, unethical, deceptive, and unscrupulous.

108. Defendants' conduct, which is in or affecting commerce, constitutes unfair methods of competition and/or unfair and deceptive acts or practices, within the meaning of S.C. Code Ann. § 39-5-20 *et seq.* and South Carolina common law.

109. Plaintiff has been damaged by Defendants' conduct and is entitled to monetary and injunctive relief pursuant to S.C. Code Ann. § 39-5-20 *et seq.* and other applicable law, such as an award of monetary damages, including the amount of the actual losses caused to Plaintiff by Defendants' unfair competition, lost profits, disgorgement of the unfair gains and other unjust

enrichment benefiting Defendants, attorney's fees, costs, and treble damages pursuant to S.C. Code Ann. § 39-5-140, together with any and all amounts to be shown at trial.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays for the entry of a judgment:

- A. That the D'529 Patent is valid and enforceable;
- B. That Copyright Registration No. TX0009120584 is valid and enforceable;
- C. That Defendants have willfully infringed the D'529 Patent under 35 U.S.C. § 271;
- D. That Defendants Royal, Babe Cover, and Aventus have willfully infringed Copyright Registration No. TX0009120584 under 17 U.S.C. § 501;
- E. Ordering injunctive relief against Defendants, and that Defendants, their officers, agents, representatives, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with Defendants, be enjoined and restrained from:
 - (I) infringing the D'529 Patent;
 - (II) infringing Copyright Registration No. TX0009120584;
- F. Ordering that Defendants account for and pay to Plaintiff:
 - (I) disgorgement of all profits attributable to Defendants' infringing activities;
 - (II) all other damages pursuant to 35 U.S.C. § 284 to adequately compensate Plaintiff for Defendants' infringement of the D'529 Patent, but in no event less than a reasonable royalty for the use made by Defendants of the invention set forth in the D'529 Patent;

(III) all other damages pursuant to 17 U.S.C. §§ 504(b) and 505 to adequately compensate Plaintiff for Defendants' infringement of Plaintiff's copyright rights;

(IV) treble damages and attorney's fees to the extent permitted under law;

G. Ordering that Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

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

Date: May 24, 2022

Respectfully submitted,

s/Olivia B. Broderick

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