1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Paul A. Stewart (SBN 153,467) paul.stewart@knobbe.com Brian C. Claassen (SBN 253,627) brian.claassen@knobbe.com KNOBBE, MARTENS, OLSON & BEAR, LLP 2040 Main Street Fourteenth Floor Irvine, CA 92614 Phone: (949) 760-0404 Facsimile: (949) 760-9502 Attorneys for Plaintiff TRANSFORM PARTNERS LLC IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA TRANSFORM PARTNERS LLC Plaintiff, v. DBEST PRODUCTS, INC., and RICHARD ELDEN, Defendants. DEMAND FOR JURY TRIAL	
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Transform Partners LLC doing business as Mount-It! ("Mount-It!") hereby complains of Defendant dbest products, Inc. ("dbest") and Defendant Richard Elden ("Elden", and referred to collectively with dbest as "Defendants") and alleges as follows:

INTRODUCTION

Mount-It! brings this action to prevent Defendants from wielding a 1. plainly invalid patent to interfere with Mount-It!'s valuable business relations with Amazon and the public at large. The dispute began when Defendants sent written notices to Amazon alleging that certain products sold by Mount-It! through Amazon infringe Elden's patent. But Mount-It! has been selling the accused products since at least April 2018, more than a year before the earliest filing date of Elden's patent. Mount-It's products, therefore, are prior art to Elden's patent and, accepting Defendants' infringement allegations as true, necessarily invalidate Elden's patent. Mount-It! provided Defendants with irrefutable evidence of its early sales and demanded that Defendants withdraw their notice to Amazon. Defendants ignored this demand and, as a result, Amazon has permanently removed Mount-It!'s listings. Accordingly, Mount-It! now brings this action for a declaration of invalidity of Elden's patent. In addition, because Defendants have been knowingly wielding Elden's invalid patent to cause commercial harm to Mount-It!, Mount-It! also seeks relief for tortious interference with business relations and unfair competition.

JURISDICTION AND VENUE

2. This is an action for: (a) a declaration of invalidity of U.S. Patent No. 11,338,835 ("the '835 Patent") arising under the patent laws of the United States, 35 U.S.C. § 100 *et seq.*, and (b) tortious interference with business relations and unfair competition, both arising under the laws of the State of California.

- 3. This Court has subject matter jurisdiction over the patent-related claim pursuant to 28 U.S.C. §§ 1331 & 1338; and this Court has subject matter jurisdiction over the remaining claims under 28 U.S.C. § 1367.
- 4. This Court has personal jurisdiction and venue over Defendants because Defendants both reside in this Judicial District.

THE PARTIES

- 5. Mount-It! is a California corporation having a principal place of business at 12113 Kirkham Road, Poway, California 92064.
- 6. Mount It! is informed and believes dbest is a California corporation having a principal place of business in this Judicial District at 16506 Avalon Boulevard, Carson, California 90746. Dbest is a direct competitor of Mount-It!.
- 7. Elden is an individual residing in this Judicial District. Mount-It! is informed and believes that Elden is the owner of dbest and controls substantially all of its business operations.

ALLEGATIONS FOR ALL CLAIMS OF RELIEF

8. Mount-It! sells a wide variety of products through its own website and through Amazon.com. Among the products sold by Mount-It! through Amazon is a rolling utility cart assigned SKU number MI-906. A photograph of that cart is shown below.



- 9. Mount-It! first sold this cart on Amazon at least as early as April 5, 2018.
- 10. Amazon assigns each product for sale on its website a unique number, similar to a SKU number, known as an Amazon Standard Identification Number or ASIN. At least as early as April 5, 2018, Amazon assigned Mount-It!'s cart ASIN B0763TCX1V, and Mount-It!'s cart has been sold on Amazon under this ASIN since that time.
- 11. Mount-It! also sells a rolling utility cart that has been assigned SKU number MI-905 and ASIN B0763SM6WQ. A photograph of that cart is shown below.



- 12. Since at least April 25, 2018, Mount-It! has been selling the cart designated as MI-905 and ASIN B0763SM6WQ through Amazon.
- 13. Mount-It! sells still another rolling utility cart through Amazon, this one assigned SKU number MI-904 and ASIN B06WWG3L1T. A photograph of that cart is shown below.

- 14. Since at least June 25, 2018, Mount-It! has been selling the cart designated as MI-904 and ASIN B06WWG3L1T through Amazon.
- 15. The records of the U.S. Patent and Trademark Office disclose that Elden is the owner of the '835 Patent. The '835 Patent claims a priority date of January 6, 2020, more than a year after Mount-It! began selling its carts that have been assigned SKU number MI-906 and ASIN B0763TCX1V, SKU number MI-905 and ASIN B0763SM6WQ, and SKU number MI-904 and ASIN B06WWG3L1T (collectively "the three Mount-It! carts").
- 16. On or before October 5, 2022, Defendants sent a notice to Amazon accusing Mount-It!'s cart MI-906, ASIN B0763TCX1V, of infringing the '835 Patent.
- 17. On October 5, 2022, Amazon sent a notice to Mount-It! informing Mount-It! that its listing ASIN B0763TCX1V had been removed because a representative of dbest had sent a notice alleging infringement of the '835 Patent.
- 18. On or before January 15, 2023, Defendants sent a notice to Amazon accusing Mount-It!'s cart MI-905, ASIN B0763SM6WQ, of infringing the '835 Patent.
- 19. On January 15, 2023, Amazon sent a notice to Mount-It! informing Mount-It! that its listing ASIN B0763SM6WQ had been removed because a representative of dbest had sent a notice alleging infringement of the '835 Patent.
- 20. On or before January 15, 2023, Defendants sent a notice to Amazon accusing Mount-It!'s cart MI-904, ASIN B06WWG3L1T, of infringing the '835 Patent.
- 21. On January 15, 2023, Amazon sent a notice to Mount-It! informing Mount-It! that its listing ASIN B06WWG3L1T had been removed because a representative of dbest had sent a notice alleging infringement of the '835 Patent.

- 22. Thus, as a result of Defendants' conduct, Amazon has removed three separate listings of Mount-It! for three separate Mount-It! products. In addition, because of Defendants' multiple and repeated infringement accusations, Mount-It's Amazon Seller Performance Score has been reduced. This ultimately could lead to the permanent suspension of Mount-It!'s entire Amazon seller account, thus removing Mount-It! from Amazon altogether.
- 23. Amazon's policies and practices provide no procedure for sellers like Mount-It! to challenge the validity of any patent underlying an infringement charge. Amazon merely advises sellers to contact the patent owner and request a retraction of the original infringement notice.
- 24. On February 7, 2023, Mount-It! contacted Defendants in writing and demanded that Defendants retract their infringement notices to Amazon. Defendants never responded to this demand.
- 25. As a result of the delisting of the three Mount-It! carts, Mount-It! has wrongfully and unjustly lost numerous sales of its carts, and Mount-It!'s Amazon Seller Performance Score has been reduced.
- 26. Mount-It!'s only remedy to restore its listings with Amazon, and to restore its Seller Performance Score, is to obtain a District Court order adjudicating that the '835 Patent is invalid or not infringed. And Mount-It!'s only remedy to recover for its lost sales is to seek monetary relief from this Court.

COUNT I

(Declaratory Judgment of Patent Invalidity)

- 27. Mount-It! realleges Paragraphs 1-26 of this Complaint as if set forth fully herein.
- 28. Defendants have accused the three Mount-It! carts of infringing the '835 Patent.

- 29. Each of the three Mount-It! carts is prior art to the '835 Patent under 35 U.S.C. § 102(b) because each of the carts was sold more than a year before the earliest priority date of the '835 Patent. Accordingly, the '835 Patent is invalid under 35 U.S.C. §102(b).
- 30. An actual case or controversy exists between the parties as to the validity of the '835 Patent because Defendants have wielded that patent to obtain the removal of the three Mount-It! carts from Amazon by alleging infringement of the '835 Patent.
 - 31. Accordingly, this Court should declare the '835 Patent to be invalid.

COUNT II

(Tortious Interference)

- 32. Mount-It! realleges Paragraphs 1-31 of this Complaint as if set forth fully herein.
- 33. Mount-It! had economic relationships with Amazon and end-user consumers regarding the sale of the three Mount-It! carts. These relationships provided Mount-It! with the probability of future economic benefits in the form of more sales of the three Mount-It! carts.
- 34. Defendants were keenly aware of these relationships as evidenced by the fact that Defendants committed intentional acts designed to disrupt those relationships. In particular, Defendants sent written notices to Amazon accusing Mount-It! of patent infringement, with the specific intent that Amazon terminate Mount-It!'s listings for its carts. Defendants sent these notices in bad faith, with malice, oppression, and fraud. Further, Defendants in bad faith refused to withdraw these notices after being informed that Mount-It!'s products are prior art to the asserted patent.
- 35. Defendants' notices caused the actual disruption of Mount-It!'s relationship with Amazon in that Amazon in fact terminated Mount-It!'s listings for

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its carts. Defendants' notices also caused the actual disruption of Mount-It!'s relationships with end-user consumers because those consumers are no longer able to purchase the three Mount-It! carts on Amazon. Further, Defendants' written notices of infringement to Amazon may lead to the complete suspension of Mount-It!'s entire Amazon seller account.

- 36. Defendants' conduct caused actual economic harm to Mount-It! in the form of lost sales of carts formerly listed on Amazon.
- 37. Defendants therefore have engaged in tortious interference with Mount-It!'s business relations.

COUNT II

(Unfair Competition)

- 38. Mount-It! realleges Paragraphs 1-37 of this Complaint as if set forth fully herein.
- 39. The foregoing activities of Defendants constitute unfair competition under the common law of the State of California.
- 40. Defendants have committed these acts of unfair competition in bad faith, with malice, oppression, and fraud, causing great harm to Mount-It!.

PRAYER FOR RELIEF

Transform Partners LLC respectfully requests the following relief:

- A. That the Court render a final judgment in favor of Mount-It! and against Defendants on all claims for relief alleged herein;
- B. That this Court enter final judgment declaring the '835 Patent to be invalid;
- C. That this Court order Defendants (1) to serve upon Amazon a copy of the final judgment in this action declaring the '835 Patent to be invalid, and (2) to withdraw their notice of infringement to Amazon;

DEMAND FOR JURY TRIAL Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Local Rule 38-1, Mount-It! demands a jury trial on all issues so triable. KNOBBE, MARTENS, OLSON & BEAR, LLP Dated: July 24, 2023 /s/ Paul A. Stewart Paul A. Stewart Brian C. Claassen Attorneys for Plaintiff Transform Partners LLC