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6 Attorneys for PLAINTIFFS,
7 **AKHA, LLC, and AJK ENGINEERING SERVICES INC.**

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 AKHA, LLC, a California Limited
Liability Company; AJK
11 ENGINEERING SERVICES INC., a
South Carolina Corporation,

12 Plaintiffs

13 v.
14

15 PAC-DENT, INC., a California
Corporation,

16 Defendant.
17

CASE No. 8:24-cv-00078

**COMPLAINT FOR PATENT
INFRINGEMENT, BREACH OF
CONTRACT, TRADE DRESS
INFRINGEMENT, UNFAIR
COMPETITION, FALSE
ADVERTISING, TRADE LIBEL,
INTENTIONAL INTERFERENCE
WITH PROSPECTIVE ECONOMIC
RELATIONS, AND CONVERSION**

DEMAND FOR JURY TRIAL

1 Plaintiffs AKHA, LLC, (“AKHA”) and AJK Engineering Services Inc. (“AJK”)
2 (collectively, the “Plaintiffs”) for their Complaint against Defendant Pac-Dent, Inc.
3 (herein after “Pac-Dent” or “Defendant”), based upon their own personal knowledge or
4 on information and belief as to matters not within their own personal knowledge, allege
5 as follows:

6 **JURISDICTION AND VENUE**

7 1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a)
8 (any Act of Congress relating to patents and/or trademarks); 28 U.S.C. § 1338(b) (any
9 action asserting a claim of unfair competition with a substantial and related claim under
10 the patent and/or trademark laws); and 15 U.S.C. § 1121 (action arising under the
11 Lanham Act).

12 2. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a)
13 over the Plaintiffs’ state law claims because those claims are so related to the Plaintiffs’
14 claims under federal law that they form part of the same case or controversy, derive
15 from a common nucleus of operative facts, and considerations of judicial economy
16 dictate the state and federal issues be consolidated for a single trial.

17 3. This Court has personal jurisdiction over Defendant because Pac-Dent is
18 incorporated, domiciled, and transacts business within this judicial district, and because
19 this action arises out of wrongful acts by Defendant within this judicial district.

20 4. Venue is proper within this district pursuant to 28 U.S.C. §§ 1391(b) and
21 1400(a) because Defendant resides, does business within, and offers for sale in this
22 district products that infringe Plaintiffs’ intellectual property. Moreover, a substantial
23 part of the events giving rise to the claims asserted occurred in this judicial district.

24 **NATURE OF THE ACTION**

25 5. This is a civil action for Patent Infringement pursuant to 35 U.S.C. §§ 271,
26 281, 283, and 284; Breach of Contract; Federal False Designation of Origin and Trade
27 Dress infringement pursuant to 15 U.S.C. § 1125(a); Federal False Advertising and
28 Unfair Competition pursuant to 15 U.S.C. § 1125(a); Unfair Competition pursuant to

1 Cal. Bus. & Prof. Code § 17200 *et seq.*; False Advertising pursuant to Cal. Bus. & Prof.
2 Code § 17500 *et seq.*; Trade Libel; Intentional Interference with Prospective Economic
3 Relations; and Conversion.

4 **PARTIES**

5 6. Plaintiff AKHA, LLC is a limited liability company duly organized and
6 existing under the laws of California and doing business in the State of California.

7 7. AKHA's principal place of business is located at 9950 Irvine Center Drive,
8 Irvine, California 92618.

9 8. Plaintiff AJK Engineering Services, Inc. is a corporation duly organized
10 and existing under the laws of South Carolina. AJK is a member and manager of
11 AKHA.

12 9. AJK's principal place of business is located at 1605 Ashley Court,
13 Summerville, South Carolina 29486.

14 10. On information and belief, Defendant Pac-Dent, Inc. is a California
15 corporation with a principal place of business located at 670 Endeavor Circle, Brea,
16 California, 92821.

17 **FACTS RELEVANT TO ALL ALLEGATIONS**

18 11. In February 2015, Ajay Kumar, the owner and CEO of AJK, designed a
19 dental instrument known as a prophylaxis angle, comprising a transparent cup, splatter
20 guard, and housing with distinctive pink long and short gears (the "Lotus Splatter Free
21 Angle" or "Lotus SFA").

22 12. Mr. Kumar filed U.S. Non-Provisional Utility Patent Application No.
23 15/253,442 for the Lotus SFA on August 31, 2016.

24 13. On May 8, 2018, the U.S. Patent and Trademark Office Issued U.S. Utility
25 Patent No. 9,962,236 to Mr. Kumar, entitled "Splatter Reduction in a Small Head
26 Contra-Angle Prophylaxis" (the "236 Patent").

27 14. In 2018, Plaintiffs began to have discussions with Defendant regarding a
28 business arrangement in which Defendant would be a contract manufacturer of the

1 Lotus SFA for Plaintiffs.

2 15. On September 5, 2018, Defendant signed a Confidentiality Agreement
3 with Plaintiffs (the “Confidentiality Agreement”), a true and correct copy of which is
4 attached hereto as Exhibit A.

5 16. On September 28, 2018, Defendant presented a quotation to Plaintiffs for
6 the manufacture of a custom mold, and the manufacture of the Lotus SFA, which
7 comprised LSFAS-100 (Lotus Splatter Free Angle soft and firm cup), LSFAS-500
8 (Lotus Splatter Free Angle soft and firm cup), LSFAB-100 (Lotus Splatter Free Angle
9 tapered brush cup), and LSFAS-AST (Lotus Angle sample pack) (“Manufacturing
10 Quotation”), a true and correct copy of which is attached hereto as Exhibit B.

11 17. The quotation further specifies that artwork and design concepts for the
12 Lotus SFA were to be approved by Plaintiffs. Plaintiffs developed a unique trade dress
13 for the Lotus SFA, comprising the color pink applied to the internal gear of a prophylactic
14 angle with transparent housing, as shown below in the front, back, and side views of the
15 angle.

16 **Lotus SFA: Multi-View**



1 18. Less than a month after issuing the Manufacturing Quotation, Defendant's
2 CEO, Mr. Daniel Wang, threatened to increase the dollar amounts in the Quotation, and
3 began to pressure Plaintiffs to accept an "investment" from Defendant in exchange for
4 a percentage of Plaintiffs' business. Plaintiffs refused this offer, and before proceeding
5 with the manufacturing agreement, Plaintiffs obtained written confirmation from Mr.
6 Wang that Defendant would not use AKHA's Patented elements to manufacture
7 products for anyone other than for Plaintiffs.

8 19. Plaintiffs accepted the Quotation offered in Exhibit B, and paid Defendant
9 the amounts due under the agreement, including the one-time charge of \$95,000.00 in
10 exchange for Defendant to manufacture the mold.

11 20. Defendant manufactured the mold and commenced manufacturing the
12 Lotus SFA products in 2019. On August 6, 2019, the first prototypes of the Lotus SFA
13 products were shipped from Defendant's manufacturing facility in China to the United
14 States.

15 21. On September 10, 2019, Plaintiffs introduced the Lotus SFA to the dental
16 hygiene community through a press release. Over the next year, Defendant continued
17 to pressure Plaintiffs to enter into a partnership through which Defendant would own a
18 percentage of Plaintiffs' business. Plaintiffs continued to refuse Defendant's proposals.

19 22. On January 20, 2020, AJK filed a Trademark Application for the Lotus
20



26 Logo Mark shown here, which was Registered as U.S. Trademark Registration No.
27 6,479,805 on September 7, 2021 ("Lotus Logo Mark").

28 23. On September 20, 2020, Defendant sent a draft Distribution Agreement to

1 Plaintiffs that would allow Defendant to distribute the Lotus SFA after manufacture.
2 Plaintiffs did not believe that the terms of the draft Distribution Agreement were
3 commercially reasonable, and Plaintiffs declined to execute it. Nonetheless, Defendant
4 continued to pressure the Plaintiffs to enter into the agreement, threatening to “walk
5 away” from the Parties’ manufacturing deal if Plaintiffs did not sign. This would leave
6 Plaintiffs without a manufacturer and without the capital to secure an alternate
7 manufacturer, as Plaintiffs had invested significant resources in launching the
8 manufacturing process with Defendant as the manufacturer.

9 24. On September 23, 2020, Defendant sent a revised version of the
10 Distribution Agreement to Plaintiffs by email (the “Distribution Agreement”), a true
11 and correct copy of which is attached hereto as Exhibit C. Plaintiffs eventually executed
12 the Distribution Agreement in October 2020 in order to prevent severe disruption to the
13 manufacture of its Lotus SFA products.

14 25. The Distribution Agreement granted to Defendant a non-exclusive right to
15 distribute the Lotus SFA, and Defendant was required to provide sales records and pay
16 royalties to Plaintiffs on a quarterly basis.

17 26. On information and belief, Defendant underreported its sales of the Lotus
18 SFA and failed to provide Plaintiffs with accurate quarterly sales records.

19 27. On January 22, 2021, Plaintiffs entered into an agreement with the dental
20 product distributor Ultradent in which Ultradent would purchase a minimum of three
21 million units of the Lotus SFA products from Plaintiffs over a three-year period
22 beginning in January 2022 (the “Ultradent Distribution Agreement”).

23 28. On information and belief, Defendant intentionally thwarted Plaintiffs’
24 business relationship with Ultradent and the Ultradent Distribution Agreement by
25 delaying scheduled shipments of the Lotus SFA to Ultradent. At the same time,
26 Defendant was timely fulfilling orders of the Lotus SFA that Defendant sold directly to
27 purchasers under the Distribution Agreement.

28 29. Plaintiffs’ relationship with Ultradent deteriorated due to significant delays

1 in product shipments, and by July 2022, Ultradent had unfulfilled purchase orders for
2 the Lotus SFA products that were over a year old.

3 30. On July 21, 2022, Ultradent cancelled all future orders of the Lotus SFA
4 from Plaintiffs.

5 31. In or around April 2023, Plaintiffs informed Defendant that they did not
6 intend to extend the term of the Distribution Agreement, which would end by its original
7 terms on September 23, 2023.

8 32. In July 2023, Defendant informed Plaintiffs for the first time that the mold
9 Defendant created for manufacture of the Lotus SDA included elements from one of
10 Defendant's own Patents, and, therefore, despite the fact that Plaintiffs paid Defendant's
11 entire cost of making the mold, that Plaintiffs would not be permitted to use the mold
12 they owned to manufacture their Lotus SFA products without a license from Defendant.

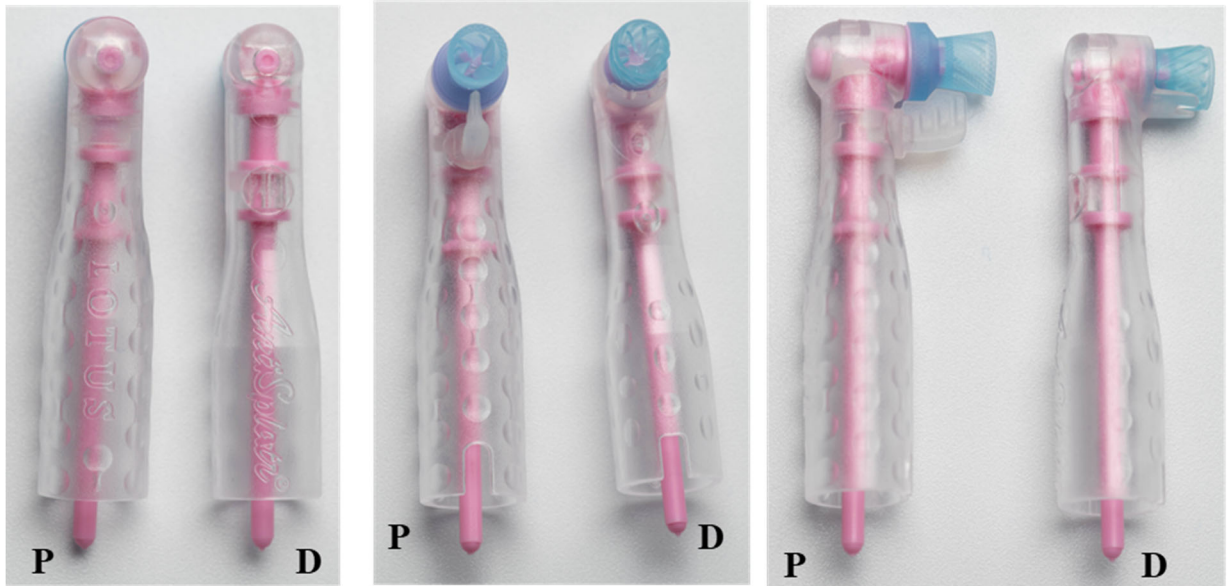
13 33. Defendant unlawfully, surreptitiously, and without Plaintiffs' consent
14 included elements from one of its own (alleged) Patents in the mold in order to prevent
15 Plaintiffs from manufacturing the Lotus SFA without the Defendant's permission.

16 34. On information and belief, after learning that Plaintiffs intended to
17 terminate the Distribution Agreement, Defendant began to manufacture and sell the
18 "AntiSplatr" prophylactic angle products without Plaintiffs' consent ("Defendant's
19 Infringing Product").

20 35. Defendant's Infringing Product has a virtually identical appearance to the
21 distinctive Lotus Trade Dress, comprising the same pink color applied to the internal
22 gear of a prophylactic angle with a transparent housing, as shown in the side-by-side product
23 comparison below on the following page.

24
25
26
27
28

**Side-by-Side Comparison of
Lotus SFA (“P”) and Defendant’s Infringing Product (“D”)**



36. Moreover, Defendant uses the exact same SKU numbers for Defendant’s Infringing Product as for the Lotus SFA. Defendant designates the Defendant’s Infringing Product by the following SKUs:

SKU	Variants
LSFAS-100	Type: AntiSplatr disposable prophy angle, Soft cup, Pink Qty: 100/box
LSFAF-100	Type: AntiSplatr disposable prophy angle, Firm cup, Blue Qty: 100/box
LSFAS-500	Type: AntiSplatr disposable prophy angle, Soft cup, Pink Qty: 500/box
LSFAF-500	Type: AntiSplatr disposable prophy angle, Firm cup, Blue Qty: 500/box

37. Moreover, the letters in each SKU listed above specifically refer to the Lotus SFA. The first four letters in each SKU, “LSFA,” stand for “Lotus Splatter-Free Angle.” The fifth letter is “S” for “Soft,” and “F” for “Firm.”

1 38. Defendant's use of the same SKU numbers for Defendant's Infringing
2 Product as Lotus SFA is likely to cause consumer confusion and has blurred the
3 distinction between Plaintiffs' authentic products and Defendant's Infringing Product.

4 39. Defendant's deceptive use of the same SKU numbers for Defendant's
5 Infringing Product as was previously used for the authentic Lotus SFA products also
6 allows Defendant to continue to conceal unauthorized sales of the Lotus SFA.

7 40. Plaintiffs terminated the Distribution Agreement and their business
8 relationship with Defendant effective September 23, 2023.

9 41. On information and belief, Defendant has continued to manufacture and
10 distribute Plaintiffs' Lotus SFA after the termination of the Distribution Agreement.

11 42. On information and belief, Defendant has offered Defendant's Infringing
12 Product for sale and fulfilled orders for Defendant's Infringing Product with the Lotus
13 SFA product bearing an identical SKU.

14 43. On information and belief, Defendant knowingly violated Plaintiffs'
15 intellectual property rights, breached the parties' agreements, and engaged in unfair
16 competition to eliminate Plaintiffs from the marketplace and claim the profits and
17 opportunities generated by Plaintiffs' Lotus SFA for itself.

18 44. On December 26, 2023, Defendant reported that from July 1 to September
19 23, 2023, its sales of the Lotus SFA nearly doubled from the previous quarter. The
20 sharp increase in sales represents the market growth which would have continued to
21 benefit Plaintiffs had Defendant not infringed Plaintiffs' Intellectual Property and
22 forced them out of the marketplace.

23 **FIRST CLAIM FOR RELIEF**

24 **(Direct Infringement of U.S. Patent No. 9,962,236)**

25 45. Plaintiffs incorporate herein by reference the allegations of the preceding
26 paragraphs as though fully set forth herein.

27 46. AKHA is the owner of the '236 Patent, entitled SPLATTER REDUCTION
28 IN A SMALL HEAD CONTRA - ANGLE PROPHY. The '236 Patent was filed on

1 August 31, 2016, and granted on May 8, 2018. The ‘236 Patent is valid and enforceable.
2 35 U.S.C. §282. A true and correct copy of the ‘236 Patent is attached hereto as Exhibit
3 D.

4 47. AKHA’s ‘236 Patent broadly covers a splatter guard for a dental cleaning
5 tool that eliminates the splatter. The ‘236 Patent comprises Independent Claims 1, 13
6 and 18, and Dependent Claims 2-12, 14-17 and 19-20.

7 48. The inventions protected by the ‘236 Patent are embodied in Plaintiffs’
8 Lotus SFA product.

9 49. On information and belief, Defendant has continued to manufacture and
10 distribute the Lotus SFA without Plaintiffs’ authorization after the Distribution
11 Agreement terminated on September 23, 2023 (the “Accused Products”).

12 50. Defendant has imported, used, sold, and offered to sell in the United States,
13 and is still importing, using, selling, and offering to sell in the United States at least the
14 Accused Product that directly, indirectly, and/or under the Doctrine of Equivalents,
15 infringes the ‘236 Patent without Plaintiffs’ authorization, pursuant to 35 U.S.C. § 271
16 and other applicable law.

17 51. Specifically, the Accused Product infringes, at least, Independent Claim 1
18 of the ‘236 Patent.

19 52. Specifically, the Accused Product infringes, at least, Independent Claim
20 13 of the ‘236 Patent.

21 53. Specifically, the Accused Product infringes, at least, Independent Claim
22 18 of the ‘236 Patent.

23 54. A Claim Chart demonstrating infringement of Claims 1, 13, and 18 of the
24 ‘236 Patent by the Accused Product is attached hereto as Exhibit E.

25 55. By reason of the foregoing infringing acts, Plaintiffs have been damaged,
26 continue to be damaged, and are entitled to no less than a reasonable royalty in
27 accordance with 35 U.S.C. § 284 in an amount to be determined at trial.

28 56. By reason of the foregoing infringing acts, Plaintiffs have been damaged,

1 continue to be damaged, and are entitled to recover their lost profits in accordance with
2 35 U.S.C. § 284 and controlling case law in an amount to be determined at trial.

3 57. In addition, pursuant to 35 U.S.C. § 284, Plaintiffs are entitled to enhanced
4 and treble damages against Defendant together with interest at the maximum legal rate
5 and costs as fixed by the Court.

6 58. On information and belief, Defendant's infringement has been intentional
7 and willful, making this an exceptional case.

8 59. Because this is an exceptional case, Plaintiffs are entitled to recover their
9 attorneys' fees under 35 U.S.C. § 285.

10 60. Plaintiffs have suffered and continue to suffer great and irreparable harm
11 from Defendant's infringement of the '236 Patent. Plaintiffs have no adequate remedy
12 at law and are entitled to an injunction against Defendant's infringement of the '236
13 Patent. Unless enjoined by this Court, Defendant will continue its infringing conduct,
14 thereby causing Plaintiffs to further sustain irreparable damage, loss, and injury.

15 **SECOND CLAIM FOR RELIEF**

16 **(Breach of Contract)**

17 61. Plaintiffs incorporate herein by reference the allegations of the preceding
18 paragraphs as though fully set forth herein.

19 62. Defendant was obligated under the Distribution Agreement to provide
20 accurate records of its sales of the Lotus SFA and pay royalties to Plaintiffs on a
21 quarterly basis.

22 63. On information and belief, Defendant breached the Distribution
23 Agreement by failing to accurately report and pay royalties for sales of the Lotus SFA
24 products during the term of the Distribution Agreement, and by continuing to sell the
25 Lotus SFA product after the termination of the Distribution Agreement.

26 64. Plaintiffs have performed all of their obligations to Defendant under the
27 Distribution Agreement, except those obligations Plaintiffs were prevented or excused
28 from performing because of the actions and failures to act by Defendant.

1 65. All contracts governed by California law include an implied covenant of
2 good faith and fair dealing. The covenant is intended to protect the reasonable
3 expectations of the contracting parties in light of their express agreement.

4 66. Defendant interfered with Plaintiffs' right to receive the benefits of the
5 Distribution Agreement.

6 67. As a direct and proximate result of Defendant's material breaches of the
7 Distribution Agreement, Plaintiffs have suffered damage.

8 68. Plaintiffs are entitled to all damages they have sustained by virtue of the
9 aforementioned conduct in an amount to be determined at trial.

10 **THIRD CLAIM FOR RELIEF**

11 **(False Designation of Origin - Trade Dress Infringement - 15 U.S.C. § 1125(a))**

12 69. Plaintiffs incorporate herein by reference the allegations of the preceding
13 paragraphs as though fully set forth herein.

14 70. Plaintiffs own the Lotus Trade Dress, which comprises the distinctive color
15 pink arbitrarily applied to the internal gear of a prophy angle with transparent housing.

16 71. Plaintiffs' Lotus Trade Dress is distinctive especially because the specific
17 color pink, applied to the internal gear, and made visible via the transparent housing, is
18 very unique and not used on any other prophy angle on the market, other than
19 Defendant's Infringing Product.

20 72. Plaintiffs' Lotus Trade Dress is non-functional because the color pink
21 applied to the internal gear of a prophy angle with transparent housing is not necessary
22 to the use of the prophy cup nor has any function in using the Lotus SFA. The arbitrary
23 Lotus Trade Dress does not increase the quality of the product, nor does it influence the
24 cost of it.

25 73. Plaintiffs' promotional efforts include – by way of example but not
26 limitation – using and displaying the Lotus Trade Dress on, in, or in connection with
27 widespread distribution of promotional and point-of-sale materials; product samplings;
28 magazines and other industry publications; attendance at trade shows; Plaintiffs'

1 website; and other Internet websites.

2 74. Plaintiffs' Trade Dress has also been prominently displayed on the product
3 packaging for the Lotus SFA, as reflected in the federally Registered Lotus Logo Mark,
4 U.S. Trademark Registration No. 6,479,805.

5 75. As a result of the widespread use and promotion of the Lotus Trade Dress,
6 the trade dress has acquired secondary meaning to consumers and potential customers,
7 in that consumers and potential customers have come to associate the trade dress with
8 Plaintiffs.

9 76. Defendant has infringed the Lotus Trade Dress by utilizing a virtually
10 identical trade dress with Defendant's Infringing Product as shown hereinabove.

11 77. Plaintiffs are informed and believe, and on that basis allege, that Defendant
12 acted with the intent to trade upon Plaintiffs' reputation and goodwill by causing
13 confusion and mistake among customers and the public, and to deceive the public into
14 believing that Defendant or the products offered by Defendant are associated with,
15 sponsored by, or approved by Plaintiffs, when they are not.

16 78. Defendant had actual knowledge of Plaintiffs' ownership and prior use of
17 the Lotus Trade Dress prior to the aforementioned acts of infringement, and without the
18 consent of Plaintiffs, has willfully and intentionally violated 15 U.S.C. § 1125(a).

19 79. Defendant acted in bad faith by using the same SKU numbering system as
20 used with Plaintiffs product to reference Defendant's "new" (infringing) product.

21 80. Defendant acted in bad faith by advertising the Defendant's Infringing
22 Product but actually sending to customers the authentic Lotus SFA without permission.

23 81. Defendant's conduct, acting for its own use and benefit, in complete
24 disregard of Plaintiffs' rights and at Plaintiffs' expense, constitutes Unfair Competition
25 pursuant to 15 U.S.C. § 1125.

26 82. As a direct, proximate, and foreseeable result of Defendant's wrongful
27 conduct, Plaintiffs have suffered, and will continue to suffer, irreparable harm.
28 Plaintiffs have no adequate remedy at law to compensate for these substantial injuries

1 and are entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

2 83. Plaintiffs are entitled to all damages they have sustained by virtue of the
3 aforementioned conduct in an amount to be determined at trial pursuant to 15 U.S.C. §
4 1117.

5 **FOURTH CLAIM FOR RELIEF**

6 **(False Description - 15 U.S.C. § 1125(a))**

7 84. Plaintiffs incorporate herein by reference the allegations of the preceding
8 paragraphs as though fully set forth herein.

9 85. On its website, and especially in the product details of the Defendant's
10 Infringing Product, Defendant states:

11 86. "The ingeniously designed splatter fender effectively eliminates saliva,
12 blood, and prophy paste accumulation from the cup's exterior, reducing splatter by up
13 to 100% from its predecessor."

14 87. On information and belief, the "predecessor" referenced in this statement
15 is the Lotus SFA product.

16 88. On information and belief, Defendant is providing misleading information
17 and asserting an untrue statement when it compares the Defendant's Infringing Product
18 to its predecessor and states that it is reducing splatter by up to 100% in comparison to
19 the Lotus SFA.

20 89. Defendant knew, or should have known, that its statements were untrue
21 and/or misleading.

22 90. As a direct, proximate, and foreseeable result of Defendant's wrongful
23 conduct, Plaintiffs have suffered, and will continue to suffer, irreparable harm, Plaintiffs
24 have no adequate remedy at law to compensate for these substantial injuries and are
25 entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

26 91. As a direct, proximate, and foreseeable result of Defendant's wrongful
27 conduct, Plaintiffs are entitled to recover Defendant's profits gained from its unlawful
28 acts, damages sustained by the Plaintiffs, and the costs of the action pursuant to 15

1 U.S.C. § 1117.

2 **FIFTH CLAIM FOR RELIEF**

3 **(Unfair Competition – Cal. Bus. & Prof. Code § 17200)**

4 92. Plaintiffs incorporate herein by reference the allegations of the preceding
5 paragraphs as though fully set forth herein.

6 93. Defendant acted in bad faith by implementing into Plaintiffs’ mold what
7 Defendant alleges to be one or more elements protected by Defendant’s own patent in
8 order to prevent Plaintiffs from using the mold outside of a contractual relationship with
9 Defendant.

10 94. Defendant exploited its commercial advantage in an effort to force
11 Plaintiffs to agree to Defendant’s own onerous and one-sided manufacturing and
12 distribution terms for Plaintiffs’ Lotus SFA.

13 95. On information and belief, while bound by the Distribution Agreement,
14 Defendant refused to timely manufacture and ship Lotus SFA products to Plaintiffs’
15 customers in order to become the exclusive distributor of the Lotus SFA products.

16 96. Defendant acted in bad faith by advertising Defendant’s Infringing Product
17 as “100% more effective” than the Lotus SFA when Defendant was still the
18 manufacturer and a distributor of the Lotus SFA.

19 97. Defendant acted in bad faith by including false advertising on its website
20 that states: “The ingeniously designed splatter fender effectively eliminates saliva,
21 blood, and prophylactic paste accumulation from the cup’s exterior, reducing splatter by up
22 to 100% from its predecessor.”

23 98. Defendant acted in bad faith by advertising Defendant’s Infringing Product
24 and then delivering the authentic Lotus SFA instead of Defendant’s Infringing Product.

25 99. Defendant acted in bad faith by using the same SKU numbers for
26 Defendant’s Infringing Product as for the Lotus SFA.

27 100. Defendant’s conduct has created significant confusion in the marketplace,
28 as Defendant is simultaneously selling both the Lotus SFA and Defendant’s Infringing

1 Product under the same SKU numbers.

2 101. Defendant's conduct, acting for its benefit, in complete disregard of
3 Plaintiffs' rights and at Plaintiffs' expense, constitutes Unfair Competition under
4 California Business & Professions Code.

5 102. As a direct and proximate result of Defendant's conduct, Plaintiffs have no
6 adequate remedy at law, have been irreparably harmed, and will continue to be
7 irreparably harmed unless Defendant is enjoined from engaging in the infringing
8 conduct set forth herein.

9 103. Plaintiffs are entitled to an injunction preventing the aforementioned
10 unlawful, unfair, and fraudulent business acts.

11 104. Plaintiffs are entitled to restitution in the amount of all of Defendant's
12 profits earned in connection with the foregoing unfairly competitive activities.

13 **SIXTH CLAIM FOR RELIEF**

14 **(False Advertising – Cal. Bus. & Prof. Code § 17500)**

15 105. Plaintiffs incorporate herein by reference the allegations of the preceding
16 paragraphs as though fully set forth herein.

17 106. Defendant acted in bad faith by including the following false advertising
18 on its website: "The ingeniously designed splatter fender effectively eliminates saliva,
19 blood, and prophy paste accumulation from the cup's exterior, reducing splatter by up
20 to 100% from its predecessor."

21 107. Defendant acted in bad faith by falsely advertising the Defendant's
22 Infringing Product on its website but shipping the authentic Lotus SFA instead.

23 108. Defendant's conduct constitutes False Advertising, acting for its own use
24 and benefit, in complete disregard of Plaintiffs' rights and at Plaintiffs' expense,
25 constitutes False Advertising under the California Business & Professions Code.

26 109. As a direct, proximate, and foreseeable result of Defendant making these
27 false and misleading statements, Plaintiffs have suffered, and will continue to suffer,
28 irreparable harm. Plaintiffs have no adequate remedy at law to compensate for these

1 substantial injuries and are thus entitled to injunctive relief.

2 110. As a direct, proximate, and foreseeable result of Defendant making these
3 false and misleading statements, Plaintiffs have suffered and will continue to suffer,
4 money damages in an amount to be proven at trial.

5 **SEVENTH CLAIM FOR RELIEF**

6 **(Trade Libel)**

7 111. Plaintiffs incorporate herein by reference the allegations of the preceding
8 paragraphs as though fully set forth herein.

9 112. Defendant published a statement of fact regarding Defendant's Infringing
10 Product, namely, that "The ingeniously designed splatter fender effectively eliminates
11 saliva, blood, and prophy paste accumulation from the cup's exterior, reducing splatter
12 by up to 100% from its predecessor."

13 113. On information and belief, the "predecessor" referenced in the foregoing
14 statement is the Lotus SFA.

15 114. The foregoing statement of fact is untrue.

16 115. On information and belief, Defendant made the foregoing statement of fact
17 knowing that it was untrue or with reckless disregard for the truth.

18 116. As a direct and proximate result of Defendant's false statement of fact,
19 Plaintiffs have suffered and will continue to suffer, money damages in an amount to be
20 proven at trial.

21 **EIGHTH CLAIM FOR RELIEF**

22 **(Intentional Interference With Prospective Economic Relations)**

23 117. Plaintiffs incorporate herein by reference the allegations of the preceding
24 paragraphs as though fully set forth herein.

25 118. On January 22, 2021, Ultradent committed to purchase a minimum of three
26 million units of the Lotus SFA products from Plaintiffs over a three-year period
27 beginning in January 2022.

28 119. Plaintiffs informed Defendant of the terms of the Ultradent Distribution

1 Agreement, including the manufacturing capacity required and the importance of timely
2 shipments of product.

3 120. On information and belief, Defendant intentionally thwarted Plaintiffs'
4 business relationship with Ultradent and the Ultradent Distribution Agreement by
5 delaying scheduled shipments of the Lotus SFA to Ultradent. At the same time,
6 Defendant was timely fulfilling orders of the Lotus SFA that Defendant sold directly to
7 purchasers under the Distribution Agreement.

8 121. As the product manufacturer, Defendant shipped the Lotus SFA products
9 directly to Ultradent as directed by Plaintiffs.

10 122. On information and belief, Defendant intentionally and repeatedly delayed
11 scheduled shipments of the Lotus SFA to Ultradent for up to one year.

12 123. Despite Plaintiffs' informing Defendant of Ultradent's dissatisfaction with
13 the recurring late shipments, Defendant did nothing to ship the Lotus SFA products to
14 Ultradent on schedule.

15 124. On July 21, 2022, Ultradent cancelled all future orders of the Lotus SFA
16 from Plaintiffs.

17 125. By engaging in this intentionally dilatory conduct, Defendant knew, or
18 should have known, that disruption of the relationship between Plaintiffs and Ultradent
19 was certain or substantially certain to occur.

20 126. Ultradent informed Plaintiffs that it terminated their business relationship
21 because Ultradent was not receiving the Lotus SFA products in a timely manner from
22 Defendant as had been promised by Plaintiffs.

23 127. Plaintiffs were harmed as result of Ultradent's interruption of distribution
24 of the Lotus SFA because they lost a distributor and were then forced to remain in the
25 one-sided and predatory exclusive relationship with Defendant.

26 128. Plaintiffs were harmed because they would have distributed a lot more of
27 the Lotus SFA products and targeted a much wider range of customers through two
28 distributors rather than with only one.

1 129. Defendant's late shipment of the Lotus SFA to Ultradent was the direct
2 and proximate cause of the termination of Ultradent's relationship with Plaintiffs.

3 130. Defendant intentionally interfered with Plaintiffs' prospective economic
4 relations.

5 131. As a result of Defendant's actions and omissions, Plaintiffs have suffered
6 damage in an amount to be proven at trial.

7 **NINTH CLAIM FOR RELIEF**

8 **(Conversion)**

9 132. Plaintiffs incorporate herein by reference the allegations of the preceding
10 paragraphs as though fully set forth herein.

11 133. Plaintiffs are the owner of the mold that was produced to manufacture the
12 Lotus SFA products.

13 134. Defendant has lawful possession of Plaintiffs' property while the
14 Distribution Agreement was in force an effect. After termination thereof, Defendant
15 unlawfully kept possession of Plaintiffs' property without Plaintiffs' permission.

16 135. Moreover, Defendant substantially interfered with Plaintiffs' rights in its
17 own property when Defendant incorporated into the mold one or more elements
18 protected by Defendant's own Patent, without Plaintiffs' knowledge or permission.

19 136. Plaintiffs did not give Defendant permission to retain the mold after the
20 termination of the Distribution Agreement.

21 137. Defendant never returned the mold and made sure that, even if returned,
22 the mold cannot be used by Plaintiffs because Defendant incorporated into the mold one
23 or more elements protected by Defendant's own Patent.

24 138. Defendant substantially interfered with Plaintiffs' property by keeping
25 possession of Plaintiffs' property by knowingly and intentionally retaining the mold.

26 139. On information and belief, Defendant did so with the intent to gain an
27 economic advantage insofar as Defendant's refusal to turn the mold over to Plaintiffs
28 prevented Plaintiffs from finding an alternate means by which to continue producing

1 the Lotus SFA products, and allowed Defendant to corner the market for prophylactic angles.

2 140. On information and belief, Defendant has refused to return Plaintiffs'
3 property after Plaintiffs have demanded its return, as previously alleged.

4 141. Defendant is actively preventing Plaintiffs from having access to their own
5 property, and has exercised, and continues to wrongfully exercise, control over
6 Plaintiffs' mold that was never returned to Plaintiffs, despite Defendant having
7 repeatedly confirmed Plaintiffs' ownership of the mold throughout their relationship.

8 142. As a result of Defendant's wrongful actions, Defendant kept the property
9 belonging to Plaintiffs in the amount of \$95,000.00.

10 143. As a direct and proximate result of Defendant's wrongful conduct,
11 Plaintiffs have been damaged in the amount of \$95,000.00, which is the actual amount
12 that Plaintiffs paid for the mold that has been converted by Defendant.

13 144. Defendant's conduct was intentional, willful, fraudulent, malicious,
14 oppressive, despicable, and done in bad faith. Plaintiffs seek an award of exemplary and
15 punitive damages against Defendant pursuant to section 3294 of the Civil Code.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff respectfully prays for:

18 a) Judgment that Defendant has infringed and continues to infringe the '236
19 Patent in violation of 35 U.S.C. § 271 (a), as well as other applicable law;

20 b) A temporary, preliminary, and permanent injunction pursuant to 35 U.S.C.
21 § 273 against further infringement of the '236 Patent by Defendant, its officers, agents,
22 and employees, and all others in active concert or participation with any of them;

23 c) An award of damages adequate to compensate Plaintiff for the patent
24 infringement that has occurred pursuant to 35 U.S.C. § 284, which shall be trebled as a
25 result of Defendants' willful patent infringement, together with pre- and post-judgment
26 interest and costs;

27 d) An accounting of all infringing articles sold and an appropriate royalty to
28 be awarded to Plaintiff;

1 e) An assessment of costs, including a declaration that this is an exceptional
2 case and reasonable attorneys' fees and expenses, pursuant to 35 U.S.C. § 285;

3 f) Judgment that the Defendant has infringed and continues to infringe the
4 Lotus Trade Dress in violation of 15 U.S.C. § 1125 (a), as well as other applicable law;

5 g) A temporary, preliminary, and permanent injunction pursuant to 15 U.S.C.
6 § 1116 against further infringement of the Lotus Trade Dress by Defendant, its officers,
7 agents, and employees, and all others in active concert or participation with any of them;

8 h) An award of damages adequate to compensate Plaintiff for infringement
9 of the Lotus Trade Dress pursuant to 15 U.S.C. § 1117;

10 i) Judgment that the Defendant has engaged in false advertising in violation
11 of 15 U.S.C. § 1125(a) and Cal. Bus. Prof. Code § 17500 *et seq.*, as well as other
12 applicable law;

13 j) A temporary, preliminary, and permanent injunction pursuant against
14 further false statements and deceptive advertising by Defendant, its officers, agents, and
15 employees, and all others in active concert or participation with any of them;

16 k) An award of damages adequate to compensate Plaintiffs for the damage to
17 their business and goodwill caused by Defendant's false advertising;

18 l) Judgment that the Defendant has engaged in unfair competition in
19 violation of Cal. Bus. Prof. Code § 17200 *et seq.*, as well as other applicable law;

20 m) A temporary, preliminary, and permanent injunction pursuant against
21 further acts of unfair competition by Defendant, its officers, agents, and employees, and
22 all others in active concert or participation with any of them;

23 n) Restitution in the amount of all of Defendant's profits earned in connection
24 with its acts in violation of Cal. Bus. Prof. Code § 17200 *et seq.*;

25 o) An award of damages adequate to compensate Plaintiffs for their loss of
26 the mold manufactured and withheld by Defendant;

27 p) An award of exemplary and punitive damages against Defendant pursuant
28 to Cal. Civil Code § 3294;

- 1 q) An award of pre- and post-judgment interest; and
- 2 r) Such other and further relief as this Court deems just and proper.

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Respectfully submitted,
HANKIN PATENT LAW, APC

Dated: January 12, 2024

 Marc E. Hankin
Marc E. Hankin, Esq.

Attorneys for Plaintiffs,
**AKHA, LLC, and AJK Engineering
Services Inc.**

1 **DEMAND FOR JURY TRIAL**

2 AKHA, LLC, and AJK Engineering Services Inc. hereby demand trial by jury on
3 all claims and issues so triable.

4
5 Respectfully submitted,

6 **HANKIN PATENT LAW, APC**

7 Dated: January 12, 2024

/Marc E. Hankin

8 Marc E. Hankin, Esq.

9 Attorneys for Plaintiffs,
10 **AKHA, LLC, and AJK Engineering**
11 **Services Inc.**