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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Cozy Comfort Company LLC, Plaintiff, v. Star Marketing International, Inc. dba Go Mushy and/or Apollo USA, Dora Zhang and John Doe Zhang, husband and wife, individually, H&C Headwear Inc., John Ngan and Serena Ngan, husband and wife, individually, XYZ Corporations and John and Jane Does, Defendants.	Case No. _____ **COMPLAINT FOR PATENT INFRINGEMENT, TRADE DRESS INFRINGEMENT AND UNFAIR COMPETITION** Demand for Jury Trial

Plaintiff Cozy Comfort Company LLC ("Cozy Comfort" or "Plaintiff"), by and through its attorneys, for its Complaint against Defendants Star Marketing International, Inc. dba Go Mushy and/or Apollo USA, Dora Zhang and John Doe Zhang, husband and wife, individually, H&C Headwear Inc., John Ngan and Serena Ngan, husband and wife, individually, XYZ Corporations, and John and Jane Does (collectively, "Defendants") alleges as follows:

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INTRODUCTION

1. This action arises from Defendants' willful and deliberate copying of Plaintiff's patented product design for a hooded wearable blanket and Defendants' subsequent importation and distribution of these infringing products within the United States. Defendants' direct imitation of Plaintiff's product seeks to cash in on the designs, technology and global market created by Plaintiff in hooded wearable blankets. However, the marketing, importation, and sale of such products within the United States infringes upon the intellectual property rights of Plaintiff. This illegal practice will continue unless, and until, the Court puts an end to it.

2. By this action Plaintiff seeks permanent injunctive relief, money damages, exemplary damages and attorneys' fees arising from Defendants': (i) patent infringement under the Patent Act, 35 U.S.C. § 271; (ii) federal trade dress infringement and unfair competition under the Lanham Act; (iii) common law trade dress infringement and unfair competition under Arizona law; and (iv) unjust enrichment.

PARTIES

3. Plaintiff is a limited liability company formed under the laws of Arizona with a principal place of business located in Phoenix, Arizona.

4. Plaintiff is the owner of intellectual property in relation to its flagship product, a hooded wearable blanket known as "THE COMFY", as well as other related and associated designs, products, and services.

5. Upon information and belief, Defendant Star Marketing International, Inc. ("Star Marketing") dba Go Mushy and/or Apollo USA is a corporation organized under the laws of Delaware with a principal address of 1650 W. Artesia Blvd., Gardenia, California, 90248.

6. Upon information and belief, Defendant Dora Zhang is an individual and is the Chief Executive Officer of Star Marketing, having a business address of 1650 W. Artesia Blvd., Gardenia, California, 90248.

7. Upon information and belief, Defendants Dora Zhang and John Doe Zhang (collectively, "Zhang's") are husband and wife, and the actions of Defendant Dora Zhang described herein were committed on behalf of, and for the benefit of, the Zhang marital community. The Zhang marital community benefitted from the actions of Defendant Dora Zhang as alleged herein and is therefore liable to the Plaintiff.

8. Upon information and belief, Defendant H&C Headwear Inc. ("H&C") is a corporation organized under the laws of California with a principal address of 17145 Margay Avenue, Carson, California 90745.

9. Upon information and belief, Defendant John Ngan is an individual with a business address of 17145 Margay Avenue, Carson, California 90746 and residing in Carson, California.

10. Upon information and belief, Defendants John Ngan and Serena Ngan (collectively, "Ngan's") are husband and wife, and the actions of Defendant John Ngan described herein were committed on behalf of, and for the benefit of, the Ngan marital community. The Ngan marital community benefitted from the actions of Defendant John Ngan as alleged herein and is therefore liable to the Plaintiff.

11. Defendants XYZ Corporations and John and Jane Does are other entities or individuals that are associated with the brands or the sales, use, marketing and/or distribution of infringing hooded wearable blankets. Plaintiff is unaware of the names and capacities of those Defendants identified as XYZ Corporations and John and Jane Does. Upon information and belief, Plaintiff alleges that each of the Defendants were acting as the officer, director, agent, servant, master, employee, representative, or alter ego of each of the other Defendants, and in engaging in the conduct alleged herein, were acting in the course and scope of, and in furtherance of, such relationship, with the full knowledge and consent of each of the other Defendants. Moreover, upon information and belief, each of the Defendants conspired with the others and carried out the conduct alleged herein in the furtherance of such conspiracy. Upon information and belief, each Defendant induced, directed, and controlled the activities

and conduct of the other Defendants alleged herein to be unlawful. In addition, each of the Defendants is liable for the conduct of each of the other Defendants, because, upon information and belief, there is an express or implied agreement between the Defendants to assume the liabilities of the other. Defendants are further vicariously liable and are subject to contributory liability for any conduct complained of herein by any other of the Defendants and/or their principals, managers, parents, subsidiaries, agents, companies, businesses, founders, employees, contractors, owners, directors, officers, servants, attorneys, representatives, and all others acting in concert and in active participation with Defendants or such persons.

JURISDICTION AND VENUE

12. This is an action for infringement against Defendants brought under the Patent Act, 35 U.S.C. § 271 based upon Defendants' unauthorized commercial manufacture, use, importation, offer for sale and sale of wearable blankets which infringes upon United States ("U.S.") Patent Numbers D859,788 and D969,458. Plaintiff also alleges infringement of trade dress protections afforded under the Lanham Act, 15 U.S.C. §1051, *et seq*. and Unfair Competition under federal and common law and afforded by the laws of the State of Arizona.

13. This Court holds original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 (federal question jurisdiction); 28 U.S.C. §1338(b) (state claim of unfair competition joined with substantial and related federal claim under trademark laws); 28 U.S.C. § 1367 (supplemental jurisdiction); and the doctrines of ancillary and pendent jurisdiction.

14. This court has personal jurisdiction over Defendants because Defendants conduct business throughout the United States, including within the state of Arizona, and have committed in this District the acts of patent and trade dress infringement, and federal and state unfair competition, which give rise to this action.

15. This Court may join XYZ Corporations and Jane and John Does as Defendants as each is subject to service of process, such joinder would not destroy

diversity or otherwise affect the court's subject matter jurisdiction; and each is a necessary or proper party to the claim for relief.

16. Venue is proper in this District as Defendants have advertised and derived revenue from sales of products to citizens within this District and have engaged in systematic and continuous business contacts within this State. Defendants have had and continue to have significant contact with the state of Arizona through its websites, through U.S. based sales, and distribution of products throughout the U.S., and have purposefully availed themselves of Arizona's laws.

BACKGROUND

17. THE COMFY was invented in April 2017 by two brothers residing in Arizona.

18. THE COMFY is an oversized wearable item designed for cozy warmth. THE COMFY features a hood, cuffs, and large arm coverings, and covers the majority of a person's upper and lower body. THE COMFY is known for its high-quality materials and construction, featuring a layer of fleece microfiber on one side and thick sherpa-type material on the opposite layer. THE COMFY also features a large front pocket designed to allow its wearer to insert his or her hands for comfort, storage, or warmth. A logo of THE COMFY is featured on the lower left side portion of this pocket. The product is sold in a variety of colors. A sample image of the product appears below:

19. In April 2017, to facilitate the development and distribution of THE COMFY, as well as the growth of the business developing around the product, the inventors organized Plaintiff, an Arizona limited liability company.

20. In May 2017, to solicit funds for its expanding business, Plaintiff, through the inventors, auditioned for the nationally broadcast television show, *Shark Tank*. *Shark Tank* is a significantly popular and well-known reality show in which businesses and/or product owners showcase their ideas to a panel of investors, referred to on the show as "sharks." The show is broadcast in the U.S. on the ABC network, is featured on the cable network CNBC, and is available on demand on Hulu and other streaming platforms. The show has won multiple Emmys for Outstanding Structured Reality Program. The format is significantly popular, with licensed versions of the show produced and broadcast in many countries around the world, including Canada, Mexico, China, New Zealand, and Australia.

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21. After several rounds of successful auditions with the producers of *Shark Tank*, the inventors were approved to appear on the program to pitch and feature THE COMFY on the 2017 end-of-the-year, holiday-themed episode of *Shark Tank*.

22. On September 13, 2017, Plaintiff, as the assigned owner of the rights to the design of THE COMFY, filed a patent application related to its designs, United States Patent and Trademark Office ("USPTO") Application No. 29/617,421. Two years later, on September 17, 2019, that application matured into U.S. Patent No. D859,788 (the "'788 Patent"). A true and correct copy of the '788 Patent is attached hereto as **Exhibit 1** and incorporated by reference.

23. On December 3, 2017, the episode of *Shark Tank* featuring THE COMFY premiered in the U.S. On the episode, the inventors discussed the potential success of a business surrounding THE COMFY.

24. On the episode of *Shark Tank*, the inventors displayed and discussed several attributes of THE COMFY. This included the shape of the product, the materials used in its construction (fleece and sherpa), the attached hood, the front pocket, and the fit of THE COMFY over the arms and body.

25. On the episode, several "shark" panelists displayed significant enthusiasm regarding the product. On air, two of the sharks proposed investing into Plaintiff. Ultimately, Plaintiff agreed to a proposal from one of the show's sharks to invest into the business.

26. Immediately following the airing of the 2017 *Shark Tank* episode featuring THE COMFY, interest in and exposure to THE COMFY skyrocketed. The product was not only featured on a popular, nationally broadcast television program, but there was substantial exposure of THE COMFY through initial orders, positive online reviews, online video clips and social media postings.

27. Plaintiff developed several other designs in addition to its original THE COMFY. Plaintiff owns multiple U.S. Patents relating to its designs, as well as

multiple U.S. Trademark registrations and other common-law intellectual property assets.

28. Plaintiff established and maintains a company website located at https://thecomfy.com/, which since 2017 has displayed Plaintiff's products, and makes its products available for sale in the U.S. and throughout the world through Amazon and other online and brick-and-mortar retailers.

29. Through its activities, Plaintiff established itself as an innovator and leader in the wearable blankets market. In response to the success of THE COMFY, online retailer Amazon created the new category of products on its platform(s) labeled Wearable Blanket.

30. Plaintiff and its resellers have expended millions of dollars since 2017, advertising and promoting THE COMFY using Plaintiff's Trademarks and Trade Dress in the United States. Such advertising and promotion have been featured in print and electronic media, over the Internet, and in a variety of other media. THE COMFY has also been advertised, promoted, and sold by and through nationally recognized retail establishments such as Costco, Bed Bath & Beyond, QVC, Sam's Club, Kohl's, Target, and Kroger.

31. In addition to *Shark Tank*, THE COMFY featuring Plaintiff's Trade Dress has also been seen in streaming videos and numerous other television programs viewed by many millions of Americans, such as Good Morning America. THE COMFY has received extensive unsolicited media coverage and public exposure from celebrities such as Lizzo, Jamie Lynn Spears, Selena Gomez, Cindy Crawford, Kim Kardashian, and Kylie Jenner. In January of 2018, Plaintiff produced and posted a video on THE COMFY that has received over 100 million views.

32. Plaintiff has achieved hundreds of millions of dollars in sales of THE COMFY using Plaintiff's Trademarks and Trade Dress. THE COMFY is currently the best-selling wearable blanket in the United States.

33. THE COMFY brand and designs are recognized in the U.S. and worldwide as the industry standard in hooded wearable blankets. The style of THE COMFY has acquired distinctiveness within the market based upon worldwide sales and exposure. Plaintiff's Trade Dress has acquired distinctiveness by virtue of extensive sales and adverting of THE COMFY featuring Plaintiff's Trade Dress, extensive consumer recognition of the Plaintiff's Trade Dress, and association of Plaintiff's Trade Dress with THE COMFY.

34. Plaintiff's '788 Patent protects "The ornamental design for an enlarged over-garment with an elevated marsupial pocket, as shown and described." The issued patent features ten (10) Figures. Figure 1 of the '788 Patent illustrates a front view of the invention as shown below:

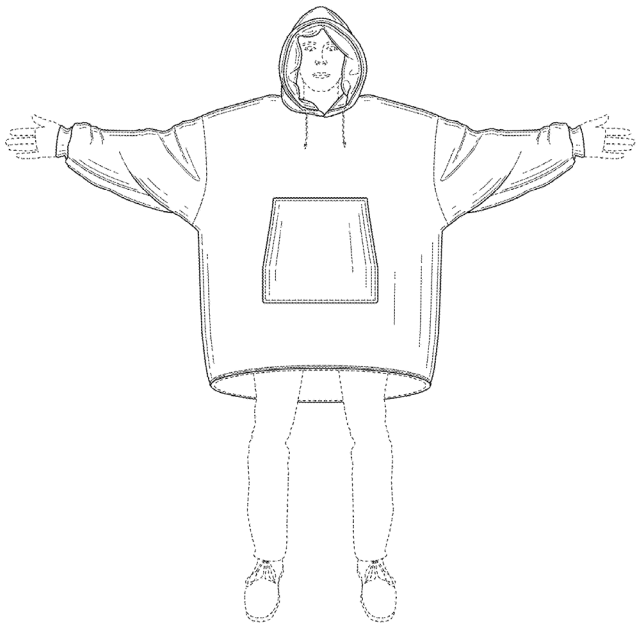
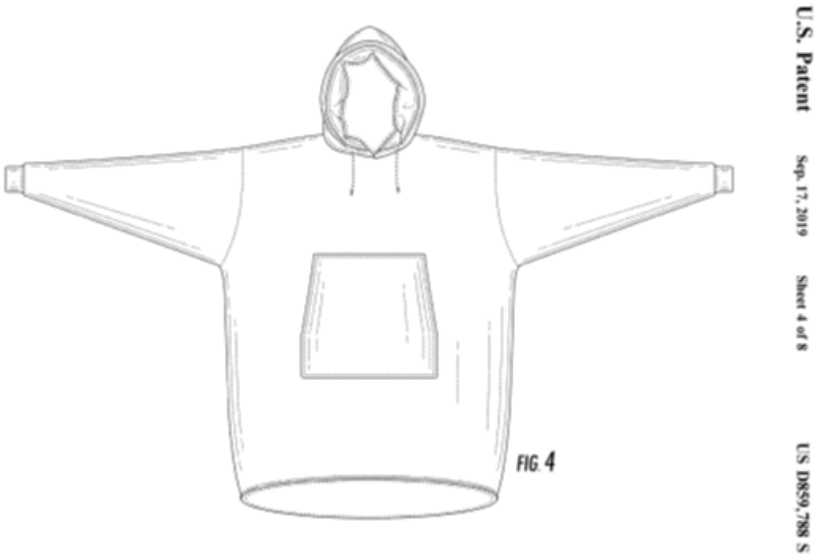


FIG. 1

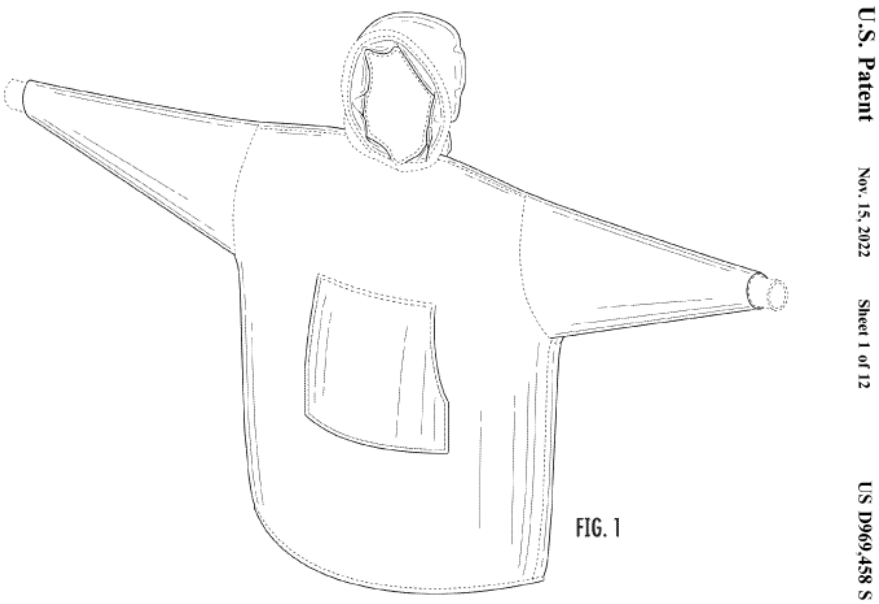
35. Figure 4 of the '788 Patent illustrates the invention without a person wearing it:



(Patent image rotated clockwise by 90 degrees)

36. Plaintiff is also the owner of U.S. Patent No. D969,458 (the "'458 Patent") entitled "Whole body blanket" issued November 15, 2022. A true and correct copy of this patent is attached hereto as **Exhibit 2** and is incorporated by reference.

37. Figure 1 of the '458 Patent illustrates the invention with dotted lines indicating optional features:



(Patent image rotated clockwise by 90 degrees)

38. Defendants have each, and in concert, willfully and deliberately copied the intellectual property embedded within THE COMFY and/or owned by Cozy Comfort to import, market, and sell infringing items within the U.S.

39. Upon information and belief, each of the corporate Defendants share the common control by individual Defendants Dora Zhang and John Doe Zhang ("Zhang's") and/or John and Serena Ngan ("Ngan's"). The Defendants market and sell products in a manner that makes it confusing to the public as to the actual entity, entities, or individuals responsible for selling particular items. However, in concert, and under the shared direct control of the Zhang's and/or Ngan's, each corporate Defendant has engaged and participated in the unlawful use, importation, marketing, distribution, and sale of products which infringe upon the intellectual property rights of Cozy Comfort.

40. Defendant Star Marketing International, Inc. was incorporated on July 23, 2007, in Delaware. In its initial filing with the Secretary of State of California on June 4, 2009, Defendant Star Marketing International, Inc. indicates that its principal executive office is 1650 W. Artesia Blvd., Gardenia, California, 90248. This initial

filing also designates Sunny Yan as the agent for service and provides that his address is 17145 Margay Avenue, Carson, California 90248. In its most recent Statement of Information filed with the Secretary of State of California on May 23, 2022, the company indicates that its Chief Executive Office is Dora Zhang, and its Chief Financial Officer is "Shun On John Ngan."

41. Upon information and belief, Apollo USA currently operates at 1650 W. Artesia Blvd., Gardenia, California, 90248.

42. Upon information and belief, Go Mushy currently operates at 1650 W. Artesia Blvd., Gardenia, California, 90248.

43. Defendant H&C Headwear Inc. was incorporated on January 25, 1991, in California. In its most recent Statement of Information filed with the Secretary of State of California on December 27, 2022, the company indicates that its principal address is 17145 Margay Avenue, Carson, California 90746, and that its Chief Executive Office and Chief Financial Officer is "Shun On Ngan."

44. Upon information and belief, Defendant John Ngan is a citizen of the State of California with a business address of 17145 Margay Avenue, Carson, California 90746. Defendant John Ngan is known and has been known by many variations of names including "Shun On John Ngan", "John Lee Ngan", "Jack Ngan" and "Shun On Ngan".

45. Upon information and belief, Defendant Serena Ngan is the wife of Defendant John Ngan and is also a citizen of the State of California.

46. Upon information and belief, the Zhang's and/or Ngan's are the controlling members in the management and control of each of the corporate Defendants.

47. Upon information and belief, the Zhang's and/or Ngan's have also transacted business in the marketing, importation, distribution and selling of products at issue in this action in an individual capacity and/or through other entities.

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48. Upon information and belief, the Zhang's and/or Ngan's, Star Marketing International, Inc. dba Go Mushy and/or Apollo USA, and H&C Headwear Inc., are alter egos of each other sharing a common interest and alternatively attributing sales of substantially identical products originating from common sources as being sold or licensed by distinct entities. The purpose of these separate companies is to obfuscate the common ownership of these entities of the Zhang's and/or Ngan's, avoid responsibility for infringement or other product issues, to forum shop regarding possible disputes such as the instant action.

49. Upon information and belief, the Ngan's have directed or overseen illusory transactions between entities under their common control, such as intellectual property assignments and licensing, with the intention of obscuring liability for violations of intellectual property rights.

50. Among the items purportedly sold by Defendants are items Defendants describe as "hoodie blankets" or "blanket hoodies." The designs of many of these items either directly replicate the intellectual property of Cozy Comfort or are designed in such a way to bear substantial similarity to the construction and design of the products of Cozy Comfort.

51. Upon information and belief, Defendant H&C Headwear Inc. sold hoodie blanket products that infringed on Plaintiff's intellectual property on Walmart.com.

52. Upon information and belief, Defendants are the owners, distributors and/or manufacturers of the products known as the Go Mushy "BLANKET HOODIE," and the Apollo USA "HOODIE BLANKET." These products are sold in a variety of colors and patterns. Sample images of each, taken from Defendant's websites (gomushy.com; apolloemb.com), appear below:

(https://gomushy.com/cdn/shop/products/heart-herefront-gray.png?v=1654025828&width=720)

(https://www.apolloemb.com/product/hoodie-blanket/bh-800)

53. Upon information and belief, none of the Defendants sold the Go Mushy BLANKET HOODIE or the Apollo USA HOODIE BLANKET, or any other oversized hooded fleece products prior to December 2017.

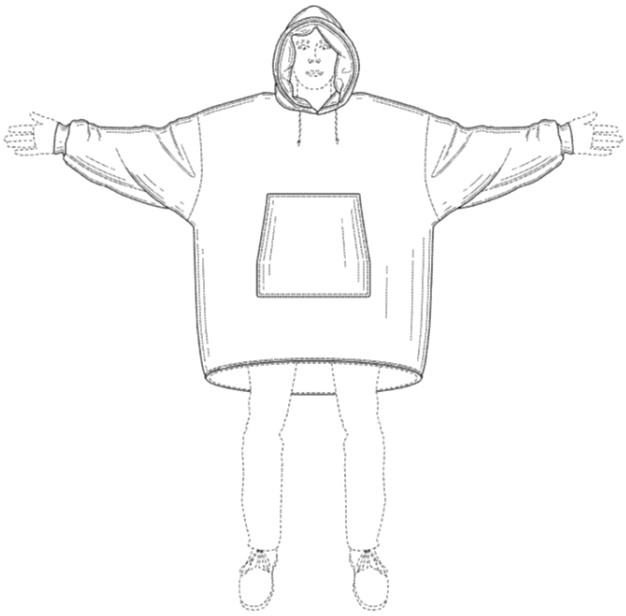
54. Defendants sell the Go Mushy BLANKET HOODIE and the Apollo USA HOODIE BLANKET to U.S.-based customers through storefronts maintained on their websites.

55. The Go Mushy BLANKET HOODIE and the Apollo USA HOODIE BLANKET are sold in a variety of colors and decorative designs. However, the construction and design of these products is substantially the same as those described in the '788 Patent, the '458 Patent, and within the trade dress of THE COMFY.

56. Defendants advertise the Go Mushy BLANKET HOODIE in the following manner: "Our oversized hoodie blanket is cozy with a soft feel. The fabrics are extremely soft with a warm comfortable feeling for your entire body."

57. Defendants advertise the Apollo USA HOODIE BLANKET as "ONE SIZE FITS ALL STYLING! Blanket/Coat/Hoodie is an ultra-soft plush wearable blanket that will keep you warm & cozy."

58. The Go Mushy BLANKET HOODIE and the Apollo USA HOODIE BLANKET are substantially the same product as THE COMFY. A side-by-side comparison between images found on Defendants websites, and Figure 1 from the '788 Patent exhibit the overwhelming sameness:



59. Plaintiff purchased sample products from Defendants' websites to examine the similarities between the BLANKET HOODIE / HOODIE BLANKET and the intellectual property owned by Plaintiff. Comparisons of photographs of the sample products purchased, and Figures 3 and 4 from the '458 Patent shows the following:

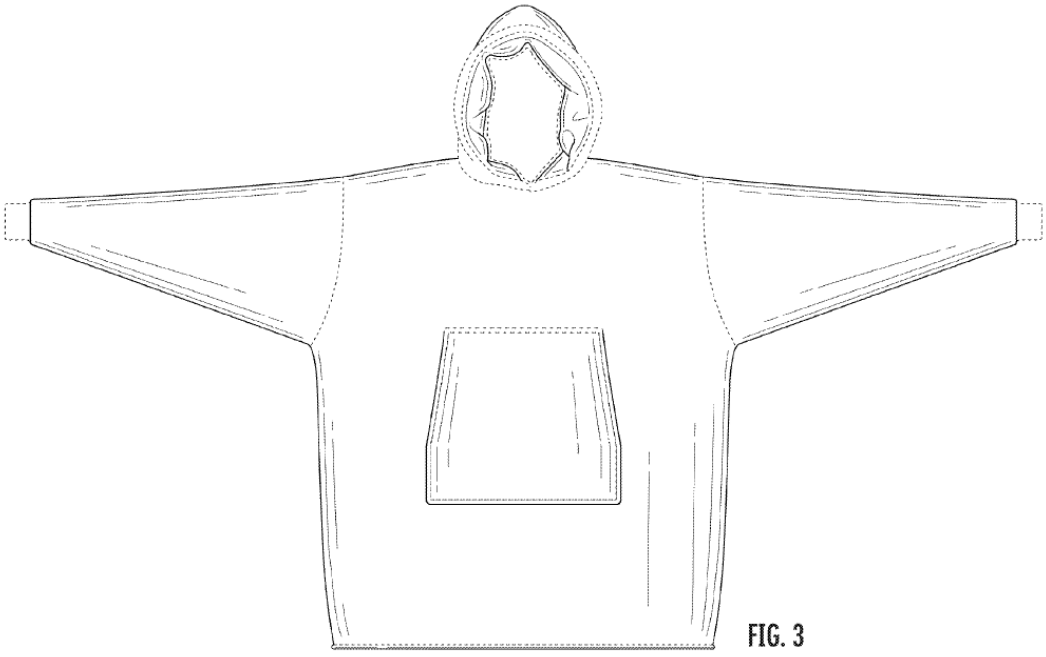


FIG. 3

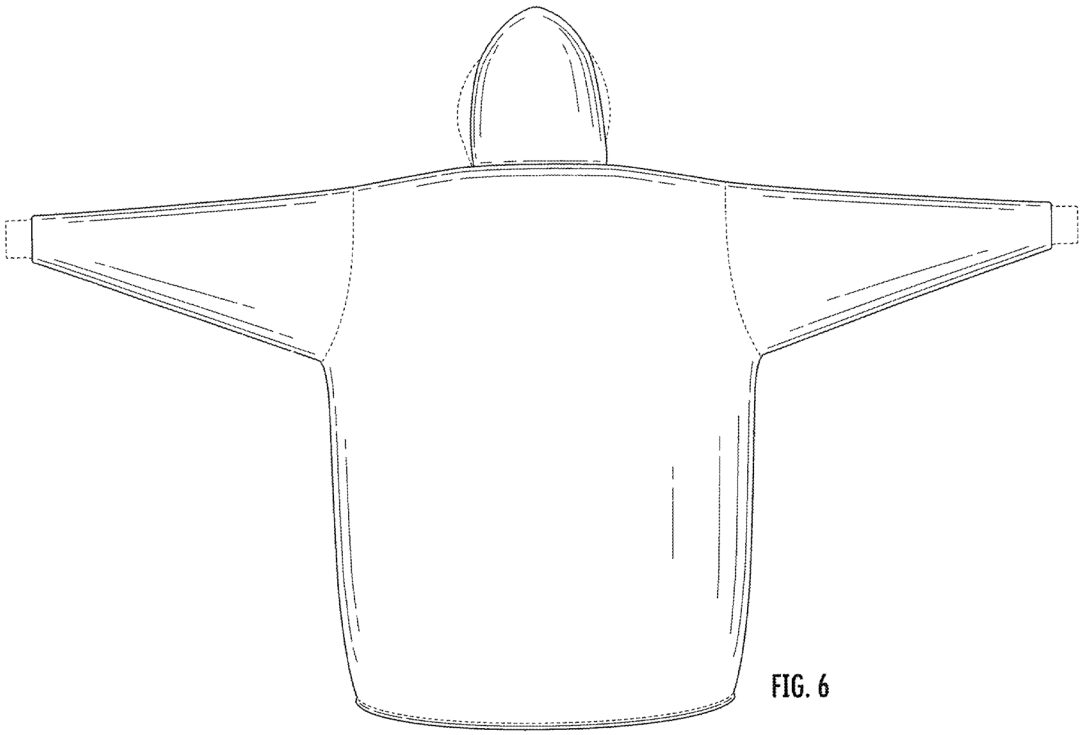


FIG. 6

60. Through vast sales, promotion, and publicity surrounding THE COMFY, Plaintiff has acquired distinctiveness in the look and feel of THE COMFY. Plaintiff is an innovator in the wearable blanket industry, as recognized by the USPTO through the issuance of multiple patents, as well as by its performance within the market. Plaintiff has expended substantial sums in marketing and advertising its products and enjoys a substantial share in the market for wearable blankets in the United States.

61. Due to the extensive marketing, promotion, and sales of THE COMFY, customers recognize Plaintiff's Trade Dress of an oversized wearable blanket, that has large arm coverings, a large hood, a sherpa lining, elastic wrist cuffs and a large front pocket, and associate such features to signify the product is a genuine THE COMFY.

62. The combination of elements comprising Plaintiff's Trade Dress is non-functional as each feature could be accomplished with different design choices, without affecting cost or quality, to convey a different product that does not embody the same, or confusingly similar, features that customers have come to recognize as THE COMFY.

63. Plaintiff's Trade Dress is famous for wearable blankets in the United States.

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64. Plaintiff markets these features such that customers recognize such features as THE COMFY Trade Dress. For example, on the marketing shown below, Plaintiff promotes THE COMFY as: "A Wearable Blanket" with "A Giant Hood," "Large Arm Coverings," "Seamless Rib-Knit Cuffs," "Giant Marsupial Pocket," and "Luscious Sherpa Lining."

65. Plaintiff also markets these features on the packaging of THE COMFY such that customers recognize THE COMFY Trade Dress. For example, on the packaging shown below, Plaintiff promotes these features and highlights them with text such as "Oversized Everything, large enough to pull legs/arms in," "Giant Pocket," "Portable Warmth," "Huge Hood," and "Luxurious Material so soft, you'll never want to take it off."

66. THE COMFY is sold in over 100 countries and through recognized retail establishments such as Costco, Bed Bath & Beyond, QVC, Sam's Club, Kohl's, Target, and Kroger. As a result of this exposure, consumers have come to recognize

Plaintiff's Trade Dress features through the promotion, sales, and publicity of THE COMFY.

67. Consumers have grown to recognize THE COMFY and Plaintiff's related products as the industry standard for wearable blankets and identify the unique shape of Plaintiff's hooded wearable blankets as coming from a distinct source.

68. Plaintiff's Trade Dress is readily recognizable to consumers. Plaintiff has received, and continues to receive, complaints from confused consumers who purchase knock off goods that copy Plaintiff's Trade Dress with the expectation that they are buying a genuine THE COMFY.

69. Defendants did not enter the market until they had seen the success of THE COMFY. As a result, Defendants and others were quick to enter the market to flood the market space. Although Plaintiff developed and invested in multiple intellectual property assets protecting THE COMFY, those assets took time to mature from applications into published registrations and issued protectable rights. Plaintiff is now in the position of having to enforce its rights against a number of infringers. THE COMFY brand, and recognized trade dress, is so successful it is now being counterfeited by pirates trying to capitalize on the goodwill and reputation that Plaintiff created.

70. Defendants have knowingly and willfully sold products which directly replicate the intellectual property of Plaintiff. Defendants have intentionally marketed, offered for sale, imported, used, and sold to U.S. based customers the HOODIE BLANKET and BLANKET HOODIE in violation of Plaintiff's rights.

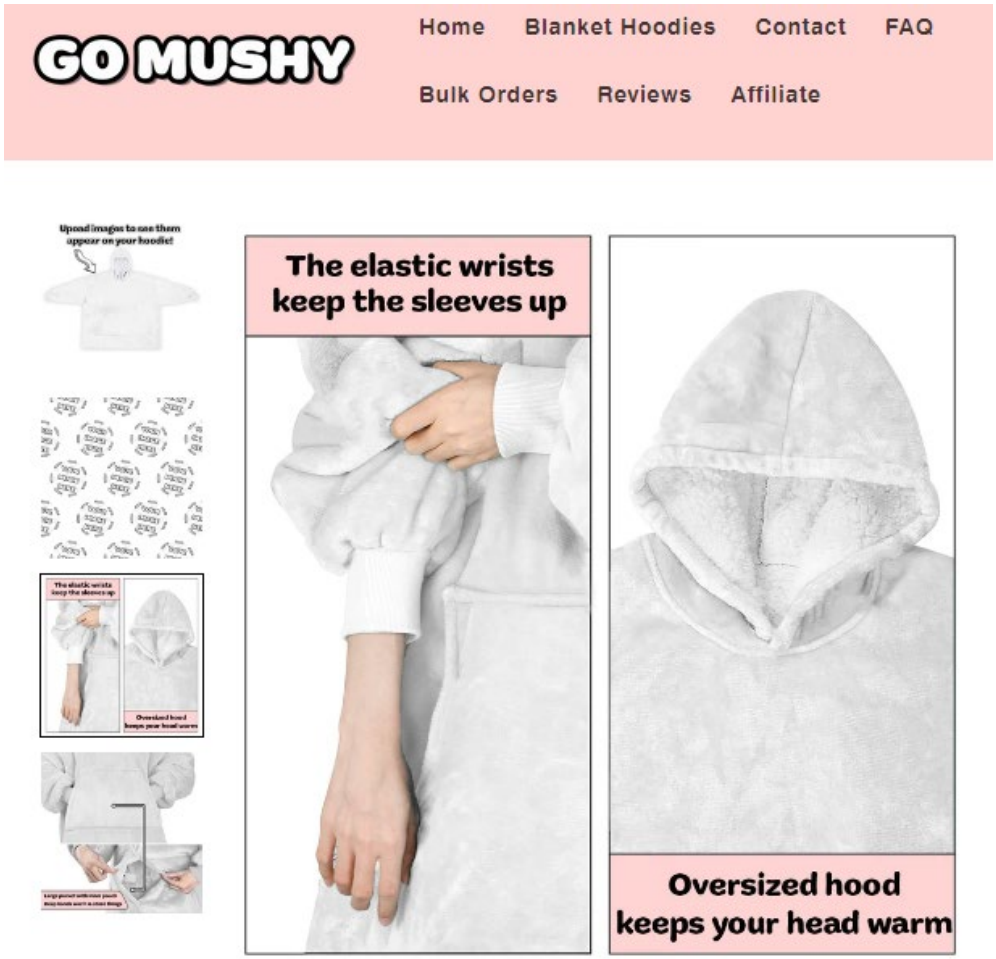
71. Upon information and belief, THE COMFY predates the introduction of the HOODIE BLANKET and BLANKET HOODIE to the market. THE COMFY is the worldwide industry standard for hooded wearable blankets with millions of units sold per year. Defendants have knowingly and willfully sold products which directly replicate the intellectual property of Plaintiff. Under the direction of Defendants, such

products have been intentionally marketed, offered for sale, imported, and sold to U.S. based customers, in violation of Plaintiff's rights.

72. In addition, the types of materials used to construct the HOODIE BLANKET / BLANKET HOODIE and THE COMFY are substantially the same. THE COMFY is constituted of a fleece layer on the outside and a sherpa layer on the inside. Upon information and belief, the HOODIE BLANKET / BLANKET HOODIE products constitute a fleece layer on the outside and a sherpa layer on the inside. Both feature an oversized front pouch, hood, and elastic cuffs.

73. A comparison below of advertising photographs of THE COMFY shown on the top, and the HOODIE BLANKET / BLANKET HOODIE products shown below, highlights the substantial similarity between the products.

(https://www.apolloemb.com/product/hoodie-blanket/bh-800)



(https://gomushy.com/products/no-pattern-blanket-hoodie)

74. Defendants have knowingly and intentionally replicated the look and feel of THE COMFY in violation of Plaintiff's intellectual property rights.

75. Since February 2020, Plaintiff and other entities owned and operated by the Ngan Defendants have been actively litigating the validity, enforceability, and alleged infringement of Plaintiff's patents and intellectual property rights in a case styled: *Top Brand LLC v. Cozy Comfort Co. LLC*, No. CV-21-00597-PHX-SPL (D. Ariz.).

76. During the course of the above litigation, Defendants have been made aware of Plaintiff's intellectual property rights.

77. Despite being on notice regarding Plaintiff's various intellectual property rights, Defendants have continued to sell items under various brand names and from various platforms which infringe upon the intellectual property of Plaintiff, as described above.

78. Upon information and belief, Defendants have known of the existence of THE COMFY for years. At the absolute latest, since February 2020, Defendants were aware of the existence of Plaintiff's pre-existing U.S. patents and other intellectual property rights. Notwithstanding, Defendants have been willful in their disregard of Plaintiff's intellectual property rights without any reasonable basis for believing that they had the right to sell or import the HOODIE BLANKET / BLANKET HOODIE products within the United States.

FIRST CLAIM FOR RELIEF

(Infringement of the '788 Patent – 35 U.S.C. §271)

79. Plaintiff hereby incorporates and realleges each and every allegation contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

80. Defendants, without authorization from Plaintiff, have used, offered for sale, sold, and/or imported into the U.S., including within this District, a hooded

wearable blanket marketed as the HOODIE BLANKET and/or BLANKET HOODIE, having a design that infringes the '788 Patent.

81. By the foregoing acts, Defendants have directly infringed, infringed under the doctrine of equivalents, contributorily infringed, and/or induced infringement of the '788 Patent in violation of 35 U.S.C. § 271.

82. Upon information and belief, Defendants' infringement has, and continues to be, knowing, intentional and willful.

83. Defendants' acts of infringement of the '788 Patent has caused, and will continue to cause, Plaintiff damages for which Plaintiff is entitled to compensation pursuant to 35 U.S.C. § 284 and/or 35 U.S.C. § 289.

84. Upon information and belief, Defendants have gained profits by virtue of their infringement of the '788 Patent.

85. Defendants' acts of infringement of the '788 Patent have caused, and will continue to cause, Plaintiff immediate and irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283 as Plaintiff has no adequate remedy at law.

86. The circumstances surrounding Defendants' infringement are exceptional and, therefore, Plaintiff is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285.

SECOND CLAIM FOR RELIEF

(Infringement of the '458 Patent – 35 U.S.C. §271)

87. Plaintiff hereby incorporates and realleges each and every allegation contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

88. Defendants, without authorization from Plaintiff, have used, offered for sale, sold, and/or imported into the U.S., including within this District, a hooded

wearable blanket marketed as the HOODIE BLANKET and/or BLANKET HOODIE, having a design that infringes the '458 Patent.

89. By the foregoing acts, Defendants have directly infringed, infringed under the doctrine of equivalents, contributorily infringed, and/or induced infringement of the '458 Patent in violation of 35 U.S.C. § 271.

90. Upon information and belief, Defendants' infringement has, and continues to be, knowing, intentional and willful.

91. Defendants' acts of infringement of the '458 Patent has caused, and will continue to cause, Plaintiff damages for which Plaintiff is entitled to compensation pursuant to 35 U.S.C. § 284 and/or 35 U.S.C. § 289.

92. Upon information and belief, Defendants have gained profits by virtue of their infringement of the '458 Patent.

93. Defendants' acts of infringement of the '458 Patent have caused, and will continue to cause, Plaintiff immediate and irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283 as Plaintiff has no adequate remedy at law.

94. The circumstances surrounding Defendants' infringement are exceptional and, therefore, Plaintiff is entitled to an award of attorneys' fees pursuant to 35 U.S.C. § 285.

THIRD CLAIM FOR RELIEF

(Federal Trade Dress Infringement and Unfair Competition – 15 U.S.C. §1125(a))

95. Plaintiff hereby incorporates and realleges each and every allegation contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

96. Defendants make, import, distribute, use, offer to sell, and sell in the U.S. products that directly infringe Plaintiff's Trade Dress in violation of § 43(a) of the

Lanham Act, 15 U.S.C. § 1125(a). Plaintiff has actively marketed, promoted, and sold continuously THE COMFY Trade Dress such that it has acquired secondary meaning within the relevant market and among the U.S. public. Defendants have used THE COMFY Trade Dress without the authorization of Plaintiff and continue to trade off the goodwill created and maintained by Plaintiff in THE COMFY Trade Dress.

97. Defendants' unauthorized use of Plaintiff's Trade Dress is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of Defendants' goods and is likely to cause consumers to believe, contrary to fact, that Defendants' goods are sold, authorized, endorsed, or sponsored by Plaintiff, or that Defendants are in some way affiliated with or sponsored by Plaintiff.

98. Defendants' unauthorized use in commerce of Plaintiff's Trade Dress as alleged herein constitutes use of a false designation of origin and misleading description and representation of fact.

99. The foregoing use in commerce by Defendants of Plaintiff's Trade Dress has caused and/or is likely to cause confusion, or mistake, or to deceive consumers as to the affiliation, connection, or association of Defendants with Plaintiff, or as to the origin, sponsorship, or approval of Defendants' goods, or commercial activities by Plaintiff.

100. Defendants' acts are willful and are intended to cause confusion, mistake, or deception as to the affiliation, connection, or association of Defendants with Plaintiff.

101. Defendants' infringement of Plaintiff's Trade Dress as aforesaid has caused and is likely to continue to cause substantial injury to the public and to Plaintiff, and Plaintiff is entitled to injunctive relief and its attorneys' fees and costs under §§ 32, 34, 35 and 36 of the United States Trademark Act, 15 U.S.C. §§ 1114, 1116, 1117 and 1118.

102. Defendants' conduct as alleged herein constitutes unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

103. Defendants' conduct as alleged herein is causing immediate and irreparable harm and injury to Plaintiff, and to its goodwill and reputation, and will continue to both damage Plaintiff and confuse the public unless enjoined by this court as Plaintiff has no adequate remedy at law.

104. Defendants have unlawfully and wrongfully derived income and profits and have been unjustly enriched by the foregoing acts. Defendants' acts have caused, and unless enjoined will continue to cause, irreparable harm to Plaintiff for which there is no adequate remedy at law.

105. Plaintiff is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

FOURTH CLAIM FOR RELIEF

(Common Law Trade Dress Infringement and Unfair Competition)

106. Plaintiff hereby incorporates and realleges each and every allegation contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

107. Defendants make, import, distribute, use, offer to sell, and sell in the U.S. products that directly infringe Plaintiff's Trade Dress in violation of A.R.S. §§44-1451 & 1452, et. seq. Plaintiff has actively marketed, promoted, and sold continuously THE COMFY Trade Dress such that it has acquired secondary meaning within the relevant market and among the U.S. public. Defendants have used THE COMFY Trade Dress without the authorization of Plaintiff and continue to trade off the goodwill created and maintained by Plaintiff in THE COMFY Trade Dress.

108. By virtue of Defendants' foregoing acts Defendants have intentionally caused a likelihood of confusion among the public and have unfairly competed with

Plaintiff in violation of the common law of the State of Arizona and A.R.S §44-1451 and §44-1452.

109. This claim for common law unfair competition arises under the common law of the State of Arizona.

110. The foregoing use in commerce by Defendants of Plaintiff's Trade Dress has caused and/or is likely to cause confusion, or mistake, or to deceive consumers as to the affiliation, connection, or association of Defendants with Plaintiff, or as to the origin, sponsorship, or approval of Defendants' goods, or commercial activities by Plaintiff.

111. Defendants' acts are willful.

112. By reason of the foregoing, Plaintiff has sustained, and unless Defendants are enjoined, will continue to sustain, injury and damages.

113. Defendants have unlawfully and wrongfully derived income and profits and have been unjustly enriched by the foregoing acts. Defendants' acts have caused, and unless enjoined will continue to cause, irreparable harm to Plaintiff for which there is no adequate remedy at law.

114. Plaintiff is entitled to, among other relief, injunctive relief and an award of actual damages, Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs of the action, together with prejudgment and post-judgment interest.

115. Because Defendants engaged in knowing, willful, and conscious disregard for the rights of Plaintiff, Defendants are guilty of oppression, fraud, and malice, entitling Plaintiff to an award of punitive damages.

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FIFTH CLAIM FOR RELIEF

(Unjust Enrichment)

116. Plaintiff hereby incorporates and realleges each and every allegation contained in each of the preceding paragraphs of this Complaint as if fully set forth herein.

117. As a result of the conduct alleged herein, Defendants have been unjustly enriched to Plaintiff's detriment. Plaintiff therefore seeks an accounting and disgorgement of all ill-gotten gains and profits resulting from Defendants' inequitable activities.

DEMAND FOR JURY TRIAL

118. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff respectfully demands a jury trial of all issues triable to a jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

A. A judgment and order adjudicating and declaring that Defendants have infringed the '788 Patent;

B. A judgment and order adjudicating and declaring that Defendants have infringed the '458 Patent;

C. A judgment and order adjudicating and declaring that Defendants have engaged in unfair competition;

D. A judgment and order permanently enjoining Defendants, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active concert and participation with any of the foregoing persons or entities from further infringement of the '788 Patent, the '458 Patent and Plaintiff's Trade Dress;

E. A judgment and order that Defendants must account for and pay actual damages (but no less than a reasonable royalty), to Plaintiff for

Defendants' infringement of the '788 Patent, the '458 Patent and/or Plaintiff's Trade Dress;

F. A judgment and order awarding Plaintiff the total profits realized by Defendants from their infringement of the '788 Patent and/or the '458 Patent pursuant to 35 U.S.C. § 289;

G. A judgment and order declaring Defendants have willfully infringed the '788 Patent, the '458 Patent and/or Plaintiff's Trade Dress;

H. A judgment and order awarding Plaintiff enhanced damages up to three times any amount ordered under 35 U.S.C. § 284 and the amount found as actual damages for Defendants' trade dress infringement under 15 U.S.C. § 1117(a);

I. A judgment ordering an accounting for any infringing sales not presented at trial and an award by the court of additional damages for any such infringing sales;

J. A determination that this case is exceptional under 35 U.S.C. § 285;

K. A determination that this case is exceptional under 15 U.S.C. § 1117;

L. A judgment and order awarding Plaintiff its reasonable attorneys' fees;

M. A judgment and order awarding Plaintiff its costs, expenses, and interest, including pre-judgment and post-judgment, as provided for by 35 U.S.C. § 284 and 15 U.S.C. § 1117;

N. A judgment and order awarding pre-judgment and post-judgment interest on each and every monetary award;

O. A judgment that the corporate Defendants are nothing more than the alter egos of the Zhang's and/or Ngan's, that the various corporate forms should be ignored, and that the corporate veils are rightfully pierced, making the Zhang's and/or Ngan's personally liable for any judgment against any of the corporate Defendants; and

P. Granting Plaintiff any such other and further relief as this Court deems just and proper, or that Plaintiff may be entitled to as a matter of law or equity.

DATED: January 26, 2024

MESSNER REEVES LLP

/s/ Gregory P. Sitrick
Gregory P. Sitrick
Isaac S. Crum
Attorneys for Plaintiff Cozy Comfort Company LLC