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Penn Engineering & Manufacturing Corp.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PENN ENGINEERING & MANUFACTURING CASE NO.
CORP., a Delaware Corporation

Plaintiff,

v.

COMPLAINT

SHENZHEN KOSTER METAL
PRODUCTS CO., LTD.,

Defendants.

PennEngineering & Manufacturing Corp., a Pennsylvania corporation, by way of
Complaint against Shenzhen Koster Metal Products Co., Ltd., on knowledge as to
PennEngineering & Manufacturing Corp., and otherwise on information and belief, alleges as
follows:

Nature of the Action

1. This is a civil action for trademark infringement, false designation of origin, and
counterfeiting under the trademark laws of the United States including 15 U.S.C. sections 1114,
1116, 1117, 1125(a); common law trademark infringement and unfair competition.

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Jurisdiction

2. Subject matter jurisdiction over this action is proper in this court under 15 U.S.C. section 1121 and 28 U.S.C. sections 1331, 1338 and 1367(a), and over the related state claims under the doctrine of supplemental jurisdiction.

Venue

3. Venue is proper in this district under 28 U.S.C. section 1391 for the reasons set forth below.

The Parties

4. Plaintiff, PennEngineering & Manufacturing Corp., (“PennEngineering”), is a Pennsylvania corporation having a place of business at 5190 Old Easton Road, Danboro, Pennsylvania, 18196.

5. On information and belief, defendant Shenzhen Koster Metal Products Co., Ltd. (“Defendant”) is a Chinese company having a place of business at Floor 3, Bldg. 19, Ma Aashan Second Industrial District, Baoan District, Manhole Street, Shenzhen, Guangdong, 518104, P.R. China.

Statement of Facts Common to All Counts

6. PennEngineering is a global leader in the industrial fastening solutions industry.

7. PennEngineering was established in 1942 by K.A. Swanstrom. PennEngineering’s first manufacturing facility consisted of only four fastener machines in a Doylestown, Pennsylvania garage. Since then, PennEngineering has grown into a global industry leader. PennEngineering is now headquartered in Danboro, Pennsylvania.

PennEngineering’s Extensive Product Line

8. PennEngineering designs and manufactures a wide variety of fasteners, fastener components and fastener installation equipment for diverse industries, including electronics, computer, data/telecom, medical, automotive, marine, aerospace/aircraft, and general manufacturing.

9. Since 1942, PennEngineering has been in the business of designing, manufacturing and selling a wide variety of fastening products including: nuts; bolts; studs; pins; standoffs; rivets,

1 captive panel screws and hardware; cable tie-mounts and hooks; fasteners for mounting into
2 printed circuit boards; miniature (micro-sized) fasteners.

3 10. Since first inventing a novel clinch fastener in 1943, PennEngineering has steadily
4 expanded the type and variety of products in its portfolio.

5 11. A true and correct copy of selected portions of PennEngineering's current products
6 catalogue showing many of the above-described products is attached as Exhibit 1. All of these
7 products are advertised, promoted and sold using one or more of PennEngineering's numerous
8 trademarks and most are advertised, promoted and sold using the "PEM Family of Marks" defined
9 below.

10 12. Since 1942, PennEngineering has steadily grown its engineering and production
11 capacity. PennEngineering now has manufacturing and technical facilities in the United States,
12 Europe, and Asia including Danboro, Pennsylvania; Winston-Salem, North Carolina; Galway,
13 Ireland; Friedrichsdorf, Germany and Kunshan, China.

14 13. Over the past 76 years, PennEngineering has manufactured and sold billions of
15 fastener products. In addition to the United States, PennEngineering's products are sold in more
16 than 75 countries through an extensive network of engineering representatives and distributors in,
17 for example, Australia, Austria, Brazil, Canada, China, Denmark, France, Finland, Germany, Hong
18 Kong, India, Ireland, Israel, Italy, Japan, South Korea, Mexico, New Zealand, Norway, Portugal,
19 Singapore, Spain, South Africa, Sweden, Switzerland, Taiwan, United Kingdom and the United
20 States.

21 14. Since 1942, PennEngineering has grown steadily and now has about 1,700
22 employees globally and annual revenue in excess of 400 million dollars.

23 15. Since 1942, PennEngineering has continuously invented new fastener products and
24 improved on old fastener products as evidence by its extensive patent portfolio. PennEngineering
25 spends more than \$1,200,000 per year to design, develop, test and certify its new fastener products.

PennEngineering has been issued¹ more than 150 U.S. and foreign patents for its fastener products, fastener installation equipment, and methods of manufacturing.

PennEngineering's Superior Product Quality

16. Over the past 76 years, PennEngineering has developed a reputation for designing, manufacturing and selling only the highest quality fastener products. PennEngineering exercises extensive quality control at its manufacturing plants and has a manufacturing strategy of defect prevention rather than defect detection. PennEngineering uses statistical tools throughout its manufacturing processes to monitor the performance and assure effective quality control of each process step. If a non-conforming situation arises, it is resolved immediately with the use of appropriate quality assurance tools.

PennEngineering's Famous PEM Family of Marks

17. Since at least as early as 1946, PennEngineering has used the trademark PEM in commerce to advertise, promote and sell its fastener products and accessories, and to identify and distinguish its goods from the goods of other companies.

18. On June 19, 1962, PennEngineering was awarded U.S. Registration No. 732,947 ("the '947 Registration"), which grants PennEngineering the exclusive right to use the mark PEM, or any confusingly similar mark (colorable imitation), in connection with "drill bushings and self-clinching nuts, fasteners, studs and stand-offs", and in connection with related goods.

19. The mark PEM was registered on the Principal Register without the need to claim secondary meaning.

20. The '947 Registration became incontestable under the Lanham Act on October 25, 1984 when the U.S. Patent & Trademark Office accepted and acknowledged PennEngineering's Section 15 Affidavit.

21. For more than 76 years, PennEngineering has continuously used and heavily promoted and advertised the mark PEM in numerous industries including: aerospace/aircraft;



¹ PennEngineering assigns all of its patent and trademark rights to a holding company, PEM Management, Inc., and is granted back an exclusive license under the patents and trademarks.




appliances; automobiles; compact electronics; consumer electronics; food service equipment; furniture/fixtures/signs; industrial equipment; lawn/garden equipment; lighting; marine/boating; medical; military; recreational; telecom; trucks/trailers.

22. Over the years, PennEngineering has adopted numerous additional marks for its fastener products that incorporate the mark PEM.

23. For example, PennEngineering advertises, promotes and sells its fastener products using the federally-registered marks listed in Table 1:

Table I

| Mark | Registration Number | Registration Date | Incontestability Date | Goods & Services |
|---|---------------------|-------------------|-----------------------|--|
| PEM | 732,947 | 6/19/1962 | 10/25/1984 | Drill bushings and self-clinching nuts, fasteners, studs and stand-offs |
| PEM | 1,177,822 | 11/17/1981 | 8/3/1987 | Broaching-type captive fasteners-namely, broaching-type captive fasteners with internal threads, broaching-type captive standoffs with and without internal threads, broaching-type captive solder terminals, broaching-type captive studs, broaching-type captive panel fasteners and metallic inserts. |
| PEM | 1,403,759 | 8/5/1986 | 8/12/1991 | Metal fasteners |
| PEM | 2,758,505 | 9/2/2003 | 9/2/2009 | Panel fasteners, namely self-clinching, snap-in floating and hybrid panel fasteners |
|  | 889,244 | 4/14/1970 | 4/14/2010 | Self-clinching fasteners, self-locating weld fasteners, and self-clinching drill bushings |
|  | 1,043,967 | 7/20/1976 | 11/9/1981 | Presses for installing fasteners or the like and also for parts of said presses |

| | | | | | |
|----|---|-----------|------------|------------|---|
| 1 |  | 1,092,108 | 7/25/1983 | 5/30/2015 | Panel fastener assemblies and spring loaded plunger assemblies |
| 2 | | | | | |
| 3 |  | 1,113,034 | 2/13/1979 | 4/23/1984 | Electrical terminals and electrical grounding stand-offs |
| 4 | | | | | |
| 5 |  | 4,331,371 | 5/7/2013 | | Fasteners made of metal, namely, nuts, weld nuts, studs, pins, standoffs, rivets and inserts, cable-tie mounts and hooks for sheet metal; self-clinching panel fasteners made of metal or mostly of metal; panel fasteners and panel fastener assemblies made of metal or mostly of metal; sheet-metal fasteners made of metal; fasteners made of metal or mostly of metal for mounting into printed circuit boards; micro fasteners made of metal for use in the consumer electronics industry |
| 6 | | | | | |
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| 12 | | | | | |
| 13 | | | | | |
| 14 | | | | | |
| 15 | PEMFLEX | 937,397 | 7/11/1972 | 7/11/2012 | Fasteners, i.e., nuts |
| 16 | | | | | |
| 17 | PEMHEX | 781,236 | 12/8/1964 | 12/8/2004 | Fasteners |
| 18 | | | | | |
| 19 | PEMSERT | 883,650 | 1/6/1970 | 1/6/2010 | Inserts |
| 20 | PEMSERTER | 1,365,248 | 10/15/1985 | 6/3/1991 | Power-operated presses for installing fastener |
| 21 | PEMSERTER | 1,433,571 | 3/24/1987 | 7/2/1992 | Non-powered hand presses for punching holes and installing fasteners for use in sheet metal |
| 22 | MICRO-MATE | | | | |
| 23 | | | | | |
| 24 | PEMSERTER and triangle composite | 3,567,528 | 1/27/2009 | 2/9/2015 | Power-operated presses for installing fasteners |
| 25 | PEM SP | 3,270,807 | 7/31/2007 | 8/5/2013 | Metal fasteners |
| 26 | | | | | |
| 27 | PEM300 | 1,444,862 | 6/30/1987 | 10/20/1992 | Sheet Metal Fasteners |
| 28 | | | | | |

| | | | | |
|-------------------|-----------|------------|--|--|
| AUTOPEM | 4,296,186 | 2/26/2013 | | Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners |
| MICROPEM | 4,250,883 | 11/27/2012 | | Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners |
| AEROPEM | 4,298,838 | 3/5/2013 | | Metal fasteners, namely, nuts, bolts, screws, rivets, standoffs, clinching fasteners; metal threaded fasteners |
| PEM SH | 5,023,068 | 8/16/2016 | | Metal fasteners, namely, nuts |
| PEM SH and design | 5,023,067 | 8/16/2018 | | Metal fasteners, namely, nuts |
| PEM VM | 5,305,895 | 10/10/2017 | | Metal fasteners, namely, self-clinching fasteners, metal base plates and self-clinching fasteners pre-installed into base plates |
| PEM SMPP | 5,055,266 | 10/4/2018 | | Metal fasteners, namely, nuts |

24. The date on which each of the above-listed Registrations became incontestable under the Lanham Act is also listed in Table I.

25. All of PennEngineering's registered trademarks identified above are collectively referred to as the "PEM Family of Marks."

26. Each of the federal registrations for the PEM Family of Marks is owned by PEM Management, Inc. PennEngineering is the exclusive licensee of all rights in said marks and said federal registrations.



27. Since at least as early as 1946, PennEngineering has used the trademark and tradename Penn Engineering in commerce to advertise, promote and sell its fastener products and

accessories, and to identify and distinguish its goods from the goods of other companies.

PennEngineering's Additional Famous Trademarks

28. In addition to the PEM Family of Marks, PennEngineering owns more than 100 other federally-registered and common law marks including the marks listed in Table II:

Table II

| Mark | Registration Number | Registration Date | Incontestability Date | Goods & Services |
|---|----------------------------|--------------------------|------------------------------|---|
|  "Inverted Triangle Mark" | 1,141,998 | 12/2/1980 | 12/2/2010 | Presses for installing fasteners or the like and also for parts of said presses |
|  "Double Square Mark" | 3,404,061 | 4/1/2008 | 4/16/2018 | Metal floating fasteners |

29. The date on which each of the above-listed Registrations became incontestable under the Lanham Act is also listed in Table II.

30. All of PennEngineering's registered trademarks identified in Table II are collectively referred to as the "Two Other Marks."

31. Each of the federal registrations for the Two Other Marks is owned by PEM Management, Inc. PennEngineering is the exclusive licensee of all rights in said marks and said federal registrations.

32. In addition, PennEngineering owns dozens of common law marks for its fasteners including the following:

Table III

| | | | | | |
|-----------|-----------|-----------------------|--------------------|------------------------|-----------------|
| A4,AC,AS | B, BS | BSO, BSO4, BSOA, BSOS | CFN | CFHA, CFHC, CHA, CHC | CLA, CLS, CLSS |
| CSOS, CSS | DSO, DSOS | F, F4 | FE, FEO, FEOX, FEX | FH, FH4, FHA, FHP, FHS | FHL, FHLS |
| FHX | H, HNL | HF109 | HFE | HFG8 | HFH, HFHB, HFHS |

| | | | | | |
|--------------------|---------------|---------------------|------------|----------------------|-------------|
| HFLH | HSCB | KF2, KFS2 | KFB3 | KFE, KFSE | KFH |
| KSSB | LA4, LAC, LAS | LK, LKA, LKS | MPP | MSIB | MS04 |
| PEM C.A.P.S. | PF10 | PF11, PF11M | PF11MF | PF11MW | PF12, PF12M |
| PF12MF | PF12MW | PF30, PF31, PF32 | PF50 | PF60 | PF7M |
| PFC2, PFS2 | PFC2P | PFC4 | PFHV | PFK | PL, PLC |
| PSHP | PSL2, PTL2 | RAA | RAS | S, SS | SCB |
| SCBJ | SCBR | SF, SFP | SFK | SFN | SH |
| SFW | SGPC | SKC | SKC-F | SL | SMTPLFSM |
| SMTPR | SMTRA | SMTSO, SMTSOB | SMPS, SMPP | SO, SO4, SOA, SOS | SOAG, SOSG |
| SP | SSA, SSC, SSS | T, T4 | TD | TDO | TFH, TFHS |
| THFE | TK4, TKA | TPS, TP4 | TPXS | TS | TSO4 |
| TSO, TSOA, TSOS | U, UL | VM | WN, WNS | TA | TS4 |

All of PennEngineering's common law trademarks identified in Table III are collectively referred to as the Common Law Marks.

Advertising, Marketing and Promotion of PennEngineering's Marks

33. Through PennEngineering's substantial marketing and advertising efforts, the PEM Family of Marks, Two Other Marks and Common Law Marks have become famous in the fastening solutions industry, and recognized throughout the United States as a trademark of PennEngineering.

34. The PEM Family of Marks, Two Other Marks, and Common Law Marks, and the extensive recognition and goodwill symbolized by the PEM Family of Marks, Two Other Marks, and Common Law Marks, are extremely valuable assets of PennEngineering.

35. The PEM Family of Marks, Two Other Marks, and Common Law Marks represent PennEngineering's reputation as a producer of top quality fastener products and fastener installation equipment.

36. Today, nearly all of PennEngineering's sales relate to fastener products and fastener installation equipment sold under the PEM Family of Marks.

37. PennEngineering's fastener products and fastener installation equipment bearing the PEM Family of Marks, Two Other Marks, and Common Law Marks are sold throughout the

1 entire world through an extensive network of distributors in the U.S. and dozens of foreign
2 countries. PennEngineering currently has more than 64 distributors in 47 countries.

3 38. PennEngineering's fastener products and fastener installation equipment bearing
4 the PEM Family of Marks, Two Other Marks, and Common Law Marks are also advertised,
5 promoted and sold on its extensive interactive website *www.pemnet.com*. PennEngineering has
6 operated this website, and promoted the PEM Family of Marks, Two Other Marks, and Common
7 Law Marks on this website, since at least as early as 1996.

8 39. PennEngineering's fastener products and fastener installation equipment bearing
9 the PEM Family of Marks, Two Other Marks, and Common Law Marks are also advertised,
10 promoted and sold at national and international trade shows including the following: Pacific
11 Design & Manufacturing; FABTECH; Composites Europe; mtex; MIDEST; International
12 Fastener Expo; and, Manufacturing Indonesia.

13 40. PennEngineering's fastener products and fastener installation equipment bearing
14 the PEM Family of Marks, Two Other Marks, and Common Law Marks are also advertised,
15 promoted and sold through numerous national and international trade journals including: Design
16 News; Assembly; NASA Tech Briefs; Machine Design; Design World; Electronic Component
17 News; Fabricator; Electronic Products; Thomas Register; Global Spec; Blech; BBR; Elektronik
18 Automotive; Automobil Produktion; Industrie et Technologies; and Ingenieurs de l'Automobile.

19 41. Many of PennEngineering's distributors utilize PennEngineering's automated
20 catalog on its website. All authorized distributors are entitled to incorporate the same marketing
21 information on its website that appears on PennEngineering's website by linking the distributor's
22 website to PennEngineering's website. This program allows the distributor to be absolutely sure
23 that they always have the most up to date information running on its websites.

24 42. The program is one more step to make PennEngineering's customers aware that the
25 only way they can be assured of getting genuine PEM fasteners is to go to a PEM authorized
26 distributor.

27 43. PennEngineering's fastener products and fastener installation equipment bearing
28 the PEM Family of Marks, Two Other Marks and Common Law Marks are also advertised,

1 promoted and sold through independent technical representatives and its own direct sales/technical
2 force.



3 44. In Europe and Asia, PennEngineering's authorized distributors also act as technical
4 representatives who are also supported by PennEngineering's direct representatives.

5 45. All totaled, PennEngineering currently spends more than \$1,200,000 per year
6 advertising and promoting its PEM Family of Marks, Two Other Marks, and Common Law Marks
7 in the United States and throughout the world.

8 46. Over the past 10 years, PennEngineering has spent more than \$10,000,000
9 advertising and promoting its PEM Family of Marks, Two Other Marks, and Common Law Marks.

10 47. Thus, through extensive and continuous advertising and promotion, the PEM
11 Family of Marks, Two Other Marks, and Common Law Marks have become famous throughout
12 the United States and recognized to be the exclusive trademark of PennEngineering.

13 Defendant's Trademark Infringement

14 48. Recently, PennEngineering discovered that Defendant is unlawfully using marks
15 that are identical to PennEngineering's mark PEM, the mark  (the "Inverted Triangle Mark"),
16 and numerous of the Common Law marks, in connection with the sale of competing fastening
17 products, and is also selling products that have the same product configuration as protected by the
18 mark  (the "Double Square Mark") in connection with the sale of competing fastening products
19 (collectively the "Infringing Marks").

20 49. Examples of Defendant's products that infringe the mark PEM and PEM Family of
21 Marks include "Pem Nut F-M3-1-Self-Clinching Nuts", "PEM standard Carbon Steel China Rivet
22 Fastener B-M4-1", "PEM Standard Bso4-M3-14 Self-Clinching Standoffs"

23 50. Examples of Defendant's products that infringe the Double Square Mark include
24 its "Cheap Factory Price AC-632-1 Stainless Steel Fastener Float Control Nut".

25 51. Examples of Defendant's products that infringe the Common Law Marks include
26 Defendant's AC, BSO, SO, F, B, PF, TPS and PF fasteners.

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52. Defendant is not affiliated in any way, is not a licensee of, and is not an authorized distributor of PennEngineering. Defendant is not a reseller of genuine PennEngineering products. Defendant has no other authorization, express or implied, to use PennEngineering's marks.

53. Defendant is using the Infringing Marks on its interactive internet website *www.szkoster.chinafastener.com*, which is a global trade site for fasteners, and *www.szkoster.cn*. Sample screenshots of the Infringing Marks are attached hereto as Exhibit 2.

54. Defendant is an exhibiting vendor at the 2018 International Fastener Expo in Las Vegas occurring October 30 through November 1, 2018, which is one of the world's largest fastener trade shows. On information and belief, Defendant will be advertising and selling fastener products at the International Fastener Expo using the Infringing Marks.

55. On information and belief, Defendant is using the Infringing Marks on inferior products. Defendant's manufacturing facilities do not have the same industry certifications as PennEngineering's manufacturing facilities. Defendant's manufacturing process lacks the same quality-control procedures that are implemented by PennEngineering. Therefore, Defendant is tarnishing PennEngineering's famous mark PEM, the PEM Family of Marks and the Two Other Marks.

56. PennEngineering and Defendant are direct competitors in the fastener industry. For example, PennEngineering and Defendant manufacture and sell many of the same types of fasteners.

**Count I – U.S. Trademark Reg. No. 732,947
Federal Trademark Infringement Under The Lanham Act**

57. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

58. Defendant's acts constitute trademark infringement under Section 32 of the Lanham Act. 15 U.S.C. § 1114.

59. PennEngineering's U.S. Trademark Reg. No. 732,947 for the mark PEM entitles it to a presumption of ownership, validity and exclusive rights to use the mark PEM in connection with the goods/services named in the registration.

1 60. Defendant has used and is using a reproduction, counterfeit, copy, or colorable
2 imitation of the mark PEM on or in connection with the sale, offering for sale, distribution, or
3 advertising of fastener products.

4 61. Defendant's unauthorized use of the Infringing Marks (collectively and/or
5 individually) in connection with selling, offering for sale, distributing and advertising its fastener
6 products is likely to cause confusion, or to cause mistake, or to deceive the public regarding the
7 source of its fastener products.

8 **Count II – U.S. Trademark Reg. No. 1,177,822**
9 **Federal Trademark Infringement Under The Lanham Act**

10 62. The allegations of the proceeding paragraphs are repeated and incorporated herein
11 by reference.

12 63. Defendant's acts constitute trademark infringement under Section 32 of the
13 Lanham Act. 15 U.S.C. § 1114.

14 64. PennEngineering's U.S. Trademark Reg. No. 1,177,822 for the mark PEM entitles
15 it to a presumption of ownership, validity and exclusive rights to use the mark PEM in connection
16 with the goods/services named in the registration.

17 65. Defendant has used and is using a reproduction, counterfeit, copy, or colorable
18 imitation of the mark PEM on or in connection with the sale, offering for sale, distribution, or
19 advertising of fastener products.

20 66. Defendant's unauthorized use of the Infringing Marks (collectively and/or
21 individually) in connection with selling, offering for sale, distributing and advertising its fastener
22 products is likely to cause confusion, or to cause mistake, or to deceive the public regarding the
23 source of its fastener products.

24 **Count III – U.S. Trademark Reg. No. 1,403,759**
25 **Federal Trademark Infringement Under The Lanham Act**

26 67. The allegations of the proceeding paragraphs are repeated and incorporated herein
27 by reference.

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68. Defendant's acts constitute trademark infringement under Section 32 of the Lanham Act. 15 U.S.C. § 1114.

69. PennEngineering's U.S. Trademark Reg. No. 1,403,759 for the mark PEM entitles it to a presumption of ownership, validity and exclusive rights to use the mark PEM in connection with the goods/services named in the registration.

70. Defendant has used and is using a reproduction, counterfeit, copy, or colorable imitation of the mark PEM on or in connection with the sale, offering for sale, distribution, or advertising of fastener products.

71. Defendant's unauthorized use of the Infringing Marks (collectively and/or individually) in connection with selling, offering for sale, distributing and advertising its fastener products is likely to cause confusion, or to cause mistake, or to deceive the public regarding the source of its fastener products.

**Count IV – U.S. Trademark Reg. No. 2,758,505
Federal Trademark Infringement Under The Lanham Act**

72. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

73. Defendant's acts constitute trademark infringement under Section 32 of the Lanham Act. 15 U.S.C. § 1114.

74. PennEngineering's U.S. Trademark Reg. No. 2,758,505 for the mark PEM entitles it to a presumption of ownership, validity and exclusive rights to use the mark PEM in connection with the goods/services named in the registration.

75. Defendant has used and is using a reproduction, counterfeit, copy, or colorable imitation of the mark PEM on or in connection with the sale, offering for sale, distribution, or advertising of fastener products.

76. Defendant's unauthorized use of the Infringing Marks (collectively and/or individually) in connection with selling, offering for sale, distributing and advertising its fastener products is likely to cause confusion, or to cause mistake, or to deceive the public regarding the source of its fastener products.

**Count V – PEM Family of Marks
Federal Trademark Infringement Under The Lanham Act**

77. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

78. Defendant's acts constitute trademark infringement under Section 32 of the Lanham Act. 15 U.S.C. § 1114.

79. The U.S. Registrations identified in Table I for the PEM Family of Marks entitle PennEngineering to a presumption of ownership, validity and exclusive rights to use the PEM Family of Marks in connection with the goods/services named in the registrations.

80. Defendant has used and is using a reproduction, counterfeit, copy, or colorable imitation of the PEM Family of Marks on or in connection with the sale, offering for sale, distribution, or advertising of fastener products.

81. Defendant's unauthorized use of the Infringing Marks (collectively and/or individually) in connection with selling, offering for sale, distributing and advertising its fastener products is likely to cause confusion, or to cause mistake, or to deceive the public regarding the source of its fastener products.

**Count VI – Inverted Triangle Mark
Federal Trademark Infringement Under The Lanham Act**

82. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

83. Defendant's acts constitute trademark infringement under Section 32 of the Lanham Act. 15 U.S.C. § 1114.

84. PennEngineering's U.S. Trademark Reg. No. 1,141,998 for the Inverted Triangle Mark entitles it to a presumption of ownership, validity and exclusive rights to use the Inverted Triangle Mark in connection with the goods/services named in the registration.

85. Defendant has used and is using a reproduction, counterfeit, copy, or colorable imitation of the Inverted Triangle Mark on or in connection with the sale, offering for sale, distribution, or advertising of fastener products.

1 86. Defendant's unauthorized commercial use of the Inverted Triangle Mark in
2 connection with selling, offering for sale, distributing and advertising its fastener products, is likely
3 to cause confusion, or to cause mistake, or to deceive the public regarding the source of its fastener
4 products.

5 **Count VII – Double Square Mark**
6 **Federal Trademark Infringement Under The Lanham Act**

7 87. The allegations of the proceeding paragraphs are repeated and incorporated herein
8 by reference.

9 88. Defendant's acts constitute trademark infringement under Section 32 of the
10 Lanham Act. 15 U.S.C. § 1114.

11 89. PennEngineering's U.S. Trademark Reg. No. 3,404,061 for the Double Square
12 Mark entitles it to a presumption of ownership, validity and exclusive rights to use the Double
13 Square Mark in connection with the goods/services named in the registration.

14 90. Defendant has used and is using a reproduction, counterfeit, copy, or colorable
15 imitation of the Double Square Mark on or in connection with the sale, offering for sale,
16 distribution, or advertising of fastener products.

17 91. Defendant's unauthorized commercial use of the Double Square Mark in
18 connection with selling, offering for sale, distributing and advertising its fastener products, is likely
19 to cause confusion, or to cause mistake, or to deceive the public regarding the source of its fastener
20 products.

21 **Count VIII - PEM**
22 **False Designation of Origin Under The Lanham Act**

23 92. The allegations of the proceeding paragraphs are repeated and incorporated herein
24 by reference.

25 93. Defendant's acts violate Section 43(a)(1)(A) of the Lanham Act. 15 U.S.C. §
26 1125(a)(1)(A).

27 94. Defendant has used and is using a copy, variation, simulation or colorable imitation
28 of the mark PEM in connection with Defendant's offering and sale of fastener products with full

1 knowledge of the long and extensive prior use of the mark PEM by PennEngineering.

2 95. Defendant's unauthorized use of the Infringing Marks (collectively and/or
3 individually) in connection with selling, offering for sale, distributing and advertising its fastener
4 products is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation,
5 connection, or association of Defendant with PennEngineering, or as to the origin, sponsorship, or
6 approval of Defendant's goods by PennEngineering.

7 96. Defendant's actions constitute a false designation of origin, a false description of
8 goods and/or services, and a false representation that Defendant's goods and/or services are
9 sponsored, endorsed, licensed, authorized by, affiliated with, or connected with PennEngineering.

10 **Count IX – PEM Family of Marks**
11 **False Designation of Origin Under The Lanham Act**

12 97. The allegations of the proceeding paragraphs are repeated and incorporated herein
13 by reference.

14 98. Defendant's acts violate Section 43(a)(1)(A) of the Lanham Act. 15 U.S.C. §
15 1125(a)(1)(A).

16 99. Defendant has used and is using a copy, variation, simulation or colorable imitation
17 of the PEM Family of Marks in connection with Defendant's offering and sale of fastener products
18 with full knowledge of the long and extensive prior use of the PEM Family of Marks by
19 PennEngineering.

20 100. Defendant's unauthorized use of the Infringing Marks (collectively and/or
21 individually) in connection with selling, offering for sale, distributing and advertising its fastener
22 products is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation,
23 connection, or association of Defendant with PennEngineering, or as to the origin, sponsorship, or
24 approval of Defendant's goods by PennEngineering.

25 101. Defendant's actions constitute a false designation of origin, a false description of
26 goods and/or services, and a false representation that Defendant's goods and/or services are
27 sponsored, endorsed, licensed, authorized by, affiliated with, or connected with PennEngineering.

28 ///

**Count X – Inverted Triangle Mark
False Designation of Origin Under The Lanham Act**

102. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

103. Defendant's acts violate Section 43(a)(1)(A) of the Lanham Act. 15 U.S.C. § 1125(a)(1)(A).

104. Defendant has used and is using a copy, variation, simulation or colorable imitation of the Inverted Triangle Mark in connection with Defendant's offering and sale of fastener products with full knowledge of the long and extensive prior use of the Inverted Triangle Mark by PennEngineering.

105. Defendant's unauthorized use of the Inverted Triangle Mark in connection with selling, offering for sale, distributing and advertising its fastener products, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant with PennEngineering, or as to the origin, sponsorship, or approval of Defendant's goods by PennEngineering.

106. Defendant's actions constitute a false designation of origin, a false description of goods and/or services, and a false representation that Defendant's goods and/or services are sponsored, endorsed, licensed, authorized by, affiliated with, or connected with PennEngineering.

**Count XI – Double Square Mark
False Designation of Origin Under The Lanham Act**

107. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

108. Defendant's acts violate Section 43(a)(1)(A) of the Lanham Act. 15 U.S.C. § 1125(a)(1)(A).

109. Defendant has used and is using a copy, variation, simulation or colorable imitation of the Double Square Mark in connection with Defendant's offering and sale of fastener products with full knowledge of the long and extensive prior use of the Double Square Mark by PennEngineering.

1 110. Defendant's unauthorized use of the Double Square Mark in connection with
2 selling, offering for sale, distributing and advertising its fastener products is likely to cause
3 confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of
4 Defendant with PennEngineering, or as to the origin, sponsorship, or approval of Defendant's
5 goods by PennEngineering.

6 111. Defendant's actions constitute a false designation of origin, a false description of
7 goods and/or services, and a false representation that Defendant's goods and/or services are
8 sponsored, endorsed, licensed, authorized by, affiliated with, or connected with PennEngineering.

9 **Count XII – Common Law Marks**
10 **False Designation of Origin Under The Lanham Act**

11 112. The allegations of the proceeding paragraphs are repeated and incorporated herein
12 by reference.

13 113. Defendant's acts violate Section 43(a)(1)(A) of the Lanham Act. 15 U.S.C. §
14 1125(a)(1)(A).

15 114. Defendant has used and is using a copy, variation, simulation or colorable imitation
16 of one or more of the Common Law Marks in connection with Defendant's offering and sale of
17 fastener products with full knowledge of the long and extensive prior use of the Common Law
18 Marks by PennEngineering.

19 115. Defendant's unauthorized use of one or more of the Common Law Marks in
20 connection with selling, offering for sale, distributing and advertising its fastener products, is likely
21 to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association
22 of Defendant with PennEngineering, or as to the origin, sponsorship, or approval of Defendant's
23 goods by PennEngineering.

24 116. Defendant's actions constitute a false designation of origin, a false description of
25 goods and/or services, and a false representation that Defendant's goods and/or services are
26 sponsored, endorsed, licensed, authorized by, affiliated with, or connected with PennEngineering.

27 ///

28 ///

Count XIII - PEM
Common Law Trademark Infringement and Unfair Competition

117. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

118. Defendant's use of the Infringing Marks in connection with its fastener products constitutes common law trademark infringement of PennEngineering's mark PEM and common law unfair competition.

119. Defendant's use of the Infringing Marks in connection with its fastener products is likely to cause confusion among consumers as to source, sponsorship or affiliation of Defendant's goods.

120. Defendant's use of the Infringing Marks is being done with the intent, purpose and effect of procuring an unfair competitive advantage over PennEngineering by misappropriating the valuable goodwill developed by PennEngineering in its mark PEM.

Count XIV – PEM Family of Marks
Common Law Trademark Infringement and Unfair Competition

121. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

122. Defendant's use of the Infringing Marks in connection with its fastener products constitutes common law trademark infringement of PennEngineering's PEM Family of Marks and common law unfair competition.

123. Defendant's use of the Infringing Marks in connection with its fastener products is likely to cause confusion among consumers as to source, sponsorship or affiliation of Defendant's goods.

124. Defendant's use of the Infringing Marks is being done with the intent, purpose and effect of procuring an unfair competitive advantage over PennEngineering by misappropriating the valuable goodwill developed by PennEngineering in its PEM Family of Marks.

///

**Count XV – Inverted Triangle Mark
Common Law Trademark Infringement and Unfair Competition**

125. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

126. Defendant's use of the Inverted Triangle Mark in connection with its fastener products constitutes common law trademark infringement of PennEngineering's Pedestal Mark and common law unfair competition.

127. Defendant's use of the Inverted Triangle Mark in connection with its fastener products is likely to cause confusion among consumers as to source, sponsorship or affiliation of Defendant's goods.

128. Defendant's use of the Inverted Triangle Mark is being done with the intent, purpose and effect of procuring an unfair competitive advantage over PennEngineering by misappropriating the valuable goodwill developed by PennEngineering in its Inverted Triangle Mark.

**Count XVI – Double Square Mark
Common Law Trademark Infringement and Unfair Competition**

129. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

130. Defendant's use of the Double Square Mark in connection with its fastener products constitutes common law trademark infringement of PennEngineering's Double Square Mark and common law unfair competition.

131. Defendant's use of the Double Square Mark in connection with its fastener products, is likely to cause confusion among consumers as to source, sponsorship or affiliation of Defendant's goods.

132. Defendant's use of the Double Square Mark is being done with the intent, purpose and effect of procuring an unfair competitive advantage over PennEngineering by misappropriating the valuable goodwill developed by PennEngineering in its Double Square Mark.

///

Count XVII – Common Law Marks
Common Law Trademark Infringement and Unfair Competition

133. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

134. Defendant's use of the Infringing Marks in connection with its fastener products constitutes common law trademark infringement of one or more of PennEngineering's Common Law Marks and common law unfair competition.

135. Defendant's use of the Infringing Marks in connection with its fastener products is likely to cause confusion among consumers as to source, sponsorship or affiliation of Defendant's goods.

136. Defendant's use of the Infringing Marks is being done with the intent, purpose and effect of procuring an unfair competitive advantage over PennEngineering by misappropriating the valuable goodwill developed by PennEngineering in its Common Law Marks.

Count XVIII - PEM
Trademark Counterfeiting Under The Lanham Act

137. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

138. Defendant's acts constitute trademark counterfeiting under Section 32 of the Lanham Act. 15 U.S.C. § 1114.

139. Defendant, without authorization from PennEngineering, has and is continuing to use spurious designations, or designations that are substantially indistinguishable from, the mark PEM in interstate commerce.

140. The foregoing acts of Defendant are intended to cause, have caused, and are likely to continue to cause confusion or mistake, or to deceive consumers, the public, and the trade into believing that Defendant's fastener products are genuine or authorized products of PennEngineering.

///

1 141. On information and belief, Defendant has acted with knowledge of
 2 PennEngineering's ownership of the mark PEM with deliberate intention or willful blindness to
 3 unfairly benefit from the incalculable goodwill inherent in the mark PEM.

4 142. For the foregoing, PennEngineering is entitled to injunctive relief prohibiting
 5 Defendant from using the mark PEM or any marks identical and/or confusingly similar thereto for
 6 any purpose, and to recover from Defendant all damages, including attorney fees, that
 7 PennEngineering has sustained and will sustain as a result of such infringing acts, and all gains,
 8 profits and advantages obtained by Defendant as a result thereof, in an amount not yet known, as
 9 well as the costs of this action pursuant to 15 U.S.C. § 1117(a), and treble damages pursuant to 15
 10 U.S.C. § 1117(b), and/or statutory damages pursuant to 15 U.S.C. § 1117(c).

11 **Count XIX – PEM Family of Marks**
 12 **Trademark Counterfeiting Under The Lanham Act**

13 143. The allegations of the proceeding paragraphs are repeated and incorporated herein
 14 by reference.

15 144. Defendant's acts constitute trademark counterfeiting under Section 32 of the
 16 Lanham Act. 15 U.S.C. § 1114.

17 145. Defendant, without authorization from PennEngineering, has and is continuing to
 18 use spurious designations, or designations that are substantially indistinguishable from, the PEM
 19 Family of Marks in interstate commerce.

20 146. The foregoing acts of Defendant are intended to cause, have caused, and are likely
 21 to continue to cause confusion or mistake, or to deceive consumers, the public, and the trade into
 22 believing that Defendant's fastener products are genuine or authorized products of
 23 PennEngineering.

24 147. On information and belief, Defendant has acted with knowledge of
 25 PennEngineering's ownership of the PEM Family of Marks with deliberate intention or willful
 26 blindness to unfairly benefit from the incalculable goodwill inherent in the PEM Family of Marks.

27 148. For the foregoing, PennEngineering is entitled to injunctive relief prohibiting
 28 Defendant from using the PEM Family of Marks or any marks identical and/or confusingly similar

thereto for any purpose, and to recover from Defendant all damages, including attorney fees, that PennEngineering has sustained and will sustain as a result of such infringing acts, and all gains, profits and advantages obtained by Defendant as a result thereof, in an amount not yet known, as well as the costs of this action pursuant to 15 U.S.C. § 1117(a), and treble damages pursuant to 15 U.S.C. § 1117(b), and/or statutory damages pursuant to 15 U.S.C. § 1117(c).

**Count XX – Double Square Mark
Trademark Counterfeiting Under The Lanham Act**

149. The allegations of the proceeding paragraphs are repeated and incorporated herein by reference.

150. Defendant's acts constitute trademark counterfeiting under Section 32 of the Lanham Act. 15 U.S.C. § 1114.

151. Defendant, without authorization from PennEngineering, has and is continuing to use spurious designations, or designations that are or substantially indistinguishable from, the Double Square Mark in interstate commerce.

152. The foregoing acts of Defendant are intended to cause, have caused, and are likely to continue to cause confusion or mistake, or to deceive consumers, the public, and the trade into believing that Defendant's fastener products are genuine or authorized products of PennEngineering. On information and belief, Defendant has acted with knowledge of PennEngineering's ownership of the Double Square Mark with deliberate intention or willful blindness to unfairly benefit from the incalculable goodwill inherent in the Double Square Mark.

153. For the foregoing, PennEngineering is entitled to injunctive relief prohibiting Defendant from using the Double Square Mark or any marks identical and/or confusingly similar thereto for any purpose, and to recover from Defendant all damages, including attorney fees, that PennEngineering has sustained and will sustain as a result of such infringing acts, and all gains, profits and advantages obtained by Defendant as a result thereof, in an amount not yet known, as well as the costs of this action pursuant to 15 U.S.C. § 1117(a), and treble damages pursuant to 15 U.S.C. § 1117(b), and/or statutory damages pursuant to 15 U.S.C. § 1117(c).

///

1 **WHEREFORE**, PennEngineering prays for:

- 2 a) an award of damages for infringement of the mark PEM, the PEM Family of Marks,
3 the Two Other Marks, and the Common Law Marks including Defendant's profits, and that such
4 award by trebled due to Defendant's willful and deliberate conduct;
- 5 b) an injunction permanently enjoining Defendant from using the mark PEM, the PEM
6 Family of Marks, the Two Other Marks, and the Common Law marks in any manner in conjunction
7 with fastener products;
- 8 c) an award of costs and disbursements;
- 9 d) an award of attorney fees;
- 10 e) punitive damages due to the willful, wanton and malicious conduct of Defendant;
- 11 f) an award of statutory damages; and,
- 12 g) such other and further relief as the court may deem just and proper;

13 **JURY TRIAL**

14 PennEngineering requests a trial by jury pursuant to Fed. R. Civ. P. 38(b) on all issues
15 triable of right by a jury.

16 DATED this 30th day of October, 2018.

17 DICKINSON WRIGHT PLLC

18 
19 _____
20 JOHN L. KRIEGER

21 Nevada Bar No. 6023

22 STEVEN A. CALOJARO

23 Nevada Bar No. 12344

24 8363 West Sunset Road, Suite 200

25 Las Vegas, Nevada 89113-2210

26 Tel: (702) 550-4400

27 Fax: (702) 382-1661

28 Attorneys for Plaintiff

 Penn Engineering & Manufacturing Corp.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

PENN ENGINEERING & MANUFACTURING CORP., a Delaware Corporation

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

John L. Krieger, Esq. and Steven A. Caloiaro Dickinson Wright PLLC
8363 W. Sunset Road, Suite 200 Las Vegas, NV 89113 (702) 550-4400

DEFENDANTS

SHENZHEN KOSTER METAL PRODUCTS CO., LTD.,

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|--|---|--|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. sections 1114, 1116, 1117, 1125(a)

Brief description of cause:

Trademark infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000.01

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/30/2018

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.