



in violation of the federal Lanham Act, 15 U.S. C. § 1125(c). Count VI is for copyright infringement under the Copyright Act pursuant to 17 U.S.C. §101 *et. seq.*

4. Arctic Cat is doing business in this district and thus is subject to personal jurisdiction here. More specifically, Arctic Cat advertises, promotes and sells products in this district, including the products at issue in the complaint. Arctic Cat sells its products through a network of dealers and distributors, some of which are located in this district, and directly to the public in this district through the Internet, and possibly other means.

5. This Court has jurisdiction over this Complaint based on 15 U.S.C. § 1121, 28 U.S.C. § 1331, § 1332, § 1367, and § 1338(a) and (b), as federal questions are presented, the parties are citizens of different states, and the amount in controversy exceeds \$75,000 exclusive of interest and costs.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391, as it is believed that Arctic Cat does substantial business through its dealer network and has distributors throughout this district and has created numerous and continuous minimum contacts within the district by selling its product to distributors and dealers with whom it enters into written contracts, sending its representatives into this district to transact business with its distributors and dealers and sending product into this district. In addition, Arctic Cat has sold, distributed, advertised and promoted the infringing goods directly to the general public throughout the United States, as well as in this district, and has thereby committed the acts of infringement, false designation of origin, deceptive trade practices, unfair competition, dilution and copyright infringement complained of in this district. Venue is also proper in this district because PUMA has stores located in this district, and promotes, advertises and sells its products within this district. Venue is also proper under 28 U.S.C. §1400(a) as this Complaint contains a copyright claim and Arctic Cat and/or his agents may be found in this district.

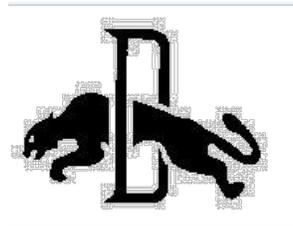
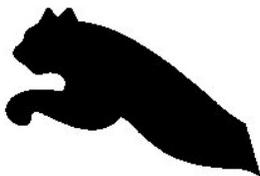
**COUNT I**  
**Infringement of Registered Trademarks in**  
**Violation of the Lanham Act, 15 U.S.C. § 1114**

**A. PUMA's Long History and Favorably Recognized Mark**

7. PUMA is and has for many years prior to the filing date of this complaint been engaged in the manufacture, distribution and sale of a variety of products and provided a variety of services under the logo design of a "leaping cat," (hereinafter "PUMA's Leaping Cat Logo")



8. In addition to PUMA's "Leaping Cat Logo" above, PUMA has developed a family of branded cat logos, all in the leaping position such as the "Half Cat" and the "Dassler Cat" for specific product lines. The "Half Cat" was developed primarily for sailing and sports performance inter alia soccer. The Dassler Cat is used on PUMA's upscale Black Label line.



9. PUMA has been best known for its athletic shoes. However, PUMA's main product lines include, but are not limited to articles of clothing, footwear, headwear, bags and accessory products and include such items as sportswear, all-weather wear, shirts, T-shirts, sweatshirts, jackets, pants, gloves, underwear, ski wear, hats, shoes, boots, bags, sports equipment bags, sports and travel bags, and sunglasses. See Exhibit A of examples of PUMA's products and web pages and Exhibit B examples of the use of the Dassler Cat mark on products.

10. PUMA has used “PUMA’s Leaping Cat Logo” in the United States and numerous countries around the world for its products and services continuously and exclusively for over 40 years.

11. PUMA uses “PUMA’s Leaping Cat Logo” either with its name, PUMA, or by itself on all of its products and packaging. Since the logo itself has become so successful and well-known for not only footwear but also clothing and related accessories, PUMA is establishing a corporate policy of using “PUMA’s Leaping Cat Logo” by itself on all of its clothing, footwear, headwear and accessories.

12. Over the years, PUMA has extensively advertised and promoted “PUMA’s Leaping Cat Logo” as its primary brand identifier. In addition to being used on its products and product packaging, PUMA has spent a tremendous amount in advertising, promotion, media reports, as published in newspapers, magazines, internet and other media.

13. PUMA has sponsored numerous exhibitions and events, including sporting events and team sponsorships covering soccer, golf, Formula 1 racing, NASCAR racing, the Volvo Ocean Race and many motoring events such as MotoGP, to name but a few of the many sports events. In all of these events, “PUMA’s Leaping Cat Logo” is used on banners and signs, billboards, promotional products, clothing, brochures, flyers, cards, advertisements and many other items used to promote PUMA’s branded products.

14. PUMA has promoted “PUMA’s Leaping Cat Logo” through sports personality endorsements, sport event and exhibition sponsorship and product placements on TV, in movies and other media. See Exhibit C for more examples of celebrity endorsements and product placements.



15. PUMA also has numerous partnership branding agreements with other companies in which PUMA and its partner co-brand special edition products such as PUMA's co-branded jackets with Ducati and Ferrari, to name a few. These products not only contain "PUMA's Leaping Cat Logo," but also contain the logo brand of the partner. Therefore, for example, the name DUCATI or the Ferrari logo can appear on an item with "PUMA's Leaping Cat Logo" to show the connection, sponsorship and affiliation between the partners.



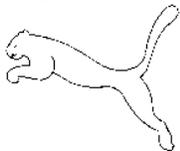
16. As a result of the long use and substantial advertising and promotion of “PUMA’s Leaping Cat Logo,” this mark has become among the most famous trademarks and marketing symbols in the United States and worldwide.

17. “PUMA’s Leaping Cat Logo” has, through long and extensive use and promotion, come to identify the products of PUMA exclusively and to distinguish them from products emanating from other merchants or manufacturers and is relied upon by the relevant trade and consuming public as indicating high-quality goods originating from a single source.

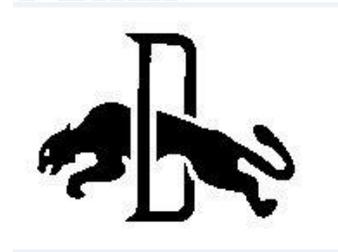
18. Due to PUMA’s efforts, “PUMA’s Leaping Cat Logo” has earned very valuable goodwill and fame among the relevant trade and consuming public.

19. In order to protect the extensive goodwill symbolized by the “leaping cat design,” PUMA has obtained and is the owner of all right, title and interest in and to numerous federal trademark registrations for and including “PUMA’s Leaping Cat Logo.” The following is a sampling of PUMA’s United States Trademark Registrations, all of which are valid and subsisting (see Exhibit D Registration Certificates):

| Trademark               | Registration No. | Goods  |
|-------------------------|------------------|--|
| PUMA’s Leaping Cat Logo | 1039274          | Shopping bags, knapsacks, brief cases, attache cases and handbags; football shoes; baseball shoes; training shoes; track shoes; boxing shoes; basketball shoes; soccer shoes; tennis shoes; bathing shoes; sneakers; golf shoes; ski boots; tennis garments for men-namely, tricot shirts, shorts; socks; overalls for men; sweatsuits for men; sweat shirts for men; sport shorts for men.  |
| PUMA’s Leaping Cat Logo | 1354044          | General purpose carryall bags for sports equipment, trunks and travelling bags; clothing-namely, leisure shoes, boots, house slippers, sports shoes, sports and leisure clothing-namely, training suits, shorts, sweaters, pullovers, t-shirts, tennis wear, ski wear, leisure suits, all weather suits, wind resistant jackets, slickers, stockings, soccer socks, gloves, caps, headbands, bathing trunks and bathing suits; balls for sports. |



| Trademark  | Registration No. | Goods   |
|--|------------------|---|
| PUMA's Leaping Cat Logo<br>   | 1458027          | Wrenches sold as accessories to sports shoes.   |
| PUMA's Leaping Cat Logo<br>   | 1808837          | Eye glasses and frames, stop watches, clocks and watches  |
| PUMA's Leaping Cat Logo<br>   | 3796051          | Protective footwear.  |
| PUMA & Leaping Cat Logo<br> | 1189319          | Goods of leather or imitation leather, in particular, purses, carrying satchels, travel bags, travel and hand luggage; articles of clothing-namely, sports and leisure shoes, boots, house shoes, slippers, bathing shoes, gym suits, sports pants, t-shirts, pullovers, tennis wear, ski wear, leisure suits, all-weather suits, stockings, soccer socks, gloves, caps, headbands, bathing trunks and bathing suits. |
| PUMA & Leaping Cat Logo<br> | 1189406          | Sports and leisure shoes, boots, house shoes, slippers, bathing shoes, gym suits, sports pants, t-shirts, pullovers, tennis wear, ski wear, leisure suits, all-weather suits, stockings, soccer socks, gloves, caps, headbands, bathing trunks and bathing suits.   |
| PUMA & Leaping Cat Logo<br> | 1231918          | Articles of clothing, sports and leisure shoes, sports pants, T-shirts, pullovers, tennis wear, leisure suits, all-weather suits, stockings, soccer socks, gloves, caps, headbands, bathing trunks.   |

| Trademark  | Registration No. | Goods  |
|--|------------------|--|
| PUMA & Leaping Cat Logo<br> | 3796052          | Spectacles, spectacle glasses and frames, lenses, sunglasses spectacle cases, protective footwear.   |
|                             | 2734292          | Clothing, namely shirts and footwear   |
|                             | 2793921          | Leather and imitation leather sold in bulk, leather and imitation leather goods, namely, duffel bags, backpacks, purses, handbags, carry-on bags, traveling bags, shopping bags, luggage grip bags, sports bags; clothing, namely, pullovers, jerseys, jackets, sweatshirts, shorts, pants, t-shirts, tops, skirts blousons, sweaters, cardigans, wraps, cover-ups, coats, dresses, tank tops, trousers, scarves, belts  |
| PUMA's Half Cat Logo<br>  | 3750118          | Leather and imitations of leather sold in bulk; goods made of leather or of leather imitations, namely, drawstring pouches, duffel bags, backpacks, book bags, handbags, suitcases, carry-on bags, travelling bags, luggage grip bags; purses, pocket wallets, key cases, sports bags and sports pouches, rucksacks, school bags, hip bags, shoulder bags, shopping bags, toilet bags sold empty; trunks and travelling cases; umbrellas, parasols and walking sticks; clothing, namely, sports and leisure suits, training suits, warm-up suits, all-weather suits, rainwear, pullovers, jerseys, jackets, sweatshirts, shorts, shirts, pants, T-shirts, tops, skirts, socks, wristbands, athletic uniforms, blousons, turtlenecks, camisoles, sweaters, cardigans, wraps, cover-ups, coats, dresses, blouses, underwear, tank tops, trousers, tights, bathing suits, neckerchiefs, scarves, belts; footwear, namely, sports and leisure shoes; headwear namely, berets, earmuffs, hats, caps, sun visors, toques, hoods, headbands; sporting apparatus and articles, namely, handgrips for |

| Trademark | Registration<br>No. | Goods  |
|-----------|---------------------|--|
|           |                     | gripping gymnastic equipment, pumps and ball needles for inflating sports balls, balls for games, namely, basketballs, soccer balls, footballs, rugby balls, volleyballs, handballs, baseballs, bowling balls, tennis balls, table tennis balls, golf balls; shin guards, knee, elbow and ankle pads for sports purposes; sporting gloves, namely, goalkeepers gloves, boxing gloves, baseball gloves, golf gloves, racket ball gloves, bicycling gloves and ski gloves; tennis rackets, cricket bats, golf clubs, hockey sticks, table tennis bats, badminton and squash rackets; bags for sporting apparatus, namely, basketball bags, football bags, soccer ball bags, volleyball bags, handball bags, bowling bags, bags for personal exercise mats; bags, covers and cases for tennis rackets, table tennis rackets, badminton rackets, squash rackets, cricket bats, golf clubs and hockey sticks; roller skates, ice skates and in-line skates, tables and nets for table tennis. |

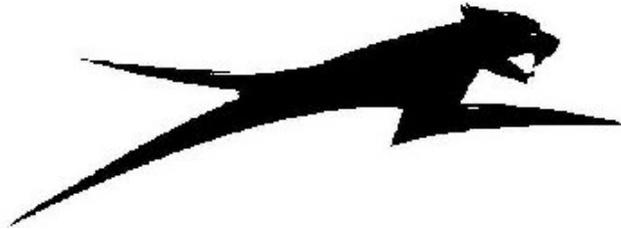
Pursuant to 15 U.S.C. §§ 1065 and 1115(b), all of these registrations except 3,796,051, 3,796,052 and 3,750,118 have become incontestable and all are evidence of PUMA’s exclusive right to use the mark in connection with the goods listed in the registrations.

20. In addition to the goods covered by PUMA’s federal registrations, PUMA also uses “PUMA’s Leaping Cat Logo” by itself on items such as sunglasses, belts, scarves, water bottles, coffee mugs, sports equipment, kneepads, shin guards, sports balls, golf balls, key chains, blankets, bandanas, toys, to name a few and has accrued strong common law rights in “PUMA’s Leaping Cat Logo” in connection with all of its goods. See Exhibit E for additional products either sold or used as promotional products for branding purposes.

21. PUMA’s products offered under the “leaping cat design” are sold to the public in numerous retail outlets, including department stores, sporting goods stores, PUMA retail stores and through internet sales.

**B. Arctic Cat 's Infringing Activities**

22. Long after PUMA had been advertising and selling its products under "PUMA's Leaping Cat Logo," defendant Arctic Cat began using a logo of a leaping cat on many of the same clothing items, headwear, footwear, bags and accessories. (Hereinafter "Arctic's Leaping Cat Logo").



23. Arctic Cat has not been consistent with its branding over the years and has used many different logos in the past and therefore, has not acquired brand recognition and goodwill in any one logo. For example, Arctic Cat has used and registered a logo of a growling cat head for many years as shown below on the left. (Hereinafter "Arctic's Growling Head Logo".) In addition, Arctic Cat has tried out other logos with the a growling cat face and a geometric design, to name a few.



24. On information and belief, Arctic Cat, without any authorization from PUMA, has now made a change from its prior logos such as Arctic's Growling Head Logos and geometric design logo to a leaping cat logo, almost identical in design to "PUMA's Leaping Cat Logo." On information and belief, Arctic Cat now intends to develop brand recognition and goodwill for its company using "Arctic's Leaping Cat Logo" as its main brand.

25. "Arctic's Leaping Cat Logo" is a design of a large cat-like animal in a leaping position with its tail raised which is in striking similarity to "PUMA's Leaping Cat Logo."



26. Arctic Cat is now prominently using “Arctic’s Leaping Cat Logo” on identical clothing items and accessories such as hats, jackets, pants, sunglasses, gloves, boots, shirts, sweatshirts, sports jerseys, travel bags, sports bags, backpacks, and other accessories and in the same or similar location as that of “PUMA’s Leaping Cat Logo” on its same items. See Exhibit F illustrating examples of some of these items and in comparison to PUMA’s same items.





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27. Arctic Cat has sought to register “Arctic’s Leaping Cat Logo” for many identical products as those of PUMA, namely “Clothing, namely shirts, sweatshirts, T-Shirts, jackets, headwear, pants and underwear” and filed an application in the United States Trademark Office under application number 77/295648. PUMA filed an opposition against Arctic Cat’s application under Opposition No. 91198087, which is currently pending before the USPTO Trademark Trial and Appeal Board.

28. On information and belief, despite the fact that Arctic Cat uses its logo on boots and footwear, it did not file for boots or footwear in its trademark application, because it knew that “Arctic’s Leaping Cat Logo” was far too similar to “PUMA’s Leaping Cat Logo” and acknowledged that “PUMA’s Leaping Cat Logo” is a famous mark for footwear.

29. “PUMA’s Leaping Cat Logo” is famous for not only footwear, but for clothing, headwear, bags and accessories.

30. On information and belief, Arctic Cat has been selling and distributing clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” directly to the consuming public, as well as through distributors and retailers for subsequent sale to consumers throughout the United States, including this district. See Exhibit G, examples of Arctic Cat’s products from its catalog, web site and distributor websites.

31. PUMA has objected to and opposed Arctic Cat’s application outside the US in other countries where Arctic Cat’s applications have been published for opposition, namely the European Community, Portugal, Norway, and Turkey. In addition, in Russia, where no opposition procedure has been available, PUMA filed an informal opposition with the Trademark Examiner. PUMA has been successful in these matters in the European Community, Portugal, Turkey and Russia.

32. PUMA has also had successful results against “Arctic’s Leaping Cat Logo” in various infringement suits in several other countries and obtained a preliminary injunction order from Sweden stating that PUMA has shown probable cause of trademark infringement of “PUMA’s Leaping Cat Logo” by “Arctic’s Leaping Cat Logo.” In addition, PUMA has obtained an injunction in Hamburg, Germany against Arctic Cat Deutschland GmbH and Arctic Cat

GmbH in connection with their use of “Arctic’s Leaping Cat Logo.” Although, this decision was appealed by Arctic Cat, the regional Court Hamburg rejected the appeal in favor of PUMA.

33. Despite PUMA’s successes outside the United States against “Arctic’s Leaping Cat Logo” and despite clear notification to Arctic Cat of PUMA’s rights, Arctic Cat is continuing to actively sell, distribute, advertise, and promote clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” and has even recently broadened its line of clothing to include an extended line of sportswear including golf shirts, sports jerseys, track jackets, boots and many other items which are the same products as contained in PUMA’s product lines. See Exhibits A and B –PUMA’s products, F-Comparison of Products and G-Arctic Cat products.



34. Arctic Cat’s continued unauthorized use of “Arctic’s Leaping Cat Logo” on and in connection with clothing, headwear, footwear, bags and other accessories is likely to cause consumers and others in the trade to mistakenly believe that Arctic Cat’s products originate from or are sponsored by, endorsed by, or authorized by PUMA, when in fact they do not. Arctic

Cat's unauthorized, knowing, and willful sales, distribution, advertisement and promotion of clothing items, headwear, footwear, bags and accessories under "Arctic's Leaping Cat Logo" violates PUMA's exclusive rights in "PUMA's Leaping Cat Logo" for directly competitive and related products, afforded to PUMA by virtue of its federal registrations and common law use of "PUMA's Leaping Cat Logo."

35. On information and belief, Arctic Cat's clothing items, headwear, footwear, bags and accessories sold under "Arctic's Leaping Cat Logo" are intended to be, and are in fact targeted towards a substantial segment of the public that has long been familiar with PUMA's clothing items, headwear, footwear, bags and accessories that are sold under "PUMA's Leaping Cat Logo."

36. On information and belief, Arctic Cat advertises or will advertise and sell these clothing items, headwear, footwear, bags and accessories under "Arctic's Leaping Cat Logo" through some of the same media and methods wherein PUMA advertises its clothing, headwear, footwear, bags and accessories under "PUMA's Leaping Cat Logo," namely through print advertisements, product placements, endorsements and the Internet.

37. Arctic Cat's willful and unauthorized use of "Arctic's Leaping Cat Logo" for products directly competitive and closely related to PUMA's products is likely to cause consumers to be confused, mistaken, or deceived into believing that Arctic Cat's goods are sponsored by, connected to, or affiliated with PUMA's goods within the meaning of 15 U.S.C. §1114.

38. Arctic Cat's willful and unauthorized use of "Arctic's Leaping Cat Logo" on products will also cause post-sale confusion as people viewing Arctic Cat's products on others and seeing a strikingly similar logo on the very same articles of clothing, headwear, footwear and accessories to those of PUMA, and in the same location as PUMA's logo are likely to be confused, mistaken or believe that these are PUMA's products to the damage of PUMA's reputation and goodwill.

39. Because PUMA has no control over the nature and quality of Arctic Cat's goods, PUMA will be and has been damaged by unauthorized use of "Arctic's Leaping Cat Logo."

40. Arctic Cat's continued unauthorized use of "Arctic's Leaping Cat Logo" on and in connection with its clothing items, headwear, footwear, bags and accessories, after being specifically apprised of PUMA's registrations and common law rights, is willful, and on information and belief has been done with the intention of trading upon the valuable goodwill built up by PUMA in its very successful, long-used and trusted mark.

41. Arctic Cat's continued unauthorized use of "Arctic's Leaping Cat Logo" jeopardizes the entire goodwill symbolized by "PUMA's Leaping Cat Logo," causing immediate, serious, and irreparable injury to PUMA, for which PUMA does not have an adequate remedy at law.

**COUNT II**  
**False Designation of Origin in**  
**Violation of the Lanham Act, 15 U.S.C. § 1125(a)**

42. PUMA repeats and realleges as if fully set forth herein the allegations of paragraphs 1 through 41 inclusive.

43. Arctic Cat's continued unauthorized use of "Arctic's Leaping Cat Logo" on and in connection with its clothing items, headwear, footwear, bags and accessories is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Arctic Cat and Arctic Cat's products with PUMA and as to the origin, sponsorship or approval of Arctic Cat's goods and other commercial activity within the meaning of 15 U.S.C. § 1125(a).

44. Especially in light of PUMA's partnership and co-branding agreements referenced above, consumers familiar with PUMA's special edition, co-branded products are likely to believe that PUMA has now co-branded with Arctic Cat on a line of snowmobile and all-terrain clothing or that PUMA is now affiliated with or connected to Arctic Cat in some manner.

45. Since under co-branding partnerships, both partners' marks appear, even Arctic Cat's use of its name with its logo will not eliminate the likelihood of confusion as to connection, affiliation or sponsorship.

46. In addition, because PUMA has a family of leaping cat marks which are used on various specialty lines of products such as the “Half Cat” used with sailing and sports performance products and the “Dassler Cat” use on the more fashionable Black Label line, consumers are likely to believe that “Arctic’s Leaping Cat Logo” is part of PUMA’s family of leaping cats and is a specialty logo used on a line of snowmobile or extreme outdoor wear, all to the injury of PUMA.

47. Arctic Cat’s unauthorized use of “Arctic’s Leaping Cat Logo” on and in connection with its clothing items, headwear, footwear, bags and accessories jeopardizes the entire goodwill built up by PUMA in its marks, causing serious irreparable injury to PUMA for which PUMA has no adequate remedy at law.

**COUNT III**  
**Violation of the**  
**Illinois Deceptive Trade Practices Act, 815 ILCS 510/1 et seq.**

48. PUMA repeats and realleges as if fully set forth herein the allegations of paragraphs 1 through 47 inclusive.

49. By virtue of Arctic Cat’s acts hereinabove pleaded, Arctic Cat has violated the Uniform Deceptive Trade Practices Act as adopted in Illinois, 815 ILCS 510/1 et seq., by passing off Arctic Cat’s goods as goods of PUMA; causing a likelihood of confusion or misunderstanding as to the affiliation, connection, or association of Arctic Cat’s goods by or with PUMA; representing that Arctic Cat’s goods have source, sponsorship, approval, or certification by PUMA; and representing that Arctic Cat has a sponsorship, approval, status, affiliation, or connection with PUMA that they do not have.

50. Arctic Cat has willfully engaged in the trade practice of using a mark confusingly similar to PUMA’s registered and common law mark in connection with Arctic Cat’s goods, knowing it to be deceptive.

51. Arctic Cat’s deceptive trade practices have caused and, if not restrained by this Court, will continue to cause PUMA irreparable injury for which PUMA has no adequate remedy at law.

**COUNT IV**  
**Unfair Competition in Violation of Illinois Common Law**

52. PUMA repeats and realleges as if fully set forth herein the allegations of paragraphs 1 through 51 inclusive.

53. Arctic Cat's unauthorized use of "Arctic's Leaping Cat Logo" on and in connection with its clothing items, headwear, footwear, bags and accessories constitutes unfair competition in violation of the common law of Illinois because it is likely to cause confusion or misunderstanding as to the affiliation, connection, or association of Arctic Cat's goods by or with PUMA. Arctic Cat has otherwise engaged in unfair competition by representing that Arctic Cat's goods have source, sponsorship, approval, or certification by PUMA; and representing that Arctic Cat has a sponsorship, approval, status, affiliation, or connection with PUMA that they do not have.

54. Arctic Cat has willfully engaged in acts of unfair competition.

55. Arctic Cat's acts have caused and, if not restrained by this Court, will continue to cause PUMA irreparable injury for which PUMA has no adequate remedy at law.

**COUNT V**  
**Dilution Violation of the Lanham Act, 15 U.S.C. § 1125(c)**

56. PUMA repeats and realleges as if fully set forth herein the allegations of paragraphs 1 through 55 inclusive.

57. "PUMA's Leaping Cat Logo" is inherently distinctive and in the alternative, through its long use of over 40 years and substantial advertising and promotion, has acquired a strong and high level of distinctiveness.

58. For over 40 years, PUMA has substantially advertised, promoted and sold product bearing "PUMA's Leaping Cat Logo" nationwide in the United States, as well as worldwide.

59. Through PUMA's long and extensive use and promotion of "PUMA's Leaping Cat Logo" and its use on all of its products, packaging, marketing and promotional items, event

sponsorships and website, “PUMA’s Leaping Cat Logo” has become one of the most famous trademarks and marketing symbols in the United States as well as worldwide.

60. “PUMA’s Leaping Cat Logo” has also become a highly recognized mark through significant product placement in sports events, movies and TV, banners at sponsored sporting events and exhibitions and celebrity endorsements throughout the years. See Exhibit B- examples of endorsements, sporting events and product placements.

61. “PUMA’s Leaping Cat Logo” is widely recognized by the general consuming public in the United States as a designation of source of PUMA’s goods and services and is famous within the meaning of the Lanham Act, 15 U.S.C. § 1125(c).

62. Arctic Cat’s unauthorized use in commerce of “Arctic’s Leaping Cat Logo” began long after “PUMA’s Leaping Cat Logo” had already become famous.

63. Upon information and belief, Arctic Cat chose the leaping cat with full knowledge of the success and fame of “PUMA’s Leaping Cat Logo.”

64. Upon information and belief, Arctic Cat intends on using “Arctic’s Leaping Cat Logo” as its main brand identifier and to extensively market and promote this mark despite PUMA’s repeated notice to Arctic Cat of PUMA’s concern of dilution of its famous mark.

65. Arctic Cat’s unauthorized use in commerce of “Arctic’s Leaping Cat Logo” on clothing items, headwear, footwear, bags and accessories causes or is likely to impair and cause dilution of the distinctive quality of PUMA’s famous “Leaping Cat Logo” in violation of 15 U.S.C. § 1125(c).

66. Arctic Cat’s diluting and unauthorized use of “Arctic’s Leaping Cat Logo” on clothing items, headwear, footwear, bags and accessories jeopardizes the entire goodwill built up by PUMA in its famous “Leaping Cat Logo,” causing serious irreparable injury to PUMA for which PUMA has no adequate remedy at law.

**COUNT VI**  
**Copyright Infringement 17 U.S.C. § 501 et. seq.**

67. PUMA repeats and realleges as if fully set forth herein the allegations of paragraphs 1 through 66 inclusive.

68. In 1967, Lutz Backes of Munich Germany created the design of “PUMA’s Leaping Cat Logo” and by written instrument assigned his rights in the design, including all copyright for the graphic representation, as well as the exclusive right for the reproduction of the design to PUMA SE’s predecessor-in-interest, PUMA-Sportschuhfabriken Rudolf Dassler KG.

69. “PUMA’s Leaping Cat Logo” is copyrightable subject matter under the Copyright Act, 17 U.S.C. § 101, *et. seq.*

70. “PUMA’s Leaping Cat Logo” was first published in Germany in 1967 and is a work published abroad and of foreign origin. Germany has been a member of the Berne Convention since 1887. As such, “PUMA’s Leaping Cat Logo” is protected by the Copyright Act under §104A since its copyright was restored in the US effective January 1, 1996 under the restoration amendment.

71. Long after “PUMA’s Leaping Cat Logo” design was restored to copyright protection in the United States, Arctic Cat began reproducing and distributing product with “Arctic’s Leaping Cat Logo.”

72. Arctic Cat was well aware of and had access to “PUMA’s Leaping Cat Logo” at the time it created, and began using, producing and distributing “Arctic’s Leaping Cat Logo.”

73. “Arctic’s Leaping Cat Logo” is a derivative work of “PUMA’s Leaping Cat Logo” and is substantially similar thereto and thus infringes PUMA’s copyright in said work.

74. At no time did PUMA authorize Arctic Cat to reproduce, adapt or distribute a derivative design.

75. Since “PUMA’s Leaping Cat Logo” was first published in Germany and Germany is a party to the Berne Convention and the Universal Copyright Convention, under the definition

of the Copyright Act §411, this is not a “United States work” and therefore, this action can be brought by PUMA without a prior US copyright registration.

76. By reason of Arctic Cat’s infringement and continued infringement, PUMA has sustained and will continue to sustain substantial injury, loss and damage to its ownership rights in the copyrighted work.

77. Further irreparable harm to PUMA is imminent as a result of Arctic Cat’s conduct, and PUMA is without adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, PUMA prays for a judgment against Arctic Cat as follows:

A. For a preliminary and permanent injunction immediately restraining Arctic Cat, its officers, agents, servants, employees, attorneys and all other persons in active concert or participation with them, from:

(1) manufacturing, having manufactured, importing, exporting, selling, or distributing clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” or anything confusingly similar thereto;

(2) advertising, displaying, or promoting clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” or anything confusingly similar thereto, or using “Arctic’s Leaping Cat Logo” or anything confusingly similar thereto in advertising or promotional materials for any clothing items, headwear, footwear, bags and accessories;

(3) holding out in any manner whatsoever that Arctic Cat or Arctic Cat’s clothing items, headwear, footwear, bags and accessories are in any way sponsored by, or associated or affiliated with PUMA, or PUMA’s goods; and

B. That Arctic Cat be directed at the conclusion of this action to deliver up to PUMA for subsequent destruction, the following: (1) all packaging, packaging materials, labels, tags, product inserts, and instructions for clothing, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” or anything confusingly similar thereto; and (2) all advertising

materials, promotional and marketing materials, brochures, sell sheets, prototypes, price lists, catalogs or any other materials used for or in connection with the accused clothing items, headwear, footwear, bags and accessories bearing or containing “Arctic’s Leaping Cat Logo” or anything confusingly similar thereto, pursuant to 15 U.S.C. §1118.

C. That at the conclusion of this action, the Court order the impounding, pursuant to 17 U.S.C. § 503, of all goods bearing “Arctic’s Leaping Cat Logo” that have been made or used in violation of the exclusive right of PUMA.

D. That Arctic Cat be required at the conclusion of this action, to inform, in writing, all of the distributors and retailers that have purchased the clothing items, headwear, footwear, bags and accessories sold under “Arctic’s Leaping Cat Logo” about PUMA’s claim of trademark infringement, and that Arctic Cat: (1) be required to instruct such distributors and retailers to immediately cease all sales and advertising of clothing, headwear, footwear, bags and accessories, bearing “Arctic’s Leaping Cat Logo” (2) seek a recall of all of clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” that remain in such distributors’ and retailers’ inventory; and (3) provide PUMA with evidence of such communications (i.e., copies of the email(s) or letter(s) that were sent).

E. That Arctic Cat be required to make a detailed accounting to PUMA containing the following information: (1) the number clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” that have been manufactured by or for Arctic Cat to date; (2) the number of clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” that currently remain in Arctic Cat’s inventory; (3) the total number of clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” that have been sold by Arctic Cat, and a detailed accounting of how many clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” have been sold to each buyer, from the date of first sale to the present; (4) the total revenues to Arctic Cat generated from sales of the clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo”; and (5) the total profits to Arctic Cat generated from sales of the clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo”

including a detailed explanation of any alleged deductions to be made in the calculation of profits.

F. That Arctic Cat be directed to pay over to PUMA all gains, profits and advantages realized by Arctic Cat from the sale of clothing items, headwear, footwear, bags and accessories bearing “Arctic’s Leaping Cat Logo” pursuant to 15 U.S.C. §1117 and 17 U.S.C. § 504.

G. That Arctic Cat be directed to pay to PUMA all damages suffered by PUMA, and that such damages be trebled in accordance with the law pursuant to 15 U.S.C. §1117.

H. That Arctic Cat be directed to pay to PUMA damages in the form of money to be spent on corrective advertising, to dispel any actual confusion that may have already occurred among consumers and in the marketplace by virtue of Arctic Cat’s acts.

I. That Arctic Cat be directed to pay to PUMA reasonable attorney’s fees and all costs connected with this action pursuant to 15 U.S.C. §1117.

J. That the Court issue a finding that “Arctic’s Leaping Cat Logo” is likely to cause confusion with “PUMA’s Leaping Cat Logo” and direct the Commissioner of Trademarks and the United States Patent and Trademark Office to refuse registration of “Arctic’s Leaping Cat Logo” filed under Application No. 77/295,648.

K. That PUMA have such other and further relief that the Court may deem just and proper.

Respectfully submitted,

Date: December 21, 2011

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