

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CIV 4622

CONTEMPORARY VISIONS, L.L.C. d/b/a
SONNEMAN A WAY OF LIGHT,

Plaintiff,

v.

MAXIM LIGHTING INTERNATIONAL,
INC., MAXIM LIGHTING, INC., MAXIM
GROUP COMPANIES, ET2
CONTEMPORARY LIGHTING, ZVI
SPERLING, JACOB SPERLING, and
JOHN DOES 1-10,

Defendants.

CIVIL ACTION NO.

COMPLAINT

ECF CASE



Contemporary Visions, L.L.C. d/b/a Sonneman A Way Of Light (hereinafter, "Plaintiff" or "Sonneman"), through its undersigned counsel, for its Complaint against the defendants Maxim Lighting International, Inc., Maxim Lighting, Inc., Maxim Group Companies, ET2 Contemporary Lighting, Zvi Sperling, Jacob Sperling, and John Does 1-10 (collectively, "Defendants" or "Maxim"), alleges:

INTRODUCTION

1. Sonneman is a leading designer of new and innovative lighting designs, primarily designed by the famous lighting designer Robert A. Sonneman. Mr. Sonneman began designing modern and trend-setting lighting fixtures in the late 1960s. His designs garnered critical claim for their clean lines, geometric features, and alliance

of form and function. Mr. Sommeman's designs have been exhibited in the United States and internationally in major museums and galleries. In addition, Mr. Sonneman has lectured on design at some of the most prestigious universities in the country.

2. Sonneman's current lighting collection includes over a thousand designs that are offered for sale at numerous lighting retailers throughout the country. Interior designers and persons with knowledge of high-end lighting products recognize Sonneman's products and associate Sonneman's products with quality and sophistication.

3. Defendants operate a lighting fixture business that directly competes with Sonneman. As described in detail herein, Defendants have offered for sale and are selling lighting fixtures that are blatant copies of Sonneman's original designs. Defendants' actions are materially harming Sonneman.

JURISDICTION AND VENUE

4. This is an action for: (a) design patent infringement under the Patent Act, 35 U.S.C. § 101 *et seq.*; (b) trade dress infringement and unfair competition under the Lanham Act, 15 U.S.C. §1051 *et seq.*; (c) common law unfair competition under the law of the State of New York; and (d) common law injury to business reputation and dilution under New York General Business Law § 360-I.

5. This Court has jurisdiction over the subject matter of these claims pursuant to 28 U.S.C. §§ 1331 and 1338 and under principles of supplemental jurisdiction, 28 U.S.C. §1367.

6. This Court has diversity jurisdiction over this dispute under 28 U.S.C. §1332 since this dispute exceeds \$75,000 and is between citizens of different states.

7. This Court has personal jurisdiction over Defendants because Defendants are (i) offering for sale infringing products that customers in this District can or will be able to purchase, and/or have purchased, (ii) operating a Website at et2online.com from which customers in this District can view the infringing products and which identifies one or more retail outlets in this District for purchasing the infringing products, and (iii) deriving revenue from intrastate and interstate commerce in this District and are otherwise engaging in substantial business within this District.

8. On the basis of the foregoing, venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

THE PARTIES

9. Sonneman is a corporation organized under the laws of the State of New York, with a principal place of business at 20 North Avenue, Larchmont, NY 10538.

10. Upon information and belief, Defendants Maxim Lighting International, Inc. and Maxim Lighting, Inc. (collectively “Corporate Defendants”) are corporations organized under the laws of the State of California, with a principal place of business at 253 Vineland Ave., City of Industry, CA 91746.

11. Upon information and belief, Defendants Maxim Group Companies and ET2 Contemporary Lighting (collectively “Company Defendants”) are entities of unknown legal status, with a principal place of business at 253 Vineland Ave., City of Industry, CA 91746.

12. Upon information and belief, individual Defendant Zvi Sperling has an ownership interest in, operates, and/or manages the business of the Corporate Defendants and the Company Defendants. Upon information and belief, Zvi Sperling conducts business at 253 Vineland Ave., City of Industry, CA 91746 and resides at 11769 Chenault Street, Los Angeles, CA 90049.

13. Upon information and belief, individual Defendant Jacob Sperling has an ownership interest in, operates, and/or manages the business of the Corporate Defendants and the Company Defendants. Upon information and belief, Jacob Sperling conducts business at 253 Vineland Ave., City of Industry, CA 91746 and resides at 4247 Holly Knoll Drive, Los Angeles, CA 90027.

14. Upon information and belief, there exists, and at all times herein mentioned there existed, a unity of interests between and among all of the Defendants vis-à-vis the ownership, operation, and/or management of the business of the Corporate Defendants.

15. Upon information and belief, the Corporate Defendants and Company Defendants are dominated and controlled by the individual Defendants. Furthermore, the Corporate Defendants and Company Defendants operate at the same location, as well as share employees, officers and owners, such that Defendants may be considered interchangeable with one another.

16. Sonneman is currently unaware of the true names and identities of Defendants JOHN DOES 1-10, but are informed and believe that such persons are liable for the violations alleged in this Complaint. Sonneman may seek leave to amend

this Complaint at an appropriate time to add specific information regarding these Defendants upon determination of their true identities.

FACTS COMMON TO ALL COUNTS

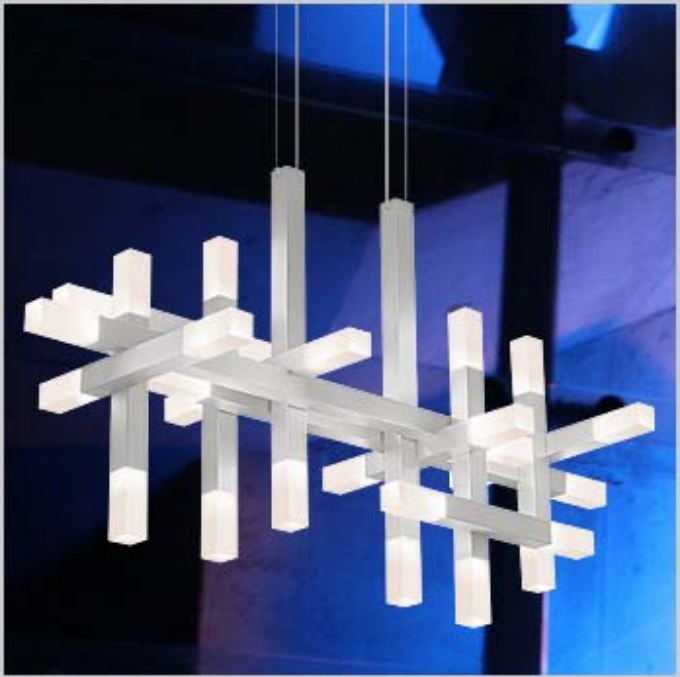
17. Over the past forty years, Mr. Sonneman has been continually involved in the design and marketing of innovative and unique lighting products. Starting in the 1960s and 1970s, Mr. Sonneman pioneered the area of modern lighting design. Mr. Sonneman's designs have been exhibited at the Museum of Modern Art, Chicago Art Institute, Cooper-Hewitt National Design Museum, UCLA Exhibition on Design, Karnette County Art Museum, and the Houston Contemporary Arts Museum.

18. Additionally, Mr. Sonneman has been a guest lecturer at Stanford University, Pratt School of Architecture, Parsons School of Design, Philadelphia College of Art and UCLA. He was also a contributor on Chrysler and Toyota projects at the Art Center, Pasadena College of Design, and he served on the Nissan Design Advisory Board.

19. Mr. Sonneman has been widely recognized for his contributions to the field of lighting design. Namely, he received: the Adex Platinum Award for Bollard Series in 2002; the Home Magazine American Future Award in 1998; the Industrial Design Magazine International Design Award in 1989; the Interior Design Magazine Product Design Competition Award in 1988; and the Corporate Design Reality Award in 1987.

20. Through the efforts of Mr. Sonneman and others, Sonneman designs and sells innovative and unique lighting products, including its CONNETIX line of lighting

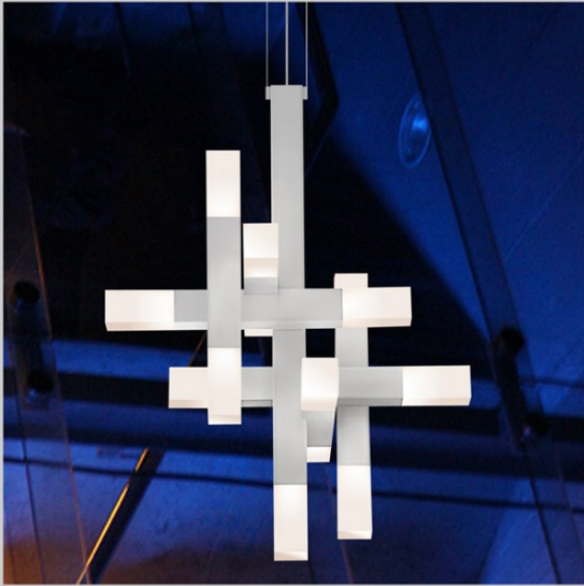
products. The CONNETIX line of lighting products has garnered notoriety and acclaim, while also achieving unprecedented sales for Sonneman. True and correct images of products from the CONNETIX line of lighting products are provided below.



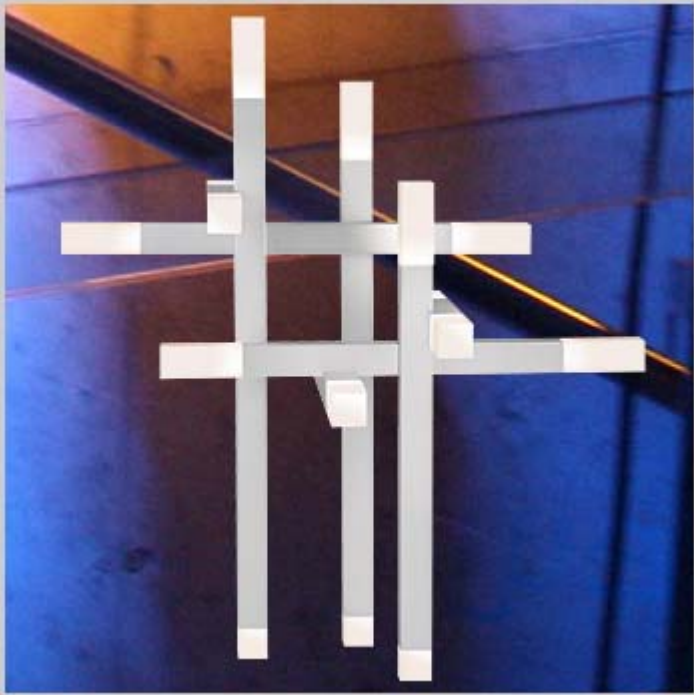
CONNEXIX Bar Pendant



CONNEXIX Pendant



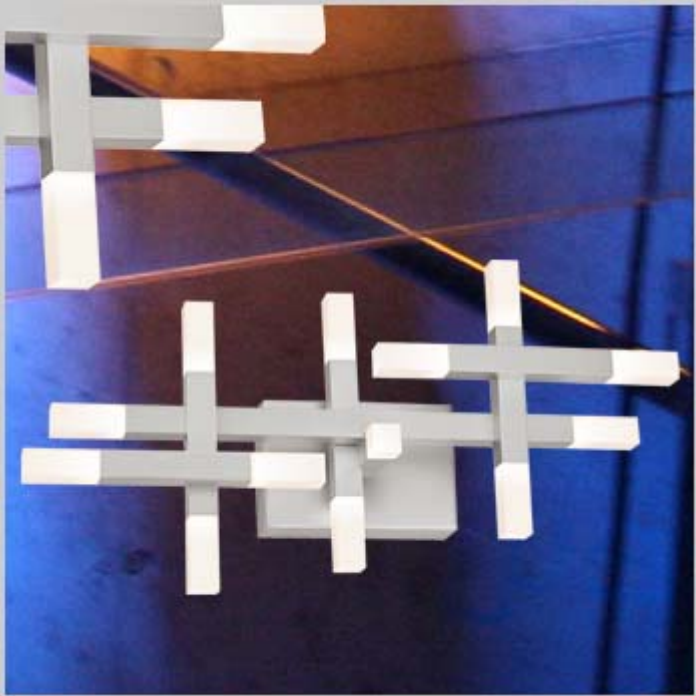
CONNETIX Small Pendant



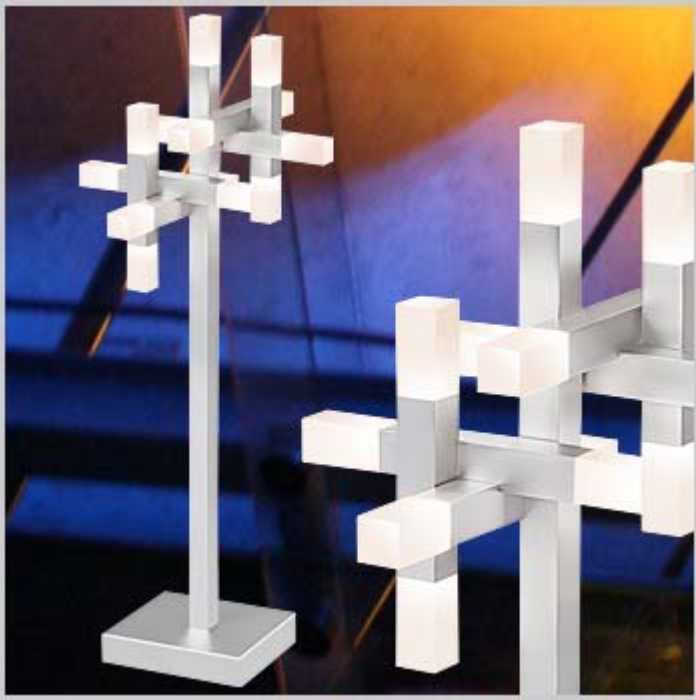
CONNETIX Tri-Ped Table Lamp



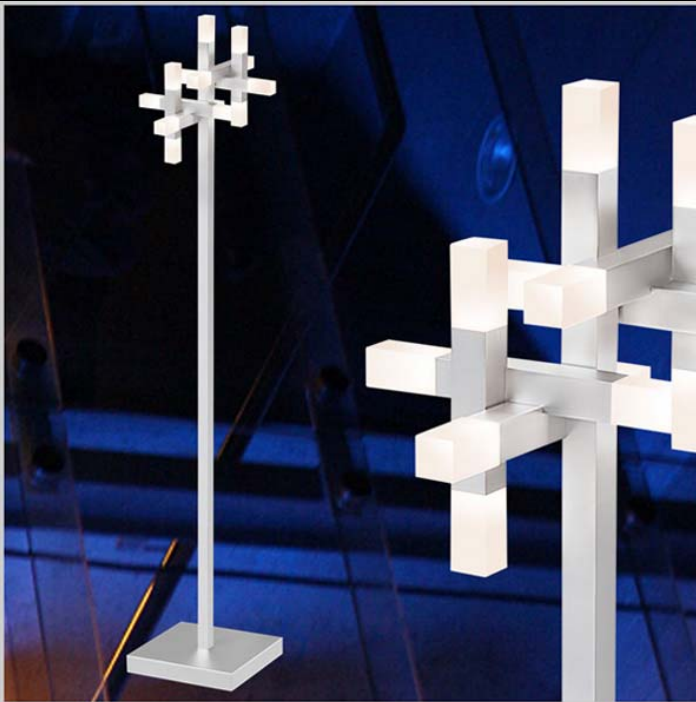
CONNETIX Sconce



CONNETIX Large Sconce



CONNETIX Table Lamp



CONNETIX Floor Lamp

21. Sonneman has extensively advertised and promoted the CONNETIX line

of lighting products. Since their introduction in January of 2012, the CONNETIX line of lighting products has enjoyed tremendous sales growth and critical recognition.

CONNETIX lighting products are sold nationwide and throughout the world. U.S. sales exceed \$1 Million.

22. The CONNETIX lighting products were prominently featured as part of a 20 foot display in the front window of Gracious Home's® flagship Upper East Side, N.Y.C. location. Attached as Exhibit 1 is a true and correct copy of a press release associated with the Gracious Home® display.

23. The CONNETIX lighting products were featured in advertisements in the September 2012, October 2012, and November 2012 issues of METROPOLIS magazine. Attached as Exhibit 2 are true and correct copies of said advertisements.

24. The success of the CONNETIX lighting products is in large part due to its distinctive design features and overall appearance. This in turn has made customers and consumers aware of the distinctive look and appearance of the CONNETIX line of lighting products which Sonneman offers and sells.

25. Sonneman owns design rights in the CONNETIX line of lighting products in the U.S. and elsewhere. In particular, Sonneman is the owner of U.S. Design Patent Nos. D671,670; D674,951; D674,953; D674,955; D674,954; D674,957; D671,255; and D684,292 ("the Sonneman Design Patents").

26. Sonneman is also the owner of trade dress rights in its CONNETIX lighting products. The CONNETIX trade dress is distinctive and non-functional. Specifically as shown hereinabove, the CONNETIX line of lighting products include the following: (a) a

series of interconnected elongated cuboidal elements; (b) each cuboidal element having a metallic or metallic-like middle portion and an illuminating end portion; and (c) the cuboidal elements which abut one another are perpendicular to each other (hereinafter, the "CONNETIX Trade Dress").

27. The CONNETIX Trade Dress has acquired secondary meaning, and is recognized as identifying Sonneman's high quality lighting fixture products.

28. Due to the extensive advertisement and promotion conducted by Sonneman, a lighting product having the CONNETIX Trade Dress is immediately associated by purchasers and the public as being one of Sonneman's genuine CONNETIX lighting products.

29. The following are images of Defendants' knock-off and infringing Crossroads products (hereafter "the Infringing Products"); these images were obtained from the website located at et2online.com, which is registered in the name of Defendant Maxim Group Companies, and upon information and belief, is owned and controlled by Defendants.



Crossroads 10-Light LED Pendant



Crossroads 14-Light LED Pendant



30. Defendants' Crossroads 10-Light LED Pendant, Crossroads 14-Light LED Pendant, and Crossroads 26-Light LED Pendant are featured in the June, 2013 release of the ET2 Contemporary Lighting catalog. True and correct excerpts from the June, 2013 release of ET2 Contemporary Lighting catalog are attached as Exhibit 3.

31. Upon information and belief, Defendants manufacture the Infringing Products overseas, import the Infringing Products into the United States and promote

and offer the Infringing Products for sale in the United States through et2online.com and through other advertising and promotional efforts.

COUNT I

Design Patent Infringement

32. Sonnenman repeats and realleges each allegation in paragraphs 1 to 31 as if fully set forth herein.

33. Sonnenman is the owner of all right, title and interest in and to U.S. Design Patent No. D671,670 (hereafter “the ‘670 patent”) entitled Lighting Fixture with Multiple Supports, issued on Nov. 27, 2012. A true and correct copy of the ‘670 patent is attached as Exhibit 4.

34. Sonnenman is the owner of all right, title and interest in and to U.S. Design Patent No. D674,951 (hereafter “the ‘951 patent”) entitled Lighting Fixture with Multiple Supports, issued on Jan. 22, 2013. A true and correct copy of the ‘951 patent is attached as Exhibit 5.

35. Sonnenman is the owner of all right, title and interest in and to U.S. Design Patent No. D674,953 (hereafter “the ‘953 patent”) entitled Lighting Fixture with Multiple Supports, issued on Jan. 22, 2013. A true and correct copy of the ‘953 patent is attached as Exhibit 6.

36. Sonnenman is the owner of all right, title and interest in and to U.S. Design Patent No. D674,955 (hereafter “the ‘955 patent”) entitled Lighting Fixture with Multiple Supports, issued on Jan. 22, 2013. A true and correct copy of the ‘955 patent is attached as Exhibit 7.

37. Sonnenman is the owner of all right, title and interest in and to U.S. Design Patent No. D674,954 (hereafter “the ‘954 patent”) entitled Lighting Fixture with a Variety of Light Clusters, issued on Jan. 22, 2013. A true and correct copy of the ‘954 patent is attached as Exhibit 8.

38. Sonnenman is the owner of all right, title and interest in and to U.S. Design Patent No. D674,957 (hereafter “the ‘957 patent”) entitled Lighting Fixture with a Variety of Light Clusters, issued on Jan. 22, 2013. A true and correct copy of the ‘957 patent is attached as Exhibit 9.

39. Sonnenman is the owner of all right, title and interest in and to U.S. Design Patent No. D671,255 (hereafter “the ‘255 patent”) entitled Lighting Fixture with a Variety of Light Clusters, issued on Nov. 20, 2012. A true and correct copy of the ‘255 patent is attached as Exhibit 10.

40. Sonneman is the owner of all right title and interest in and to U.S. Design Patent No. D684,292 (hereafter “the ‘292 patent”) entitled Light Fixture with Light Clusters, issued on Jun. 11, 2013. A true and correct copy of the ‘292 patent is attached as Exhibit 11.

41. Upon information and belief, Defendants have manufactured, imported, advertised, distributed, offered for sale, and/or sold, and continue to manufacture, import, advertise, distribute, offer for sale, and/or sell a number of copycat light fixtures, including but not limited to the Infringing Products.

42. The manufacture, importation, advertisement, distribution, offering for sale, and/or sale of the Infringing Products infringe Sonneman’s rights provided by the

Sonneman Design Patents.

43. The infringement by Defendants of the Sonneman Design Patents is in direct violation of Sonneman's rights under 35 U.S.C. § 271 to exclude others from making, using, selling, and/or offering for sale products embodying the invention of the Sonneman Design Patents.

44. Upon information and belief, each infringement has been willful and deliberate.

45. The acts of Defendants described herein were undertaken without the permission, license or consent of Sonneman and are damaging to Sonneman and its business.

46. Defendants' wrongful acts have injured Sonneman in an amount thus far not determined, but if continued, will result in damages of at least \$1 million.

47. Defendants' wrongful acts have caused and will continue to cause Sonneman to suffer irreparable harm for which it has no adequate remedy at law.

COUNT II

Trade Dress Infringement

48. Sonneman repeats and realleges each allegation in paragraphs 1 to 47 as if fully set forth herein.

49. Defendants have intentionally used trade dress substantially similar to the CONNETIX Trade Dress in connection with the unauthorized development, manufacturing, transporting, offering for sale and sale of the Infringing Products.

50. Defendants' trade dress infringes the CONNETIX Trade Dress in that the

Infringing Products feature: (a) a series of interconnected elongated cuboidal elements; (b) each cuboidal element having a metallic or metallic-like middle portion and an illuminating end portion; and (c) the cuboidal elements which abut one another are perpendicular to each other.

51. The Infringing Products, which include Defendants' trade dress, are likely to cause confusion in the marketplace with regard to their source. Consumers are likely to mistake the Infringing Products for genuine Sonneman products.

52. Defendants have caused such Infringing Products to enter into commerce in the United States, to Sonneman's detriment.

53. Defendants have improperly developed, manufactured, transported, offered for sale and sold the Infringing Products with trade dress that is similar to the CONNETIX Trade Dress with the intent to cause confusion and mistake, to deceive and mislead the purchasing public, and to improperly appropriate the valuable trade dress rights of Sonneman.

54. The acts of Defendants described herein were undertaken without the permission, license or consent of Sonneman and are damaging to Sonneman.

55. Said acts of Defendants violate Section 43 (a) of the Lanham Act, 15 U.S.C. § 1125(a).

56. Defendants' wrongful acts have injured Sonneman in an amount thus far not determined, but if continued, will result in damages of at least \$1 million.

57. Defendants' wrongful acts have caused and will continue to cause Sonneman to suffer irreparable harm for which it has no adequate remedy at law.

COUNT III

New York Common Law Trade Dress Infringement

58. Sonneman repeats and realleges each allegation in paragraphs 1 to 57 as if fully set forth herein.

59. Sonneman owns all right, title and interest in and to the CONNETIX Trade Dress, including all common law rights under New York law.

60. Defendants have used in connection with the development, manufacturing, transporting, offering for sale and sale of the Infringing Products trade dress that infringes the CONNETIX Trade Dress. Further, Defendants have caused, or will cause, such Infringing Products to enter into commerce in the United States, to Sonneman's detriment.

61. Defendants have improperly developed, manufactured, transported, offered for sale and sold Infringing Products bearing the CONNETIX Trade Dress with the intent to cause confusion and mistake, to deceive and mislead the purchasing public and to improperly appropriate the valuable trade dress rights of Sonneman.

62. Said acts of Defendants were undertaken without the permission, license or consent of Sonneman and are damaging to Sonneman and its business.

63. Defendants' wrongful acts have injured Sonneman in an amount thus far not determined, but if continued, will result in damages of at least \$1 million.

64. Defendants' wrongful acts have caused and will continue to cause Sonneman to suffer irreparable harm for which it has no adequate remedy at law.

COUNT IV

New York Common Law Unfair Competition

65. Sonneman repeats and realleges each allegation in paragraphs 1 to 64 as if fully set forth herein.

66. Upon information and belief, Defendants have intentionally misappropriated the CONNETIX Trade Dress with the intention of causing confusion, mistake and deception among consumers as to the source of the goods and with the intent to unfairly profit from the goodwill of Sonneman at Sonneman's expense.

67. As a result of the foregoing, Defendants' actions constitute unfair competition and misappropriation, which have had and will continue to have a detrimental effect on the general consuming public in violation of the common law of the State of New York.

68. Defendants' wrongful acts have injured Sonneman in an amount thus far not determined, but if continued, will result in damages of at least \$1 million.

69. Defendants' wrongful acts have caused and will continue to cause Sonneman to suffer irreparable harm for which it has no adequate remedy at law.

COUNT V

Injury to Business Reputation and Dilution

70. Sonneman repeats and realleges each allegation in paragraphs 1 to 69 as if fully set forth herein.

71. By reason of the practices and acts set forth above, Defendants are likely to injure Sonneman's reputation and dilute the distinctive quality of the CONNETIX Trade Dress.

72. These acts of Defendants are without the permission, license or consent of Sonneman and, unless enjoined by this Court, Defendants will continue these practices and acts, thereby harming Sonneman's business reputation and causing Sonneman immediate and irreparable injury.

73. Said acts of Defendants violate Section 360-1 of the New York General Business Law.

74. Defendants' wrongful acts have injured Sonneman in an amount thus far not determined, but if continued, will result in damages of at least \$ 1 million.

75. Defendants' wrongful acts have caused and will continue to cause Sonneman to suffer irreparable harm for which it has no adequate remedy at law.

WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

A. Finding that: (a) Defendants have violated 35 U.S.C. § 271 by infringing, contributorily infringing, and/or inducing the infringement of one or more of the Sonneman Design Patents; (b) Defendants have violated Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)) by infringing the CONNETIX Trade Dress; (c) Defendants have engaged in trade dress infringement and unfair competition under New York common law; and (d) Defendants have diluted the CONNETIX Trade Dress in violation of New York General Business Law §360-1.

B. Entering a preliminary and permanent injunction against Defendants (and each of their affiliates, officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them), enjoining Defendants from:

- 1) Committing further acts of infringement of the Sonneman Design Patents;
- 2) Using the CONNETIX Trade Dress or any confusingly similar variation thereof;
- 3) Further violating New York General Business Law;
- 4) Engaging in any acts of common law unfair competition or misappropriation which would damage or injure Sonneman;
- 5) Inducing, encouraging, instigating, aiding, abetting, or contributing to any third-party usage of the CONNETIX Trade Dress and/or the design of the Sonneman Design Patents;

C. Directing Defendants to deliver to Plaintiff for destruction all items in their possession that infringe the Sonneman Design Patents, and/or the CONNETIX Trade Dress, and/or any unauthorized reproductions, counterfeits, copies or colorable imitations thereof;

D. Directing Defendants to immediately cease advertising or offering for sale all items in their possession that infringe the Sonneman Design Patents, and/or

the CONNETIX Trade Dress, and/or any unauthorized reproductions, counterfeits, copies or colorable imitations thereof;

E. Directing Defendants to account to Plaintiff for all profits resulting from Defendants' infringing activities;

F. Awarding Plaintiff its damages from Defendants' wrongful acts;

G. Awarding Plaintiff three times the amount of Plaintiff's damages or Defendants' profits, whichever is greater;

H. Awarding Plaintiff the cost of this action, as well as reasonable attorneys' fees;

I. Awarding Plaintiff punitive damages as a result of Defendants' wrongful acts;

J. Directing Defendants to, at their own expense, furnish and distribute corrective marketing literature in a form to be approved by Sonneman; and

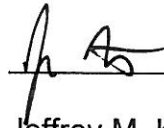
K. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

JURY DEMAND

Sonneman demands a trial by jury on all issues so triable.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.



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Dated: July 3, 2013