

AO 120 (Rev. 08/10)

TO: <p style="text-align: center;">Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450</p>	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Southern District of Florida (West Palm Beach) on the following

Trademarks or Patents. (the patent action involves 35 U.S.C. § 292.);

DOCKET NO. 16-cv-81797-KAM	DATE FILED 10/27/2016	U.S. DISTRICT COURT Southern District of Florida (West Palm Beach)
PLAINTIFF Aspen Licensing International, Inc		DEFENDANT Deer Stags Concepts, Inc
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 3001668		
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT See attached Order Approving Joint Stipulation of Settlement

CLERK Steven M. Larimore	(BY) DEPUTY CLERK J. Ulacia	DATE 1/31/2017
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

44. The acts of DEER STAGS as alleged herein infringe ALI's common-law rights in its "ASPEN" trademark and name and constitute common-law trademark infringement and unfair competition under the laws of the State of Florida.

45. ALI has been irreparably injured by DEER STAGS's willful acts, and it will continue to suffer injury unless this Court enjoins DEER STAGS's use of the foregoing marks in any way in connection with the sale of the Aspen Slipper or other related goods.

46. ALI has no adequate remedy at law.

47. As a direct and proximate result of DEER STAGS's aforementioned misconduct ALI has incurred damages.

WHEREFORE, Plaintiff, ASPEN LICENSING INTERNATIONAL, INC., respectfully demands judgment against Defendant DEER STAGS CONCEPTS, INC. as follows:

a. Imposition of a temporary and/or permanent injunction against Defendant DEER STAGS prohibiting DEER STAGS from manufacturing, importing, exporting, marketing, advertising distributing and selling the Aspen Slipper and similar products under ALI's "ASPEN" trademark;

b. The delivery by the Defendant, DEER STAGS, its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, to be impounded during the pendency of this action, of all articles alleged to infringe on ALI's registered trademark;

c. The delivery by Defendant, DEER STAGS, its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, for destruction following a final decision in this action, of all infringing materials;

d. Damages as the Court shall deem just and proper;

- e. Reasonable attorneys' fees and costs incurred in this action; and
- f. Such other and further relief as this Court deems just and proper.

COUNT FOUR

(Unfair Competition and Deceptive Trade Practices Under Florida Law)

48. Plaintiff, ALI repeats, realleges, and incorporates paragraphs 1 through 16 above, as if fully restated herein, and further states:

49. This is an action for damages for violation of the Florida Deceptive and Unfair Trade Practices Act (Fla. Stat. §§501.201 to 501.213).

50. Part II of Chapter 501, Florida Statutes, and specifically Section 501.204, Florida Statutes, prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts in the conduct of any trade or commerce.

51. This Statute is to be liberally construed to promote the designated statutory policy stated in Section 501.202(2): "To protect legitimate business enterprises from those who engage in unfair methods of competition or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce."

52. As amended in 2001, this statute provides that a business corporation may bring an action for declaratory and injunctive relief, damages and attorney's fees pursuant to section 501.211, Florida Statutes.

53. Defendant, DEER STAGS has engaged in unfair or deceptive acts or practices and unfair competition as described more particularly above. Specifically, DEER STAGS's deceptive use of the "ASPEN" trademark constitutes fraudulent and unconscionable business practices and permit DEER STAGS to undertake misleading advertising and representations, thereby competing unfairly with ALI in violation of the laws of Florida.

54. DEER STAGS's promotion and offering of goods under the "ASPEN" trademark is likely to cause confusion, mistake, and/or deception and/or to give the false and misleading impression that the goods offered or sold by DEER STAGS constitute goods that originate with or are licensed by ALI or that DEER STAGS is a subsidiary or in some way associated with, connected or related to ALI.

55. Upon information and belief, DEER STAGS's actions have been committed intentionally with the knowledge that such actions are likely to cause confusion, or to cause mistake or to deceive.

56. The aforesaid acts of DEER STAGS constitute unfair competition and deceptive trade practices by Defendants in violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201 *et seq.*, and the common law of Florida.

57. ALI has been irreparably injured by DEER STAGS's willful acts, and will continue to suffer injury unless this Court enjoins Defendants from continuing such wrongful acts.

58. ALI has no adequate remedy at law.

WHEREFORE, Plaintiff, ASPEN LICENSING INTERNATIONAL, INC., respectfully demands judgment against Defendant DEER STAGS CONCEPTS, INC. as follows:

a. Imposition of a temporary and/or permanent injunction against Defendant DEER STAGS prohibiting DEER STAGS from manufacturing, importing, exporting, marketing, advertising distributing and selling the Aspen Slipper and similar products under ALI's "ASPEN" trademark;

b. The delivery by the Defendant, DEER STAGS, its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, to be impounded

during the pendency of this action, of all articles alleged to infringe on ALI's registered trademark;

c. The delivery by Defendant, DEER STAGS, its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, for destruction following a final decision in this action, of all infringing materials;

d. Damages as the Court shall deem just and proper;

e. Reasonable attorneys' fees and costs incurred in this action; and

f. Such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all issues so triable.

CERTIFICATE OF ADMISSION

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualification to practice in this court set forth in Local Rule 2090-1(A).

Dated: October 26, 2016.

DuBosar Sheres, P.A.
Attorneys for Plaintiff
1800 North Military Trail, Suite 470
Boca Raton, Florida 33431
Phone: (561) 544-8980/Fax: (561) 544-8988

By: /s/ Howard D. DuBosar

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Florida Bar No. 57227
RSheres@dubolaw.com

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,001,668

Registered Sep. 27, 2005

**TRADEMARK
PRINCIPAL REGISTER**

ASPEN

ASPEN LICENSING INTERNATIONAL, INC.
(FLORIDA CORPORATION)

1649 FORUM PLACE, SUITE 12

WEST PALM BEACH, FL 33401

FOR: FOOTWEAR, IN CLASS 25 (U.S. CLS. 22 AND
39).

FIRST USE 8-2-1995; IN COMMERCE 8-2-1995.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 884,709, 2,383,524 AND
OTHERS.

SER. NO. 78-464,344, FILED 8-9-2004.

LEIGH CAROLINE CASE, EXAMINING ATTOR-
NEY

EXHIBIT A

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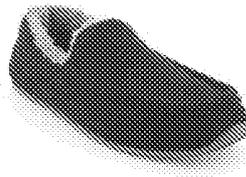
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SEARCH RESULTS FOR 'ASPEN'

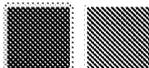
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1 Item(s) SHOW:



ASPEN



\$40.00

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SKU 8759701

Deer Stags Aspen

1 Review



Fit Survey: 100% Felt a half size smaller | 100% Felt true to width | 100% No arch support

Item Information

- [View the size chart](#)
- Spend your leisure time in easy comfort with the Aspen slipper!
- Soft microsuede upper with faux fur lining for warmth.
- Features unique S.U.P.R.O. Sock™, an extra thick polyurethane sock that provides superior cushioning.

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Pile Lined Romeo Slipper
\$45.95



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Morgan
\$40.00



Merrell
Moab Rover Moc
\$100.00



L.B. Evans
Roderic
\$40.00

[Customer Reviews](#) [Deer Stags Aspen](#)

Sort by: **Most Helpful** | Newest

Overall: Comfort: Style:

With a \$30 Chinese made shoe, expectations are low. And met. Design was fine. Construction quality was ok. Sole and insole design were ABSURD!! A thick label sewn to the insole where your bare foot rubs on it. When trying to cut it out, discovered the insole is cemented in (WTF) AND is cemented to a one inch square label in the sole so if you rip out the insole, the sole has a hole in it!! Moron designer! I put an old pair of insoles in on top of the existing one, and got a pair of usable shoes.

David C - customer | from Las Vegas | October 2, 2016

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 9:16-cv-81797

ASPEN LICENSING INTERNATIONAL, INC.,
A Florida Corporation,

Plaintiff,

vs.

DEER STAGS CONCEPTS, INC., a New York
Corporation,

Defendant.

COMPLAINT

Plaintiff, ASPEN LICENSING INTERNATIONAL, INC. (“ALI”), sues DEER STAGS CONCEPTS, INC. (“DEER STAGS”), and states:

THE PARTIES

1. Plaintiff, ALI is a Florida corporation with its principal place of business located at 6615 W. Boynton Beach Blvd., #349, Boynton Beach, Florida 33437, within Palm Beach County and the Southern District of Florida.

2. Defendant, DEER STAGS, is a New York corporation with its principal place of business at 902 Broadway, 3rd Floor, New York, NY, 10010.

JURISDICTION AND VENUE

3. This is a civil action for injunctive relief and damages for violations of the Lanham Act, 15 U.S.C. §1501, et seq.

4. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §1121(a), 28 U.S.C. §1331 and 28 U.S.C. §1338.



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Deer Stags Aspen (Men's)

Item #: 671675

(0) [Write a Review](#)



\$29.95



FREE SHIPPING EVERY DAY



Color:

Black

Size:

Select Size

SIZE:

SELECT SIZE

Size Chart

Width:

Qty:

- +

▼ **Description**

▶ **Specifications**

- Deer Stags' convenient slipper will be your go-to style when colder days arrive
- Cozy microsuede upper
- Soft imitation shearling fleece lining
- Patented S.U.P.R.O.® Sock high-density EVA footbed with Altron™ heel insert for supportive cushioning
- Indoor/outdoor rubber-like sole
- Available in whole sizes only, half sizes please order the next size up

▶ **Reviews**

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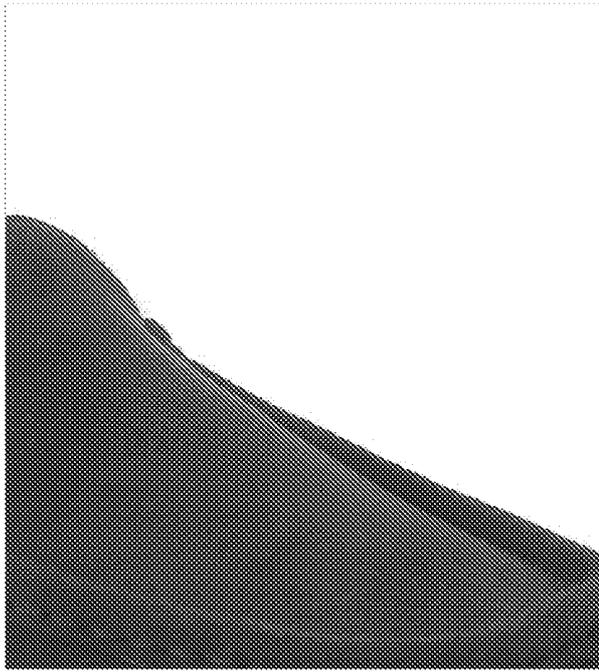
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Deer Stag Aspen Men's Moccasin Slippers



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PRODUCT DETAILS

Treat your feet to the true comfort of these men's Aspen slippers from Deer Stag.

SLIPPER FEATURES

- S.U.P.R.O. technology (Super Underfoot Pedorthic Radical Orthotic)
- Shock absorption
- Plush design
- Indoor / outdoor traction sole

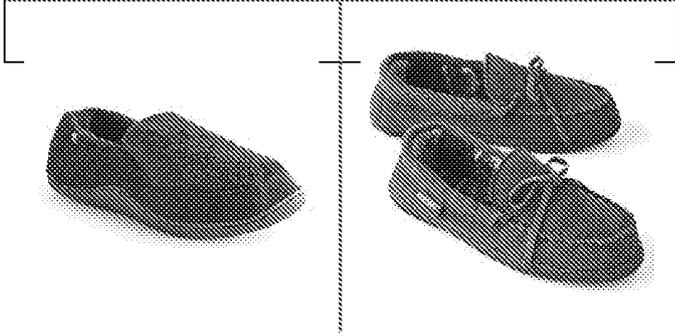
SLIPPER CONSTRUCTION

- Microsuede upper
- Faux-fur lining
- TPR outsole

SLIPPER DETAILS

- Moc toe
- Slip-on
- Padded footbed

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100% of reviewers recommend this product

Reviewer Highlights & Lowlights

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★★★★★

✓ VERIFIED PURCHASER

MYRNAK
State AZ
Age Over 65

slippers

09/23/2016

my husband really likes his slippers. He can wear them inside or outside.

👍 HELPFUL 1 🗑️ 0 Report



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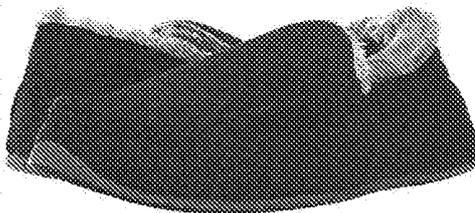
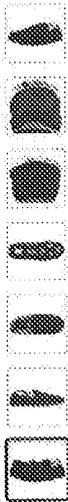
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Deer Stags Men's Aspen Moccasin

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Price: \$29.95 - \$112.28 & FREE Returns on some sizes and colors. Details

Size: Select Size Chart

Color: Black

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- Warm, faux shearling lining
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Product Description

Aspen indoor-outdoor slipper the aspen's super relaxed look, cool moccasin stitching and warm, faux sheepskin lining will make you the man of the mountain. Like all deer stags slippers, the aspen is made with our trademark s.u.p.r.o.® sock, a thick orthotic with extra heel cushioning. on the outside, enjoy great shock absorption from a thermoplastic rubber sole (with compression nodules for relief) and a protective toe bumper.

Deer Stags has been making shoes comfortable since 1929. Recognized for their patented S.U.P.R.O. Technology construction, Deer Stags has become a leader of comfort footwear for men, women, and children. From casual trendy, they design a broad range of styles for every individual and every occasion.

Shipping Weight: 7 ounces (View shipping rates and policies)

ASIN: B01D35DL72

Item model number: Aspen

Date first available at Amazon.com: September 16, 2016

Domestic Shipping: Currently, item can be shipped only within the U.S. and to APO/FPO addresses. For APO/FPO shipments, please read the applicable APO/FPO shipping policy. For more information regarding warranty and support issues.

International Shipping: This item is not eligible for international shipping. Learn More.

Amazon Best Sellers Rank: #71,384 in Shoes (See Top 100 in Shoes)

#1720 in Shoes > Men's > Loafers & Slip-Ons

Average Customer Review: Be the first to review this item

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Typical questions asked about products:

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4 star

3 star

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1 star

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\$24.95 - \$112.26

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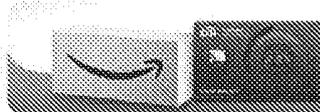
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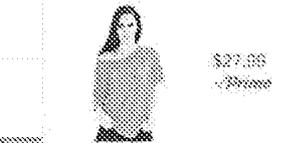
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5. Defendant, DEER STAGS is subject to the personal jurisdiction of this Court pursuant to Florida's long-arm statute, §48.193, Fla. Stat., by virtue of its having engaged in the following actions:

- a. Operating, conducting, engaging in, or carrying on a business or business venture in the State of Florida by advertising and selling products to residents in Florida via the internet; and
- b. Committing a tortious act within the State of Florida by advertising and selling products to residents in Florida in violation of the Lanham Act;

6. This Court further has personal jurisdiction over DEER STAGS because it engaged in substantial and not isolated activity within the State of Florida, by *inter alia*, advertising and selling its merchandise to Florida residents via the internet and, upon information and belief, within retail establishments in the State of Florida. Therefore, sufficient minimum contacts exist between DEER STAGS and the State of Florida so as not to offend traditional notions of fair play and substantial justice under the due process clause of the Fourteenth Amendment.

7. Venue is proper in this District under 28 U.S.C. §1391(b) and (c) in that a substantial part of the events or omissions giving rise to the claims occurred in this District.

BACKGROUND FACTS

8. ALI, though its predecessors in interest, owns the goodwill for the trademark "ASPEN" going back to the 1940's when the mark was applied to a line of rugged functional ski wear and became a top brand for skiers demanding performance apparel. Today, ALI licenses the use of its "ASPEN" trademark in association with a wide variety of goods and clothing, including various forms of footwear.

9. ALI is the owner of the trademark "ASPEN," Federal Registration No. 3,001,668, International Class 25 (the "Registration"). A true and correct copy of the Registration is attached hereto as **Exhibit "A."**

10. The "ASPEN" trademark, Federal Registration No. 3,001,668, International Class 25, is an incontestable trademark pursuant to 15 U.S.C. §1065.

11. Defendant DEER STAGS is company that sells footwear online and through retailers, including, upon information and belief, retail stores in Florida.

12. DEER STAGS' "ASPEN Indoor-Outdoor Slipper (the "Aspen Slipper") is being and has been for some time sold nationally and, upon information and belief, internationally via the internet and through in physical locations including KOHL's department store locations.

13. Prior to the filing of this suit, ALI contacted DEER STAGS and informed it that the Aspen Slipper infringes upon ALI's "ASPEN" trademark.

14. As of the filing of this Complaint, DEER STAGS continues to sell and advertise the Aspen Slipper and has failed to take any remedial actions.

15. All conditions precedent to bringing this action have been performed, excused, or waived.

16. ALI has retained the undersigned counsel to represent his interests in this matter and is required to pay said counsel a reasonable fee for services rendered.

COUNT ONE

(Trademark Infringement Under the Lanham Act, 15 U.S.C. §1114)

17. Plaintiff, ALI repeats, realleges, and incorporates paragraphs 1 through 16 above, as if fully restated herein, and further states:

18. DEER STAGS directly or through its licensees, in at least the year 2016 sold and continues to sell the Aspen Slipper, which infringes upon ALI's trademark rights, in Florida.

19. These infringements, *inter alia*, arise from sales by DEER STAGS either directly or through its representatives, agents, licensees, to retail stores, and ultimate consumers via the internet.

20. At least throughout 2016, DEER STAGS directly and/or indirectly advertised for sale the Aspen Slipper, branding same as an "ASPEN" product, various websites including www.deerstags.com, www.kohls.com, www.zappos.com, www.amazon.com, and www.shoemall.com. A true and correct copy of the advertisement on the aforementioned websites are attached hereto as **Composite Exhibit "B."**

21. Upon information and belief, these "ASPEN" branded products are supplied by Defendant DEER STAGS to ultimate consumers and/or retail stores in this District.

22. Through the aforementioned websites, DEER STAGS's Aspen Slipper is advertised for sale, sold to, and shipped in interstate commerce to Florida customers, including Florida customers located in this District.

23. DEER STAGS did not and still has not obtained authority, permission, or any form of license from ALI to market or sell through interstate commerce or otherwise, the Aspen Slipper containing the ALI's "ASPEN" trademark.

24. ALI, its predecessor in interest, or its licensees, developed, adopted and began using the "ASPEN" trademark in interstate commerce before DEER STAGS adopted and began using the "ASPEN" trademark.

25. DEER STAGS's use of ALI's "ASPEN" trademark is without ALI's authorization.

26. The use by DEER STAGS of the “ASPEN” trademark is identical to ALI’s trademark and is likely to cause purchasers to be confused as to the source of the Aspen Slipper.

27. By virtue of the actions of DEER STAGS, there is a likelihood of confusion between ALI’s authorized products and DEER STAGS’s products.

28. DEER STAGS’s conduct constitutes an infringement on ALI’s registered trademark under 15 U.S.C. §1114 of the Lanham Act.

29. Upon information and belief, DEER STAGS has acted knowingly and intentionally in misappropriating ALI’s “ASPEN” trademark in an effort to trade off the goodwill established by ALI over the past decades.

30. DEER STAGS will continue its infringement activities unless enjoined by this Court.

31. ALI has no adequate remedy at law and ALI will suffer irreparable injury to its business, reputation, and goodwill unless DEER STAGS’s unlawful conduct is enjoined by this Court.

32. The imposition of an injunction by this Court will serve the public interest.

33. DEER STAGS’s conduct has caused ALI to suffer actual damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, ASPEN LICENSING INTERNATIONAL, INC., respectfully demands judgment against Defendant, DEER STAGS CONCEPTS, INC. as follows:

- a. Imposition of a temporary and/or permanent injunction against Defendant DEER STAGS prohibiting DEER STAGS from manufacturing, importing, exporting, marketing, advertising distributing and selling the Aspen Slipper and similar products under ALI’s “ASPEN” trademark;

b. A written report, in accordance with 15 U.S.C. §1115, filed with the Court and served on counsel for ALI within ten (10) days from the entry of any injunction, setting forth in detail the manner and form in which Defendant, DEER STAGS has complied with the terms of the injunction;

c. The delivery by the Defendant, DEER STAGS, its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, to be impounded during the pendency of this action, of all articles alleged to infringe on ALI's registered trademark;

d. The delivery by Defendant, DEER STAGS its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, for destruction following a final decision in this action, of all infringing materials;

e. Damages as the Court shall deem just and proper under 15 U.S.C. §1117 and any other provisions of the Lanham Act, including, all of DEER STAGS's profits from the sale of the Aspen Slipper and all damages incurred by ALI as a result of DEER STAGS's infringement;

f. Reasonable attorneys' fees and costs incurred in this action; and

g. Such other and further relief as this Court deems just and proper.

COUNT TWO

(Unfair Competition Under 15 U.S.C. § 1125(a))

34. Plaintiff, ALI repeats, realleges, and incorporates paragraphs 1 through 16 above, as if fully restated herein, and further states:

35. DEER STAGS by its unauthorized appropriation and use of the "ASPEN" trademark, has engaged, and is continuing to engage in acts of wrongful deception to the

purchasing public, wrongful designation as to the source and sponsorship of goods and the wrongful deprivation of ALI's good name and reputation.

36. DEER STAGS willfully and deliberately uses in commerce, words, terms and names which are likely to cause confusion, mistake, or to deceive as to the affiliation, connection or commercial activities of ALI.

37. No later than 2016, DEER STAGS began marketing, selling and distributing the Aspen Slipper under the "ASPEN" trademark via the internet and department stores around the country resulting in consumer confusion as to the source of the Aspen Slipper.

38. Such conduct constitutes an unfair trade practice and unfair competition pursuant to 15 U.S.C. §1125(a) of the Lanham Act.

39. As a direct and proximate result of DEER STAGS's aforementioned misconduct ALI has incurred damages.

40. ALI has no adequate remedy at law and will suffer irreparable injury to its business, reputation and goodwill unless DEER STAGS's unlawful conduct is enjoined by this Court.

41. The imposition of an injunction by this Court will serve the public interest.

42. DEER STAGS's conduct has caused ALI to suffer actual damages in an amount to be determined at trial.

WHEREFORE, Plaintiff, ASPEN LICENSING INTERNATIONAL, INC., respectfully demands judgment against Defendant DEER STAGS CONCEPTS, INC. as follows:

a. Imposition of a temporary and/or permanent injunction against Defendant DEER STAGS prohibiting DEER STAGS from manufacturing, importing, exporting,

marketing, advertising distributing and selling the Aspen Slipper and similar products under ALI's "ASPEN" trademark;

b. A written report, in accordance with 15 U.S.C. §1115, filed with the Court and served on counsel for ALI within ten (10) days from the entry of any injunction, setting forth in detail the manner and form in which Defendant, DEER STAGS has complied with the terms of the injunction;

c. The delivery by the Defendant, DEER STAGS, its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, to be impounded during the pendency of this action, of all articles alleged to infringe on ALI's registered trademark;

d. The delivery by Defendant, DEER STAGS its agents, employees, and all holding with, through or under it, or anyone acting on its behalf, for destruction following a final decision in this action, of all infringing materials;

e. Damages as the Court shall deem just and proper under 15 U.S.C. §1117 and any other provisions of the Lanham Act, including, all of DEER STAGS's profits from the sale of the Aspen Slipper and all damages incurred by ALI as a result of DEER STAGS's actions and/or statutory damages;

f. Reasonable attorneys' fees and costs incurred in this action; and

g. Such other and further relief as this Court deems just and proper.

COUNT THREE

(Common Law Trademark Infringement and Unfair Competition)

43. Plaintiff, ALI repeats, realleges, and incorporates paragraphs 1 through 16 above, as if fully restated herein, and further states: