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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES, CA
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FILED

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 CLINT EASTWOOD, an individual;

14 Plaintiff,

15 v.

16 PALLISER FURNITURE, LTD., a
17 Canadian corporation; PALLISER
18 FURNITURE CORP., a North Dakota
19 corporation; and DOES 1-10, inclusive,

20 Defendants.

Case No.

CV08-00266 JSL (RCx)

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF
FOR:**

- 21 (1) False Designation of Origin and
22 False Endorsement in Violation
23 of Lanham Act, 15 U.S.C.
24 §1125(a);
- 25 (2) Misappropriation of Name in
26 Violation of CA Civil Code
27 §3344; and
- 28 (3) Common Law
Misappropriation of Name

(JURY TRIAL DEMANDED)

29 Plaintiff CLINT EASTWOOD hereby alleges as follows:

PARTIES

- 30 1. Plaintiff CLINT EASTWOOD ("Plaintiff" or "Eastwood") is, and at all
31 times mentioned herein was, an individual residing in Monterey County, California.
- 32 2. Plaintiff is informed and believes, and based thereon alleges, that defendant

I/S
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1 PALLISER FURNITURE, LTD. ("PFL") is, and at all times mentioned herein was, a
2 Canadian corporation, with its principal place of business in Winnipeg, Manitoba, Canada
3 and doing business in Los Angeles County, California.

4 3. Plaintiff is informed and believes, and based thereon alleges, that defendant
5 PALLISER FURNITURE CORP. ("PFC") is, and at all times mentioned herein was, a
6 North Dakota corporation, with its principal place of business located in North Carolina
7 and doing business in Los Angeles County, California.

8 4. Plaintiff is unaware of the true names and capacities of defendants, whether
9 individual, corporate and/or partnership entities, named herein as DOES 1 through 10,
10 inclusive, and therefore sues them by their fictitious names. Plaintiff will seek leave to
11 amend this complaint when their true names and capacities are ascertained. Plaintiff is
12 informed and believes, and based thereon alleges, that defendants PFL and PFC, together
13 with DOES 1 through 10, inclusive (collectively "Defendants"), participated in some
14 manner in the acts, omissions or conduct of each of the other Defendants as alleged herein
15 and/or are responsible in some manner for the damages sustained by Plaintiff as alleged
16 herein and/or acted as an agent for or in conspiracy with (or otherwise under the direction
17 or control of) each of the other Defendants with regard to the allegations contained in this
18 complaint and/or is in some manner legally and/or equitably responsible for the events
19 and happenings referred to herein and/or proximately caused the damage referred to
20 herein.

21 5. Said Defendants are sued as principals or agents, partners, servants and
22 employees of said principals, or any combination thereof, and all of the acts performed by
23 them as agents, partners, servants and employees were performed within the course and
24 scope of their employment, and with the knowledge, consent, approval and ratification of
25 said principals, and each of them.

26 6. Plaintiff is informed and believes, and based thereon alleges, that at all
27 relevant times herein, each of the Defendants, including DOES 1 through 10, inclusive,
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1 directed, knew or reasonably should have known of the acts and behavior alleged herein
2 and the damages caused thereby, and by their actions and/or inaction directed, ratified and
3 encouraged such acts and behavior.

4 7. Plaintiff further alleges that Defendants had a non-delegable duty to prevent
5 such acts and the behavior described herein, which duty Defendant failed and/or refused
6 to perform.

7 JURISDICTION AND VENUE

8 8. This is an action for false designation of origin and false endorsement under
9 section 43 of the Lanham Act, 15 U.S.C. §1125, as well as related claims of statutory and
10 common law misappropriation of rights of personality under California law. This Court
11 has subject matter jurisdiction over the claims that relate to the Lanham Act pursuant to
12 15 U.S.C. §1121 and 28 U.S.C. §§1331, 1338.

13 9. This Court has supplemental jurisdiction over the claims in this Complaint
14 that arise under the laws of the State of California pursuant to 28 U.S.C. §1367(a), since
15 the state law claims are so related to the federal claims that they form a part of the same
16 case or controversy and derive from a common nucleus of operative facts.

17 10. In addition, this Court has diversity jurisdiction over this action pursuant to
18 28 U.S.C. §1332. This controversy is between citizens of this state and citizens or
19 subjects of a foreign state, and the amount in controversy exceeds \$75,000.

20 11. Venue is proper in the Central District of California pursuant to 28 U.S.C.
21 §§1391(b) and (c) because, among other things, Plaintiff is informed and believes, and
22 based thereon alleges, that defendants PFL and PFC conduct substantial business with the
23 District through wholesale and retail sales made to retailers and/or consumers located
24 within the District. Plaintiff is further informed and believes, and based thereon alleges,
25 that Defendants operate a website located at www.palliser.com (the "Palliser Website")
26 through which they intentionally and purposefully direct commercial activity to residents
27 of the State of California, including residents of this District. Plaintiff is informed and
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1 believes, and based thereon alleges, that residents of this District interact with the Palliser
2 Website by, among other things: (i) responding to direct solicitations on the Palliser
3 Website for consumers to communicate with Defendants via e-mail if they are interested
4 in a particular product or model, which Defendants then respond to personally and
5 directly; and (ii) utilizing the "retailer" section of the Palliser Website, which requires all
6 retailers, including those located within the District, to use a password.

7 SUMMARY OF CLAIMS

8 12. Plaintiff Eastwood is a well known and widely admired motion picture actor,
9 director and producer.

10 13. Plaintiff is informed and believes, and based thereon alleges, that
11 Defendants, which comprise one of the largest upholstery manufacturers in the world,
12 have been unlawfully manufacturing, offering for sale and selling, advertising, marketing
13 and distributing a so-called "home theater chair" called "The Eastwood" without the
14 permission of Plaintiff.

15 14. The unlawful actions of the Defendants amount to a willful and conscious
16 disregard for the rights of Plaintiff, and are knowingly and intentionally designed to
17 capitalize on the goodwill, recognition and fame associated with Plaintiff Eastwood.

18 GENERAL ALLEGATIONS

19 A. Clint Eastwood – Life & Career

20 15. Clint Eastwood, with a career spanning over fifty (50) years, has had one of
21 the entertainment industry's most successful and celebrated acting, directing and
22 producing careers.

23 16. As a television actor, Mr. Eastwood first achieved widespread recognition as
24 a featured actor in the television series *Rawhide*, starring in the role of Rowdy Yates from
25 1959 to 1965.

26 17. As a feature motion picture actor, Mr. Eastwood has been a leading actor
27 since the late 1960's, appearing in films ranging from westerns such as *The Good, The*

1 *Bad and The Ugly* and *Unforgiven*; to dramas such as *Play Misty for Me* and *Million*
2 *Dollar Baby*; from comedies such as *Every Which Way But Loose*, to political thrillers
3 such as *In The Line of Fire*; and of course, in the *Dirty Harry* series of crime dramas,
4 playing the iconic Detective Harry Callahan.

5 18. As a director, Mr. Eastwood has directed almost thirty (30) films, including
6 winning Academy Awards as the Best Director for both *Unforgiven* and *Million Dollar*
7 *Baby*.

8 19. As a producer, Mr. Eastwood has been nominated for four Academy Awards
9 for Best Picture, including *Unforgiven*, *Million Dollar Baby*, *Mystic River* and most
10 recently, *Letters from Iwo Jima*.

11 20. In 1994, Mr. Eastwood also received the Academy of Motion Picture Arts
12 and Sciences' prestigious Irving G. Thalberg Memorial Award for lifetime achievement,
13 and in 2000, the Kennedy Center Honors Award.

14 21. Mr. Eastwood also served as the elected mayor of Carmel, California from
15 1986 to 1988.

16 **B. Mr. Eastwood's Limited Licensing Program**

17 22. From time to time, Mr. Eastwood receives solicitations from third parties
18 seeking to license his personality rights, namely his valuable name, image and likeness,
19 for commercial purposes.

20 23. Mr. Eastwood has a long standing history of rejecting third party licenses,
21 reserving the exploitation of his personality rights and the goodwill associated therewith
22 to his motion picture and other entertainment related projects, and to other business
23 ventures in which Mr. Eastwood is personally involved.

24 **C. Defendants' Sale of "The Eastwood" Home Theater Chair.**

25 24. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 have been manufacturing, offering for sale and selling, advertising, marketing and
27 distributing in interstate commerce, including within the District, a line of so-called
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1 "home theater chairs," one of which is called "The Eastwood."

2 25. Defendants never requested the permission of Plaintiff, and Plaintiff has
3 never granted permission to Defendants, to utilize his name, image and/or likeness in
4 connection with "The Eastwood" home theater chair or any other product.

5 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 also have been manufacturing, offering for sale and selling, advertising, marketing and
7 distributing "home theater chairs" named after various other living and deceased
8 celebrities, including "The Brando," "The Cagney," "The Cooper," "The Bronson" and
9 "The Connery."

10 **FIRST CLAIM FOR RELIEF**

11 **(False Designation of Origin and False Endorsement in**
12 **Violation of Lanham Act, 15 U.S.C. §1125(a),**
13 **As Against All Defendants)**

14 27. Plaintiff repeats and realleges the allegations in paragraphs 1 through 26,
15 inclusive, as though set forth fully herein.

16 28. Defendants' use, and continuing use, in interstate commerce of the name
17 "Eastwood" in connection with "The Eastwood" home theater chair constitutes a violation
18 of 15 U.S.C. §1125(a) in that it creates a false designation of origin as to the goods
19 advertised, distributed, offered for sale and sold by Defendants, which is likely to
20 confuse, mislead, or deceive the consuming public and trade by creating the false
21 impression that "The Eastwood" home theater chairs advertised, distributed, offered for
22 sale and sold by Defendants have been manufactured, approved, sponsored, endorsed or
23 guaranteed by, or are in some way affiliated, connected or associated with, Plaintiff.

24 29. Defendants' use, and continuing use, in interstate commerce of the name
25 "Eastwood" in connection with "The Eastwood" home theater chair also constitutes a
26 false or misleading description or representation in interstate commerce, in violation of 15
27 U.S.C. §1125(a).

1 Defendants' profits related to manufacturing, offering for sale and selling, advertising,
2 marketing and distributing "The Eastwood" home theater chair, which Plaintiff is
3 informed and believes, and based thereon alleges, exceeds \$75,000.

4 36. As a further direct and proximate result of the Defendants' knowing, willful
5 and conscious disregard for the rights of Plaintiff, Defendants are guilty of oppression,
6 fraud and malice, entitling Plaintiff to an award of punitive damages.

7 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 have continued to manufacture, offer for sale and sell, advertise, market and distribute
9 "The Eastwood" home theater chair. Unless and until enjoined and restrained by order of
10 this Court, Plaintiff will continue to suffer great and irreparable injury in that his world
11 famous name is being falsely associated with Defendants' product, "The Eastwood" home
12 theater chair. Plaintiff has no adequate remedy at law for such injury.

13 **THIRD CLAIM FOR RELIEF**

14 **(Misappropriation of Name or Likeness in Violation of Common Law**
15 **As Against All Defendants)**

16 38. Plaintiff repeats and realleges the allegations in paragraphs 1 through 26,
17 inclusive, as though set forth fully herein.

18 39. Defendants have violated Plaintiff's exclusive right by knowingly and
19 intentionally using Plaintiff Eastwood's name, without his prior consent, for commercial
20 purposes, gain and profit in connection with manufacturing, offering for sale and selling,
21 advertising, marketing and distributing "The Eastwood" home theater chair.

22 40. The use of the name "Eastwood" by Defendants in connection with
23 manufacturing, offering for sale and selling, advertising, marketing and distributing "The
24 Eastwood" home theater chair has directly resulted in substantial and ongoing harm and
25 injury to Plaintiff, in that, among other things, his world famous name is being falsely
26 associated with Defendants' product, "The Eastwood" home theater chair.

27 41. As a direct and proximate result of the conduct of Defendants, Plaintiff is
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1 entitled to the recovery of general and compensatory damages related to Defendants
2 manufacturing, offering for sale and selling, advertising, marketing and distributing "The
3 Eastwood" home theater chair, the precise amount of which shall be established at trial,
4 according to proof, but which Plaintiff is informed and believes, and based thereon
5 alleges, exceeds \$75,000.

6 42. As a further direct and proximate result of the Defendants' knowing, willful
7 and conscious disregard for the rights of Plaintiff, Defendants are guilty of oppression,
8 fraud and malice, entitling Plaintiff to an award of punitive damages.

9 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 have continued to manufacture, offer for sale and sell, advertise, market and distribute
11 "The Eastwood" home theater chair. Unless and until enjoined and restrained by order of
12 this Court, Plaintiff will continue to suffer great and irreparable injury in that his world
13 famous name is being falsely associated with Defendants' product, "The Eastwood" home
14 theater chair. Plaintiff has no adequate remedy at law for such injury.

15 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of
16 them, jointly and severally, as follows:

17 1. For recovery of Defendants' profits related to "The Eastwood" home theater
18 chair, as permitted by 15 U.S.C. §1117(a) and California Civil Code §3344;

19 2. For Plaintiff's general and compensatory damages, in excess of \$75,000, and
20 the precise amount of which shall be established at trial, according to proof;

21 3. For three times the amount of Plaintiff's actual damages, as permitted by 15
22 U.S.C. §1117(a);

23 4. For punitive damages, the precise amount of which shall be established at
24 trial, according to proof, as permitted by California Civil Code §3344;

25 5. For a preliminary injunction enjoining Defendants and their respective
26 officers, agents, servants, employees, attorneys, and those persons in active concert or
27 participation with any of them, in this District, anywhere throughout the United States,
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1 and anywhere in the world, including without limitation Canada, from:

- 2 a. Making any unauthorized use of the name "Eastwood" or "Clint
3 Eastwood" in connection with the sale of any so-called "home theater
4 chair" or any other goods or products;
- 5 b. Manufacturing, distributing, advertising, marketing, promoting,
6 offering for sale, or selling any goods, labels, tags, logos, decals,
7 emblems, signs and other forms of markings, packaging, wrappers,
8 containers and receptacles, catalogs, price lists, promotional materials
9 and the like bearing use of the name "Eastwood" or "Clint
10 Eastwood";
- 11 c. Using any name or trade dress that may be calculated to falsely
12 represent or that has the effect of falsely representing that its so-
13 called "home theater chair" or any other products or goods of
14 Defendants are sponsored by, originate with, or are in any way
15 approved by Plaintiff;
- 16 d. Falsely representing themselves or their goods or services as
17 affiliated, connected or associated with Plaintiff;
- 18 e. Manufacturing, advertising, marketing, promoting, offering for sale,
19 selling, importing, exporting, and/or distributing "The Eastwood"
20 home theater chair and/or anything substantially similar thereto, or
21 any reproduction, counterfeit, copy or colorable imitation thereof,
22 through any means whatsoever, including but not limited to retail,
23 wholesale, mall kiosks, via the internet, mail order, telephone, toll-
24 free or "800" numbers or any other method of inter- or intrastate
25 commerce;
- 26 f. Assisting, aiding or abetting any other person or entity from engaging
27 in any of the acts set forth in (a) through (e) above;

1 h. Requiring Defendants to deliver all products, merchandise,
2 advertising, promotional materials, magazines and any other things
3 bearing the name "Eastwood" or "Clint Eastwood" or any likenesses
4 of Plaintiff Eastwood and all other items which are confusingly
5 similar thereto, as well as all material used to create such advertising,
6 promotional materials, magazines, and things to Plaintiff for
7 destruction or other disposition by Plaintiff; and

8 i. Requiring that Defendants be made to account to Plaintiff for all sales
9 of merchandise utilizing the name of "Eastwood" or "Clint
10 Eastwood" from the inception of said sales to the date of judgment
11 herein;

12 6. Upon final hearing, that said injunction be made permanent;

13 7. For attorney's fees, as permitted by 15 U.S.C. §1117(a) and California Civil
14 Code §3344;

15 8. For costs of suit incurred herein; and

16 9. Such other and further relief as the Court deems just and proper.

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18 Dated: 1/16/08

18 WOLF, RIFKIN, SHAPIRO, SCHULMAN
19 & RABKIN, LLP

20
21 By: 

22 JEFFREY I. ABRAMS
23 Attorneys for Plaintiff
24 Clint Eastwood
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DEMAND FOR JURY TRIAL

Plaintiff CLINT EASTWOOD hereby demands a jury trial in this action.

Dated: 1/16/08

WOLF, RIFKIN, SHAPIRO, SCHULMAN
& RABKIN, LLP

By: 

JEFFREY I. ABRAMS
Attorneys for Plaintiff
Clint Eastwood

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