

AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 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 Northern District of California on the following Patents or Trademarks:

DOCKET NO. CV 08-04497 WDB	DATE FILED 09/25/2008	U.S. DISTRICT COURT Northern District of California, 1301 Clay Street, Rm 400S, Oakland, CA 94612
PLAINTIFF LIFTED RESEARCH		DEFENDANT MUHAMMAD R. SALEM
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 2,513,951		See attached Complaint
2 2,633,832		
3 2,958,307		
4 2,506,859		
5		

In the above - entitled case, the following patent(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		See attached Complaint
2		
3		
4		
5		

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

DECISION/JUDGEMENT

CLERK Richard W. Wieking	(BY) DEPUTY CLERK	DATE
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SACRAMENTO, CALIFORNIA

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9 LIFTED RESEARCH GROUP, INC.

10 THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

WDB

12 LIFTED RESEARCH GROUP, INC., a
13 California corporation,

14 Plaintiff,

15 v.

16 MUHAMMAD R. SALEM a/k/a RUBIN)
17 SALEM d/b/a RUBIN'S IMPORTS d/b/a)
18 RUBIN'S TATTOO d/b/a RUBIN'S ONE)
19 STOP FASHION and DOES 1-10,)

20 Defendants.)

Case No. **08 4497**

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

21 Plaintiff, Lifted Research Group, Inc., a California corporation ("LRG") sues Defendants,
22 Muhammad R. Salem a/k/a Rubin Salem d/b/a Rubin's Imports d/b/a Rubin's Tattoo d/b/a Rubin's
23 One Stop Fashion ("Salem"), and Does 1-10, (collectively "Defendants") and alleges as follows:

24 **JURISDICTION AND VENUE**

25 I. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. §§
26 1331 and 1338.

1 **COMMON FACTUAL ALLEGATIONS**

2 9. LRG is the owner of all rights in and to the following trademarks (the "LRG Marks")
3 which are valid and registered on the Principal Register of the United States Patent and Trademark
4 Office:

5 <u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
6 LIFTED RESEARCH GROUP	2,513,951	December 4, 2001
7 L R G	2,633,832	October 15, 2002
8 	2,958,307	May 31, 2005
9 	2,506,859	November 13, 2001

10 Additionally, LRG is the owner of United States Copyright Registration No. VA-1-348-151 (the
11 "LRG Copyright"). LRG's ownership and registration of the LRG Copyright precedes the
12 Defendants' infringement as alleged herein.

13 10. The LRG Marks and LRG Copyright have never been assigned or licensed to any of
14 the Defendants, and no Defendant has ever had the right to use any of the LRG Marks or the work
15 protected by the LRG Copyright for any purpose.

16 11. The LRG Marks and LRG Copyright are used in connection with the manufacture and
17 distribution of, among other things, high quality jeans, shirts and sweatshirts.

18 12. The LRG Marks have never been abandoned and have each been used on a
19 continuous basis in interstate commerce to identify and distinguish LRG's high quality goods since
20 at least the date of first use in commerce identified in each individual Registration.

21 13. The LRG Marks are symbols of LRG's quality, reputation, and goodwill.

22 14. Further, LRG has expended substantial time, money and other resources developing,
23 advertising and otherwise promoting the LRG Marks and the LRG Marks qualify as famous marks as
24 that term is used in 15 U.S.C. § 1125(c)(1).

25 15. LRG has extensively used, advertise and promoted the LRG Marks in commerce in
26 the United States in association with the sale of high quality goods and has carefully monitored and
27 policed the use of the LRG Marks.

1 16. As a result of LRG's efforts, members of the consuming public readily identify
2 merchandise bearing the LRG Marks as being high quality merchandise sponsored and approved by
3 LRG.

4 17. The LRG Marks have achieved secondary meaning as an identifier of high quality
5 goods as a result of LRG's advertisement, promotion and sale of high quality goods thereunder.

6 18. At all times relevant hereto, the Defendants in this action had full knowledge of
7 LRG's ownership of the LRG Marks and the work protected by the LRG Copyright, including its
8 exclusive right to use and license the such marks and copyrighted work and the goodwill associated
9 therewith.

10 19. LRG has discovered the Defendants are promoting and otherwise advertising,
11 distributing, offering for sale and/or selling products in commerce, including at least jeans, shirts and
12 sweatshirts, bearing marks which are exact copies of the LRG Marks and designs which are exact
13 copies of the work protected by the LRG Copyright (the "Counterfeit Goods").

14 20. Specifically, the Defendants imported, advertised, offered for sale, and/or sold at least
15 three (3) types of apparel products, jeans, shirts and sweatshirts, using counterfeits of various LRG
16 Marks which are protected by four (4) federal trademark registrations owned by LRG.

17 21. The Defendants' Counterfeit Goods are of a quality substantially different than that of
18 LRG's genuine goods.

19 22. Despite the nature of their Counterfeit Goods and the knowledge they are without
20 authority to do so, the Defendants are actively promoting and otherwise advertising, distributing,
21 selling, and/or offering for sale substantial quantities of their Counterfeit Goods with the knowledge
22 that such goods will be mistaken for the genuine high quality products offered for sale by LRG.

23 23. The net effect of the Defendants' actions will be to result in the confusion of the
24 relevant trade and consumers, both at the time of the sale and in a post-sale setting, who believe the
25 Defendants' Counterfeit Goods are genuine goods originating from and approved by LRG.

26 24. The Defendants advertise their Counterfeit Goods for sale to the consuming public.
27 In advertising these products, the Defendants use LRG's Marks. The Defendants also reproduce,
28 distribute, use, offer to sell and sell copies of the work protected by the LRG Copyright. The

1 Defendants have misappropriated LRG's advertising ideas and entire style of doing business with
2 regard to the advertisement and sale of LRG's genuine products. Upon information and belief, the
3 misappropriated LRG's advertising ideas in the form of LRG's Marks and copyrighted work has
4 occurred, in part, in the course of the Defendants' advertising activities and has been the proximate
5 cause of damage to LRG.

6 25. The Defendants are conducting their counterfeiting and infringing activities at least
7 within this Judicial District and elsewhere throughout the United States. As a result, the Defendants
8 are defrauding LRG and the consuming public for the Defendants' own benefit. The Defendants'
9 infringement and disparagement of LRG does not simply amount to the wrong description of their
10 goods or the failure of the goods to conform to the advertised quality or performance.

11 26. The Defendants' use of the LRG Marks and the work protected by the LRG
12 Copyright, including the promotion and advertising, reproduction, distribution, sale, and offering for
13 sale of their Counterfeit Goods, is without LRG's consent or authorization.

14 27. Further, the Defendants are likely engaging in the above-described illegal
15 counterfeiting and infringing activities knowing, maliciously and intentionally, or with reckless
16 disregard or willful blindness to LRG's rights with the intent of trading on the goodwill and
17 reputation of LRG.

18 28. If the Defendants' counterfeiting and infringing activities are not preliminarily and
19 permanently enjoined by this Court, LRG and the consuming public will continue to be damaged.

20 29. The Defendants' above identified counterfeiting and infringing activities are likely to
21 cause confusion, deception, and mistake in the minds of consumers, the public, and the trade.

22 30. Moreover, the Defendants' wrongful use of the LRG Marks and the work protected by
23 the LRG Copyrighted is likely to create a false impression and deceive customers, the public, and the
24 trade into believing a connection or association exists between LRG's genuine goods and the
25 Defendants' Counterfeit Goods.

26 31. LRG has no adequate remedy at law.

27 32. LRG is suffering irreparable injury and damages as a result of the Defendants'
28 unauthorized and wrongful use of the LRG Marks and the work protected by the LRG Copyright.

1 33. The injuries and damages sustained by LRG are directly and proximately caused by
2 the Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell and sale of
3 their Counterfeit Goods.

4 34. LRG has retained the undersigned counsel to represent them in this matter and is
5 obligated to pay said counsel a reasonable fee for such representation.

6 **COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT**

7 35. LRG hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through
8 34 above.

9 36. This action is for trademark infringement and counterfeiting against the Defendants
10 based on their use of the LRG Marks in commerce in connection with the promotion, advertisement,
11 distribution, sale and/or offering for sale of the Counterfeit Goods.

12 37. The Defendants are continuously, directly and contributorily, infringing and
13 counterfeiting and inducing others to infringe and counterfeit the LRG Marks.

14 38. The Defendants' counterfeiting and infringing activities are likely to cause and
15 actually are causing confusion, mistake and deception among members of the trade and the general
16 consuming public as to the origin and quality of the Defendants' Counterfeit Goods bearing the LRG
17 Marks.

18 39. The Defendants' unlawful actions have caused and are continuing to cause irreparable
19 injury and damages to LRG.

20 40. The Defendants' above-described illegal actions constitute infringement and
21 counterfeiting of the LRG Marks in violation of LRG's rights under § 32 of the Lanham Act, 15
22 U.S.C. § 1114.

23 **COUNT II - FALSE DESIGNATION OF ORIGIN**

24 **PURSUANT TO § 43(a) OF THE LANHAM ACT**

25 41. LRG hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through
26 34 above.

27 42. The Defendants' Counterfeit Goods bearing the LRG Marks have been widely
28 advertised and distributed throughout the United States.

1 dollars per each counterfeit LRG Mark used and product sold, as provided by 15 U.S.C. § 1117(c)(2)
2 of the Lanham Act.

3 c. The Defendants be required to pay LRG for all damages sustained by LRG in
4 consequence of the Defendants' copyright infringement described above together with appropriate
5 interest thereon; the Defendants be required to account to LRG for, and disgorge to LRG, and to pay
6 to LRG, all the gains, profits, savings and advantages realized by the Defendants from their acts of
7 copyright infringement described above; LRG be awarded, at its election, statutory damages within
8 the provisions of Sections 504(c) of the Copyright Act, 17 U.S.C. § 504(c), enhanced to reflect the
9 willful nature of the Defendants' infringement, instead of an award of actual damages or profits, and
10 be awarded its costs and disbursements incurred in this action, including reasonable attorney fees
11 pursuant to 17 U.S.C. § 505.

12 d. LRG be awarded punitive damages.

13 e. LRG be awarded pre-judgment interest on its judgment.

14 f. LRG be awarded at least treble damages as well as its costs and reasonable attorney
15 fees and investigator fees associated with bringing this action.

16 g. LRG be awarded such other and further relief as the Court may deem just and proper.

17
18 Dated: September 25, 2008

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

19
20 By: Kenneth Keller

KENNETH E. KELLER *
Attorneys for Plaintiff
LIFTED RESEARCH GROUP, INC.

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