

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE                  FILING OR DETERMINATION OF AN                  ACTION REGARDING A PATENT OR                  TRADEMARK</b>
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C 08 4495

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 Northern District of California on the following  Patents or  Trademarks; JCS

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT Northern District of California
PLAINTIFF Lifted Research Group, Inc., a California corporation		DEPENDANT Ayoub I. Rahman a/k/a Ayoub Abdelrahman d/b/a Clothing Town, and Does 1-10
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 2,513,951	12/4/2001	Lifted Reseach Group, Inc.
2 2,633,832	10/15/2002	Lifted Reseach Group, Inc.
3 2,958,307	5/31/2005	Lifted Reseach Group, Inc.
4 2,506,859	11/13/2001	Lifted Reseach Group, Inc.
5		

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

DATE INCLUDED	INCLUDED BY		
	<input checked="" type="checkbox"/> Amendment	<input checked="" type="checkbox"/> Answer	<input checked="" type="checkbox"/> Cross Bill
	<input checked="" type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

CLERK	(BY) DEPUTY CLERK	DATE

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

ORIGINAL  
FILED  
08 SEP 25 PM 2:33  
RICHARD W. BIELENGER  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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LIFTED RESEARCH GROUP, INC.

7  
8  
9 THE UNITED STATES DISTRICT COURT  
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 LIFTED RESEARCH GROUP, INC., a ) **Case 08 4495**  
12 California corporation, )  
13 Plaintiff, ) **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF** **JCS**  
14 v. )  
15 )  
16 )  
17 )  
18 )  
AYOUB I. RAHMAN a/k/a AYOUB )  
ABDELRAHMAN d/b/a CLOTHIING )  
TOWN and Does 1-10, )  
Defendants. )

19 Plaintiff, Lified Research Group, Inc., a California corporation ("LRG") sues Defendants,  
20 Ayoub I. Rahman a/k/a Ayoub Abdelrahman d/b/a Clothing Town ("Rahman"), and Does 1-10,  
21 (collectively "Defendants") and alleges as follows:

22 **JURISDICTION AND VENUE**

23 1. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. §§  
24 1331 and 1338.

25 2. Venue is proper in this Court pursuant 28 U.S.C. § 1391 since the Defendants conduct  
26 substantial business within this Judicial District and a substantial portion of the acts giving rise to  
27 LRG's causes of action occurred within this Judicial District.  
28



<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
LIFTED RESEARCH GROUP	2,513,951	December 4, 2001
LRG	2,633,832	October 15, 2002
▲	2,958,307	May 31, 2005
▲	2,506,859	November 13, 2001

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

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

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

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

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

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

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

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

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

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

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

9           20. Specifically, the Defendants imported, advertised, offered for sale, and/or sold at least  
10 two (2) types of apparel products, jeans and shirts, using counterfeits of various LRG Marks which  
11 are protected by four (4) federal trademark registrations owned by LRG.

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

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

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

21           24. The Defendants advertise their Counterfeit Goods for sale to the consuming public.  
22 In advertising these products, the Defendants use LRG's Marks. The Defendants also reproduce,  
23 distribute, use, offer to sell and sell copies of the work protected by the LRG Copyright. The  
24 Defendants have misappropriated LRG's advertising ideas and entire style of doing business with  
25 regard to the advertisement and sale of LRG's genuine products. Upon information and belief, the  
26 misappropriated LRG's advertising ideas in the form of LRG's Marks and copyrighted work has  
27 occurred, in part, in the course of the Defendants' advertising activities and has been the proximate  
28 cause of damage to LRG.

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

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

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

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

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

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

21           31.    LRG has no adequate remedy at law.

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

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

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

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

2           35.    LRG hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through  
3 34 above.

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

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

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

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

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

18                                   **COUNT II - FALSE DESIGNATION OF ORIGIN**  
19                                   **PURSUANT TO § 43(a) OF THE LANHAM ACT**

20           41.    LRG hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through  
21 34 above.

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

24           43.    The Defendants' Counterfeit Goods bearing and sold under the LRG Marks have been  
25 widely advertised and distributed throughout the United States.

26           44.    A significant portion of the Defendants' Counterfeit Goods bearing and sold under the  
27 LRG Marks are virtually identical in appearance to LRG's respective genuine goods. However, the  
28 Defendants' Counterfeit Goods are different in quality. Accordingly, the Defendants' activities are

1 likely to cause confusion in the trade and among the general public as to at least the origin or  
2 sponsorship of the Counterfeit Goods.

3 45. The Defendants, upon information and belief, have used in connection with their sale  
4 of Counterfeit Goods, false designations of origins and false descriptions and representations,  
5 including words or other symbols and trade dress which tend to falsely describe or represent such  
6 goods and have caused such goods to enter into commerce with full knowledge of the falsity of such  
7 designations of origin and such descriptions and representations, all to the detriment of LRG.

8 46. The Defendants have misrepresented to members of the consuming public that the  
9 Counterfeit Goods being advertised and sold by the Defendants are genuine, non-infringing products.

10 47. The Defendants' above-described actions are in violation of § 43(a) of the Lanham  
11 Act, 15 U.S.C. § 1125(a).

12 48. As a result of the Defendants' above-described actions, LRG has sustained irreparable  
13 injury and damage and the Defendants have earned substantial profits.

### 14 **COUNT III - COPYRIGHT INFRINGEMENT**

15 49. LRG hereby readopts and re-alleges the allegations set forth in Paragraphs 1 through  
16 34 above.

17 50. This is an action for copyright infringement against the Defendants.

18 51. The Defendants are continuously, directly and contributorily, infringing and will  
19 continue to infringe the LRG Copyright at least by copying, selling, advertising, reproducing and  
20 placing into a chain of distribution, unauthorized copies or derivations of LRG's copyrighted work in  
21 violation of 17 U.S.C. § 501.

22 52. The Defendants may be knowingly and willfully engaging in the copyright  
23 infringement alleged herein for the purpose of profiting therefrom.

24 53. As a result of the Defendants' above-described actions, LRG has sustained irreparable  
25 injury and damage and the Defendants have earned substantial profits.

### 26 **PRAYER FOR RELIEF**

27 54. WHEREFORE, LRG demands judgment jointly and severally against the Defendants  
28 as follows:

1           a. The Court enter a preliminary and permanent injunction enjoining the Defendants,  
2 their agents, representatives, servants, employees, and all those acting in concert or participation  
3 therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting,  
4 distributing, selling or offering to sell their Counterfeit Goods; from infringing, counterfeiting, or  
5 diluting the LRG Marks and/or LRG Copyright; from using the LRG Marks and/or LRG Copyright  
6 or any mark or trade dress similar thereto, in connection with the sale of any unauthorized goods;  
7 from using any logo, trade name, trademark, or trade dress which may be calculated to falsely  
8 advertise the services or products of the Defendants as being sponsored by, authorized by, endorsed  
9 by, or in any way associated with LRG; from falsely representing themselves as being connected  
10 with LRG, through sponsorship or association, or engaging in any act which is likely to cause  
11 members of the trade and/or the purchasing public to believe any goods or services of the Defendants  
12 are in any way endorsed by, approved by, and/or associated with LRG; from using any reproduction,  
13 counterfeit, copy, or colorable imitation of the LRG Marks and/or LRG Copyright in connection with  
14 the publicity, promotion, sale, or advertising of any goods sold by the Defendants, including, without  
15 limitation, apparel products and/or any other goods; from affixing, applying, annexing, or using in  
16 connection with the sale of any goods a false description or representation, including words or other  
17 symbols tending to describe or represent the Defendants' goods falsely as being those of LRG, or in  
18 any way endorsed by LRG, and from offering such goods in commerce; and from otherwise unfairly  
19 competing with LRG.

20           b. The Defendants be required to account to and pay LRG for all profits and damages  
21 resulting from the Defendants' infringing and counterfeiting activities and that the award to LRG be  
22 trebled, as provided for under 15 U.S.C. § 1117, or, at LRG's election with respect to Count I, that  
23 LRG be awarded statutory damages from each Defendant in the amount of one million (\$1,000,000)  
24 dollars per each counterfeit LRG Mark used and product sold, as provided by 15 U.S.C. § 1117(c)(2)  
25 of the Lanham Act.

26           c. The Defendants be required to pay LRG for all damages sustained by LRG in  
27 consequence of the Defendants' copyright infringement described above together with appropriate  
28 interest thereon; the Defendants be required to account to LRG for, and disgorge to LRG, and to pay

1 to LRG, all the gains, profits, savings and advantages realized by the Defendants from their acts of  
2 copyright infringement described above; LRG be awarded, at its election, statutory damages within  
3 the provisions of Sections 504(c) of the Copyright Act, 17 U.S.C. § 504(c), enhanced to reflect the  
4 willful nature of the Defendants' infringement, instead of an award of actual damages or profits, and  
5 be awarded its costs and disbursements incurred in this action, including reasonable attorney fees  
6 pursuant to 17 U.S.C. § 505.

7 d. LRG be awarded punitive damages.

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

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

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

12  
13 Dated: September 25, 2008

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

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15  
16 By: Kenneth Keller

KENNETH E. KELLER

Attorneys for Plaintiff

LIFTED RESEARCH GROUP, INC.

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