

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

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 Middle on the following  Patents or  Trademarks:

DOCKET NO. 1:08CV737	DATE FILED 10/13/2008	U.S. DISTRICT COURT Middle
PLAINTIFF MARGE CARSON, INC.		DEFENDANT SCHNADIG CORPORATION
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 SEE ATTACHED.		
2 D549,997		
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
--------------------

CLERK <b>John S. Brubaker</b>	BY/REPUTY CLERK <i>Demack Lloyd</i>	DATE 10/20/2008
----------------------------------	--	--------------------

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

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA

MARGE CARSON, INC., )

Plaintiff, )

v. )

SCHNADIG CORPORATION, )

Defendant. )  
\_\_\_\_\_ )  
)

Civil Action No. 1:08 CV 737

**COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Marge Carson, Inc., through counsel, hereby submits the following complaint against the Defendant Schnadig Corporation:

**THE PARTIES**

1. Plaintiff Marge Carson, Inc. ("Plaintiff") is a California corporation with a principal place of business in Rosemead, California. Plaintiff maintains a permanent showroom displaying its furniture in High Point, North Carolina.

2. Upon information and belief, Defendant Schnadig Corporation. ("Defendant") is a Delaware corporation with its principal place of business in Des Plaines, Illinois. Upon information and belief, Defendant regularly attends the High Point furniture market, and regularly displays its furniture in High Point, including furniture that infringes Plaintiff's intellectual property rights.

### JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq.* This Court has jurisdiction over Plaintiff's claims under 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over Defendant pursuant to N.C. Gen. Stat. § 1-75.4 in that Defendant has engaged in substantial activity within the State of North Carolina and, upon information and belief, has engaged in acts of infringement throughout the United States and in this judicial district. Furthermore, Defendant maintains a showroom in High Point, North Carolina, and upon information and belief, regularly does business in North Carolina at furniture markets in High Point, North Carolina.

5. Venue is proper in the United States District Court for the Middle District of North Carolina pursuant to 28 U.S.C. §§ 1391 and 1400.

### FACTS

6. Plaintiff produces a novel and non-obvious sofa design that is the subject of United States Patent No. D549,997 (the "'997 Patent"), which was duly and lawfully issued on September 14, 2007. Plaintiff is the owner of all rights, title and interest in the '997 Patent. A true and accurate copy of the '997 Patent is attached hereto as Exhibit A.

7. Defendant has manufactured, imported, used, offered for sale, and/or sold a sofa that infringes the '997 Patent in Defendant's Compositions collection that can be found on Defendant's website under the name of "Bellini-A Sofa." The website address displaying as of the date of filing hereof this infringing product is <http://www.schnadig.com/RoomView.asp?id=058217065211>. Screenshots from the website showing the infringing sofa are attached thereto as Exhibit B.

8. Upon information and belief, Defendant's Bellini-A Sofa was intended to replicate one or more design elements of Plaintiff's Chantelle CN43 Sofa, including but not limited to the design described in the '997 Patent. Upon further information and belief, at all times relevant to Plaintiff's claims, Plaintiff's Chantelle CN43 Sofa was publicly available and accessible to the furniture industry, including Defendant and its agents.

9. Plaintiff also produces a wide variety of other high quality, original pieces of furniture in which Plaintiff has intellectual property rights, including patent, copyright, and/or trade dress rights.

10. Upon information and belief, discovery in this action will uncover evidence that Defendant manufactures, imports, markets, and sells furniture that infringes or misappropriates other designs of Plaintiff, and therefore, infringes and misappropriates other intellectual property right of Plaintiff. Plaintiff anticipates that discovery will show a pattern and practice of "knocking-off" numerous pieces of Plaintiff's furniture by Defendant.

**COUNT ONE**  
**(Patent Infringement – U.S. Patent No. D549,997)**

11. Plaintiff incorporates herein by reference its allegations in the previous paragraphs herein by reference.

12. Upon information and belief, Defendant has manufactured, imported, used, offered for sale, and/or sold in interstate commerce without the authorization, consent or permission of Plaintiff, products that infringe Plaintiff's '997 Patent in violation of 35 U.S.C. § 271.

13. Upon information and belief, Defendant's infringement has been willful, intentional and deliberate with the knowledge of and conscious disregard of Plaintiff's rights in the '997 Patent.

14. Upon information and belief, Defendant has actively induced and contributed to infringement of the '997 Patent by encouraging customers and prospective customers, including individuals within this judicial district, to purchase, use, offer for sale and/or sell products that infringe the '997 Patent.

15. Defendant's infringement has caused and will continue to cause damage to Plaintiff unless Defendant's infringing activities are enjoined by this Court.

16. Upon information and belief, discovery will reveal that Defendant has wrongfully infringed and misappropriated other novel, non-obvious, and innovative designs of Plaintiff, including, upon information and belief, other designs subject to patent, copyright and/or trade protection.

**JURY TRIAL DEMANDED**

17. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury of any issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays to the Court as follows:

1. For judgment in favor of Plaintiff on its claims of patent infringement, including judgment that the '997 Patent is valid and infringed by Defendant, and that Defendant willfully infringed the '997 Patent.

2. For preliminary and permanent injunction enjoining and restraining Defendant and its officers, agents, servants, and employees, and all persons in active concert or participation with it from:

- a. Directly, indirectly or contributorily infringing the '997 Patent, and from inducing, aiding, causing or materially contributing to any such infringement;
- b. Directly, indirectly or contributorily infringing and misappropriating other designs and intellectual property of Plaintiff to be determined through discovery; and
- c. Any importation, manufacture, assembly, advertising, promotion, offer for sell, sell, purchase, distribution, movement or transfer, or any other involvement with products that consist of, include, or are similar to the Plaintiff's patented designs an collections subject to intellectual property protection.

3. For an order requiring Defendant to deliver to the Court or to Plaintiff for destruction all furniture, products, labels, packages, brochures, wrappers, advertisements, promotions, software, computer files, and all other things in the custody or control of Defendant bearing infringing or substantially similar designs to Plaintiff's infringed designs, including all machinery, software, templates, computer files, and all other things in the custody or control of Defendant which are used to manufacture infringing products.

4. For an order that Defendant pay to Plaintiff such damages as Plaintiff may have sustained as a consequence of Defendant's infringement, including profits on all sales of Defendant's infringing products, interest, attorney's fees, costs and exemplary damages.

5. For such other and further relief as the Court may deem just and proper.

Respectfully submitted this the 13<sup>th</sup> day of October, 2008.

/s/ Robert D. Mason, Jr.

Robert D. Mason, Jr. (N.C. Bar No. 29337)

*Attorneys for Plaintiff*

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC

One West Fourth Street

Winston-Salem, NC 27101

Telephone: 336-721-3600

Facsimile: 336-726-9093

[rmason@wcsr.com](mailto:rmason@wcsr.com)