

AUG 18 2009

JAMES N. HATTEN, Clerk  
Deputy Clerk

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ROGER CLEVELAND GOLF )  
COMPANY, INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
KING SPORTS, INC., )  
 )  
Defendant. )  
 )  
 )  
 )

**TCB**

CIVIL ACTION FILE

NO. ~~1 09-CV-2254~~

**COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES**

Plaintiff, Roger Cleveland Golf Company, Inc. ("Cleveland Golf"), by its undersigned attorneys, states for its Complaint against Defendant, King Sports, Inc. ("King Sports"), upon knowledge with respect to its own acts and upon information and belief with respect to all other matters, as follows:

**NATURE OF ACTION**

1. This is an action for infringement, false advertising, counterfeiting, and dilution under the trademark laws and unfair competition laws of the United States, 15 U.S.C. § 1051 *et seq.* (the "Lanham Act"); for related claims of trademark infringement under Georgia common law; and for unfair and deceptive

trade practices under Georgia's Uniform Deceptive Trade Practices Act, O.C.G.A. § 10-1-370 *et seq.*

2. These claims are brought as the result of the King Sports' knowing, deliberate, and willful sale of "knock-offs" or "clones" of Cleveland Golf clubs.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over the trademark infringement, false advertising and trademark dilution, pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1338(a) and (b). The Court has jurisdiction over the remaining claims under 28 U.S.C. §§ 1338(b) and 1367, because these remaining claims are joined with related claims under the Trademark Laws of the United States, 15 U.S.C. § 1051 *et seq.*, and because the claims are so related to the federal claims that they form part of the same case and controversy.

4. This Court has personal jurisdiction over Defendant in this district, as Defendant is domiciled within this district, and as Defendant transacts substantial and continuing business within this district. Among other things, Defendant is believed to own, control and operate the websites, turbopowerusa.net and kingsports.org (the "Websites") within this district. Upon information and belief, Defendant has used the Websites to advertise and solicit purchases in this district. Further, Defendant, through the Websites, has sold substantial goods and services

to consumers in this district. Because some of the Defendant's wrongful acts involved the offering for sale and sale of products that infringe Cleveland Golf's trademarks, venue is proper in this judicial district under 28 U.S.C. § 1391.

### **PARTIES**

5. Plaintiff, Cleveland Golf, is a California corporation with its principal place of business located at 5601 Skylab Road, Huntington Beach, California, 92647. Cleveland Golf is a forerunner in golf club innovation and is widely recognized as the golf industry's leading manufacturer of wedges, earning the distinction of being the "number one" wedge in golf.

6. On information and belief, Defendant King Sports is a Georgia corporation with an address of 1115 Cobb Parkway South, Marietta, GA 30060. Upon information and belief, King Sports has shipped, and continues to ship the infringing products at issue in this litigation into this district and therefore regularly does business in this district.

### **THE CLEVELAND GOLF INTELLECTUAL PROPERTY PORTFOLIO**

#### ***Cleveland Golf Trademarks***

7. Cleveland Golf manufactures high-quality golf clubs, equipment, a clothing line, and is world-renowned for its production of high quality golf clubs.

8. Cleveland Golf products are sold in Georgia, the United States, and throughout the world through a network of authorized dealers.

9. Since at least as early as 1979, long prior to the King Sports acts alleged herein, Cleveland Golf and/or its predecessors in interest have been continuously engaged in the business of manufacturing and selling products (either directly or indirectly), throughout the United States and the world, under the trademark "Cleveland Golf" and variations thereof.

10. Cleveland Golf is the owner of the following trademark registrations relevant to this action and has registered on the Principal Register of the United States Patent and Trademark Office (hereinafter, the "Cleveland Golf Trademarks"):

<b>Mark</b>	<b>Registration No.</b>	<b>Registration Date</b>	<b>Class/Goods</b>
CLEVELAND GOLF	3,286,218	August 28, 2007	18. Carry all bags, duffel bags, backpacks, shoe bags for travel, and umbrellas. 24. Towels. 25. Caps, hats, visors, shirts, wind shirts, wind vests, rain jackets, rain vests and rain pants. 28. Golf gloves;

Mark	Registration No.	Registration Date	Class/Goods
			golf clubs, golf balls, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, golf ball shag bags used to store golf balls, golf club head covers, and golf ball bags.
CLEVELAND	2,070,054	June 10, 1997	18. Carry all bags and umbrellas. 25. Golf apparel, namely, shirts, caps, visors, sweatshirts and sweater vests. 28. Golf clubs, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, and golf club head covers.
CLEVELAND (stylized) <i>Cleveland</i>	2,070,051	June 10, 1997	18. Carry all bags and umbrellas. 25. Golf apparel, namely, shirts, caps, visors, sweatshirts and sweater vests. 28. Golf clubs, golf club heads, golf

Mark	Registration No.	Registration Date	Class/Goods
			club shafts, golf club grips, golf bags, golf bag covers, and golf club head covers.
HIBORE	3,262,726	July 10, 2007	28. Golf clubs and golf club heads.
HIGH BORE	2,269,074	August 10, 1999	28. Golf clubs, namely, metal wood-type golf clubs.
CG (stylized) 	2,302,251	December 21, 1999	28. Golf clubs, and golf club heads, namely, woods, irons and putters.
C (stylized) 	1,306,203	November 20, 1984	28. Golf clubs.
CG10	3,421,090	May 6, 2008	28. Golf clubs and golf club heads
CG12	3,501,697	September 16, 2008	28. Golf clubs.
CG14	3,575,685	February 17, 2009	28. Golf clubs.
588	3,447,556	April 1, 2008	28. Iron-type golf clubs and golf club heads, namely, wedges.
Launcher	1,511,907	November 8, 1988	28. Golf clubs.

A copy of Cleveland Golf's required form AO 120 is attached hereto as Exhibit A.

11. Cleveland Golf's federal trademark registrations were duly and legally issued, are valid, subsisting, and incontestable. The marks are famous and constitute *prima facie* evidence of Cleveland Golf's exclusive ownership of the Cleveland Golf Trademarks. Copies of Cleveland Golf's trademark registrations are attached hereto as Exhibit B.

12. Upon information and belief, the use of the Cleveland Golf Trademarks by King Sports commenced long after Cleveland Golf's adoption and use of its Cleveland Golf Trademarks on products.

13. Cleveland Golf has taken substantial steps to ensure that all products bearing the Cleveland Golf Trademarks are of the highest quality. As a result, the Cleveland Golf Trademarks have become widely known by their use in interstate commerce since 1979 (or 1984, the earliest date of registration of the aforementioned marks) and are recognized throughout the United States and the world as a symbol of high quality products.

14. As a result of extensive sales, widespread availability, and continuous advertising of Cleveland Golf brand products, the Cleveland Golf Trademarks have become well recognized by the public.

15. Many members of the Professional Golf Association ("PGA") and the Ladies Professional Golf Association ("LPGA") use and endorse Cleveland Golf products.

16. Cleveland Golf has spent vast sums of money on designing, manufacturing, and marketing its products under the Cleveland Golf name, both nationally and internationally.

17. Customers throughout the United States and throughout the world recognize the Cleveland Golf name and logo, upon which they rely for high quality products and attentive customer service.

18. Cleveland Golf is vigilant in its protection of the Cleveland Golf Trademarks, and spends substantial amounts of money each year to protect and promote those trademarks.

#### *Cleveland Golf Trade Dress*

19. Cleveland Golf uses a distinctive trade dress on its golf clubs, including all the clubs at issue in this litigation.


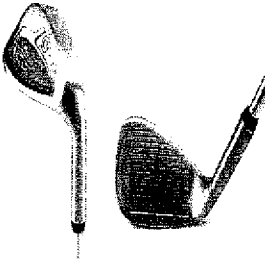
#### **THE WRONGFUL ACTS OF KING SPORTS**

20. King Sports has been and is now engaged in the business of importing, offering for sale, selling, copying, distributing and otherwise commercially using golf components, particularly imitations of components of

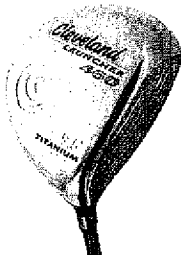
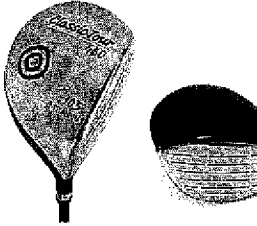

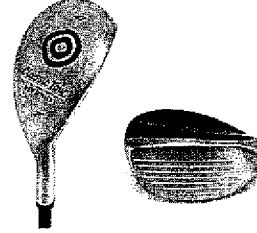


Cleveland Golf clubs which infringe on the intellectual property rights of Cleveland Golf through the Websites.

21. King Sports has been and is now engaged in the business of importing into the United States, selling, advertising and offering for sale in the United States, commercially using in commerce in the United States, and inducing others to import, commercially use, sell and offer for sale in the United States, several "clone" golf clubs that infringe the intellectual property rights of Cleveland Golf through the Websites. A table of each of these "clones" and the Cleveland Golf clubs it mimics is found below:

CG Tour Irons	Classic Tour			"The Classic Tour Clones"
CG14 Black Pearl Wedge	Classic Tour 14 Wedge, X5 Extreme Chipper Club			"The CG14 Clones"

Cleveland Protech	Cleveland Protech	Cleveland Protech	Kingston Golf	Lipped As Image
CG11	CZ1100 Turbo Power V Wedge,  Classic 11 Wedge			The "CG11 Clones"
CG10 Wedge	Classic 10 Wedge			The "CG10 Clones"
588 DSG Wedge	Classic Tour 689 MS Black Wedge			The "588 Clones"
HiBore Titanium Driver	Hi GHLY Titanium Driver Clubs, HI- CORE Titanium Driver Clubs, Hi- GHLY Fairway Wood Clubs			The "HiBore Clones"

Cleveland Model	King Sport Model	Cleveland Image	King Sport Image	Labeled As
Launcher 460	Classic Tour Titanium Driver Clubs			The "Launcher Clones"
Halo Hybrids	Classic Tour Hybrid set	 Cleveland GOLF		The "Halo Clones"

22. Once Cleveland Golf identified King Sports as a seller of infringing clubs on June 10, 2008, Cleveland Golf, through counsel, immediately sent a demand letter to King Sports and its owner, Jimmy Chang, demanding that they immediately cease and desist their infringing activities.

23. On August 12, 2008, Cleveland Golf, through counsel, sent a second letter stating that the infringement was ongoing and again demanding that it be stopped immediately.

24. King Sports has ignored all demands to cease its infringing activities and continues to promote, import, offer for sale, and distribute the "clone" clubs at issue in this litigation.

*Defendant's Infringing "Classic Tour Clones"*

25. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing others to use, sell and offer for sale golf club heads tagged as the "Classic Tour Clones" in the above table. These club heads bear a decorative graphic mark confusingly similar to the Cleveland marks (trademark registrations 2,302,251 and 1,306,203). The "Classic Tour Clones" infringe the distinct trade dress of the Cleveland CG Tour irons.

*Defendant's Infringing "CG14 Clones"*

26. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing others to use, sell and offer for sale golf club heads tagged as the "CG14 Clones" in the above table.

27. The "CG14 Clones" club heads are confusingly similar to the Cleveland's CG14 trademark (trademark registration 3,575,685).

28. The "CG14 Clones" infringe the distinct trade dress of the Cleveland CG14 Black Pearl wedge.

*Defendant's Infringing "CG11 Clones"*

29. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing others to use, sell and offer for sale golf club heads tagged as the "CG11 Clones" in the above table. These club heads bear a decorative graphic mark confusingly similar to the Cleveland marks (trademark registrations 2,302,251 and 1,306,203). The "CG11 Clones" infringe the distinct trade dress of the Cleveland CG11 clubs.

*Defendant's Infringing "CG10 Clones"*

30. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing others to use, sell and offer for sale golf club heads tagged as the "CG10 Clones" in the above table. These club heads bear a decorative graphic mark confusingly similar to the Cleveland marks (trademark registrations 2,302,251 and 1,306,203). The "CG10 Clones" club heads are confusingly similar to Cleveland's CG10 trademark (trademark registration 3,421,090). The "CG10 Clones" infringe the distinct trade dress of the Cleveland CG10 clubs.

*Defendant's Infringing "588 Clones"*

31. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing

others to use, sell and offer for sale golf club heads tagged as the "588 Clones" in the above table. These club heads bear a decorative graphic mark confusingly similar to the Cleveland marks (trademark registrations 2,302,251 and 1,306,203). The "588 Clones" club heads are confusingly similar to Cleveland's 588 trademark (trademark registration 3,447,556). The "588 Clones" infringe the distinct trade dress of the Cleveland 588 wedges.

*Defendant's Infringing "HiBore Clones"*

32. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing others to use, sell and offer for sale golf club heads tagged as the "HiBore Clones" in the above table. These club heads bear a decorative graphic mark confusingly similar to the Cleveland registrations 2,302,251 and 1,306,203. The "HiBore Clones" club heads are confusingly similar to the Cleveland's HIBORE and HIGH BORE trademarks (trademark registrations 3,262,726 and 2,269,074) and their "HiCore" name is clearly intended to confuse consumers into believing that these are Cleveland Golf clubs. The "HiBore Clones" infringe the distinct trade dress of the Cleveland HiBore clubs.

*Defendant's Infringing "Launcher Clones"*

33. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing others to use, sell and offer for sale golf club heads tagged as the "Launcher Clones" in the above table. These club heads bear a decorative graphic mark confusingly similar to the Cleveland registrations 2,302,251 and 1,306,203. The "Launcher Clones" club heads are confusingly similar to the Cleveland's LAUNCHER trademark (trademark registration 1,511,907). The "Launcher Clones" infringe the distinct trade dress of the Cleveland Launcher clubs.

*Defendant's Infringing "Halo Clones"*

34. Defendant has in the past and is currently importing, selling, advertising, offering for sale, commercially using in commerce, and inducing others to use, sell and offer for sale golf club heads tagged as the "Halo Clones" in the above table. These club heads bear a decorative graphic mark confusingly similar to the Cleveland registrations 2,302,251 and 1,306,203. The "Halo Clones" infringe the distinct trade dress of the Cleveland Halo clubs.

*Defendant's Acts of Unfair Competition*

35. Defendant has imported, copied, distributed, offered for sale, advertised, sold, and otherwise commercially used in interstate commerce and in

this judicial district, the "clone" club heads with the intent to benefit from Cleveland Golf's goodwill and reputation in the golf club market, to deceive the public as to the source or origin of its "clone" clubs, and to profit from the demand created by Cleveland Golf's products.

36. Defendants have used and affixed the Cleveland Golf Trademarks or marks confusingly similar to Cleveland Golf Trademarks, in connection with the importation, copying, distribution, advertisement, sales, offers for sale, and/or commercial uses of the "clone" club heads, in interstate commerce and in this judicial district, in such a way that these marks are likely to cause confusion, or to cause mistake, or to deceive customers as to the origin of the Defendant's "clone" products.

37. Defendant has imported, copied, distributed, offered for sale, advertised, sold, and otherwise commercially used in interstate commerce and in this judicial district, the "clone" club heads using false designations of origin, and/or false or misleading descriptions of fact, which are likely to cause confusion, or to cause mistake, or to deceive as to the origin of Defendant's "clone" clubs, with the intent to benefit from Cleveland Golf's reputation and goodwill in the golf club market, to deceive the public as to the source or origin of its "clone" clubs, and to profit from the demand created by Cleveland Golf's products.



## **COUNT I**

### **Federal Trademark Infringement and False Designation of Origin**

38. Plaintiff hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

39. The Cleveland Golf Trademarks are inherently distinctive and have acquired secondary meaning among golf consumers. Purchasers and prospective purchasers associate the Cleveland Golf Trademarks only with Cleveland Golf products. This is a result of the marks' inherent distinctiveness and of extensive sales throughout the United States of Cleveland Golf's clubs bearing the Cleveland Golf Trademarks.

40. By committing the acts alleged herein, Defendant has intentionally, knowingly, and willfully infringed upon the Cleveland Golf Trademarks in violation of 15 U.S.C. § 1114 and 15 U.S.C. § 1125(a).

41. King Sports' acts have caused and will continue to cause Cleveland Golf to suffer irreparable harm, unless King Sports is restrained from further infringing the Cleveland Golf Trademarks.

## **COUNT II**

### **Trademark Dilution**

42. Plaintiff hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

43. Use by King Sports of the Cleveland Golf Trademarks in connection with the misrepresentations to customers has lessened, and will continue to lessen, the capacity of Cleveland Golf's famous and distinctive trademarks to distinguish Cleveland Golf's products and services from those of others, and has diluted the distinctive quality of Cleveland Golf's famous and distinctive marks.

44. King Sports' acts constitute trademark dilution in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

45. King Sports' acts have caused and will continue to cause Cleveland Golf to suffer irreparable harm.

### **COUNT III**

#### **Trademark Counterfeiting**

46. Plaintiff hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

47. Defendant has imported, copied, distributed, offered for sale, advertised, sold, and otherwise commercially used in interstate commerce and in this judicial district, counterfeit golf clubs bearing marks identical or substantially indistinguishable from the Cleveland Golf Trademarks.

48. Defendant is continuously infringing upon the Cleveland Golf Trademarks by using its spurious marks to sell, promote and advertise its counterfeit clubs.

49. As a direct and proximate result of Defendant's actions, Cleveland Golf has suffered substantial damages.

50. As a direct and proximate result of Defendant's acts of willful trademark counterfeiting, Cleveland Golf is entitled to recover, under 15 U.S.C § 1117(c)(2), \$2,000,000 per counterfeit mark per type of good or services sold, offered for sale, or distributed by Defendant.

#### **COUNT IV**

##### **Unfair and Deceptive Trade Practices Under Georgia's Uniform Deceptive Trade Practices Act**

51. Plaintiff hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

52. By reason of the acts complained of herein, Defendant has unfairly competed with Cleveland Golf in violation of the Georgia Uniform Deceptive Trade Practices Act (the "GUDTPA"), O.C.G.A. § 10-1-370 *et seq.*

53. Due to this unfair competition, Cleveland Golf has been irreparably harmed in its business.

54. The above-described conduct of the Defendant was fraudulent, malicious and oppressive. It was conducted with a willful disregard of the rights of the buying public and of Cleveland Golf.

55. As a direct result of Defendant's deceptive trade practices, Cleveland Golf has been injured and damaged, and is, pursuant to O.C.G.A. § 10-1-373, entitled to injunctive relief, costs, and attorneys' fees

### **COUNT V**

#### **Violation of the Georgia Anti-Dilution Statute**

56. Plaintiff hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

57. Use by King Sports of the Cleveland Golf Trademarks in connection with the misrepresentations to customers has lessened, and will continue to lessen, the capacity of Cleveland Golf's famous and distinctive trademarks to distinguish Cleveland Golf's products and services from those of others, and has diluted the distinctive quality of Cleveland Golf's famous and distinctive marks.

58. King Sports' acts constitute trademark dilution in violation of Georgia's Anti-Dilution Statute.

59. King Sports' acts have caused and will continue to cause Cleveland Golf to suffer irreparable harm, and Cleveland Golf is entitled to injunctive relief pursuant to O.C.G.A. §10-1-451(b).

## COUNT VI

### **Common Law Trademark Infringement**

60. Plaintiff hereby realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

61. King Sports' activities have created and continue to create confusion by the public regarding the Cleveland Golf Trademarks and constitute common law trademark infringement.

62. Such conduct on King Sports' part has caused and will continue to cause irreparable injury to Cleveland Golf, for which Cleveland Golf has no adequate remedy at law.

63. Such conduct on the King Sports' part has caused and will continue to cause damages to Cleveland Golf.

WHEREFORE, Plaintiff Cleveland Golf requests that this Honorable Court:

A. That Defendant, and all its agents, servants, employees, and attorneys, and all other persons in active concert or participation with them who receive actual notice of the injunction, be permanently enjoined from:

1. importing, selling, offering for sale, advertising, copying, distributing, otherwise disposing of, or commercially using in commerce any of the Classic Tour Clones, the CG14 Clones, the CG11 Clones, the CG10 Clones, the 588 Clones, the HiBore Clones, the Launcher Clones, or the Halo Clones (collectively, the "Accused Products");

2. using the Cleveland Golf Trademarks in commerce in such a way as to dilute the quality of those marks;

3. making any false designations of origin, descriptions, or representations, including that Cleveland Golf is the source of Defendant's "clone" club heads, that the Accused Products, or any of Defendant's "clone" club heads, are in some manner affiliated with Cleveland Golf or CLEVELAND GOLF® clubs, or that the Accused Products, or any of Defendant's "clone" club heads, are the same as Cleveland Golf's clubs, or that the Accused Products, or any of Defendant's "clone" club heads, are licensed by Cleveland Golf;

4. importing, selling, offering for sale, advertising, copying, distributing, otherwise disposing of, or commercially using counterfeit Cleveland Golf products; and

5. otherwise deceptively or unfairly competing with Cleveland Golf in the sale of golf clubs.

B. That Cleveland Golf be awarded damages in an amount to be determined at trial based on the Defendant's:

1. importing, selling, offering for sale, advertising, copying, distributing, otherwise disposing of, or commercially using in commerce any of the Accused Products;

2. using the Cleveland Golf Trademarks in commerce in such a way as to dilute the quality of those marks;

3. making any false designations of origin, descriptions, or representations, including that Cleveland Golf is the source of Defendant's "clone" club heads, that the Accused Products, or any of Defendant's "clone" club heads, are in some manner affiliated with Cleveland Golf or CLEVELAND GOLF® clubs, or that the Accused Products, or any of Defendant's "clone" club heads, are the same as Cleveland Golf's clubs, or that the Accused Products, or any of Defendant's "clone" club heads, are licensed by Cleveland Golf;

4. importing, selling, offering for sale, advertising, copying, distributing, otherwise disposing of, or commercially using counterfeit Cleveland Golf products; and

5. otherwise deceptively or unfairly competing with Cleveland Golf in the sale of golf clubs.

C. That Cleveland Golf be awarded, in an amount to be determined at trial, under 15 U.S.C. § 1117(a) the total profits received by Defendant from, and any damages, including lost profits, sustained by Cleveland Golf as a result of Defendant's sale of all products infringing on the Cleveland Golf Trademarks.

D. That Cleveland Golf be awarded, under 15 U.S.C. § 1117(a), enhanced damages, up to three times the amount found as actual damages for Defendant's trademark infringement and false designation of origin, in an amount to be determined at trial.

E. That Cleveland Golf be awarded statutory damages of \$2,000,000 per counterfeit mark per type of good or services sold, offered for sale, or distributed by Defendant under 15 U.S.C § 1117(c)(2).

F. That Cleveland Golf be awarded damages sustained as a result of Defendant's unfair competition in an amount to be determined at trial.



G. That Defendant be ordered to deliver to Cleveland Golf for destruction the Accused Products and all other products in Defendant's possession that infringe upon the Cleveland Golf Trademarks or result in unfair competition by Defendant against Cleveland Golf.

H. That Defendant be ordered to make a written report to be filed with the Court within thirty (30) days, detailing its manner of compliance with the requested injunctive relief.

I. That this Court find that this case is an exceptional case, and that Cleveland Golf be awarded its reasonable attorney fees and costs of the suit under 15 U.S.C. § 1117(a).

J. That Cleveland Golf be awarded its reasonable attorney fees and costs of the suit under O.C.G.A. § 10-1-373.

K. That Cleveland Golf be awarded prejudgment interest.

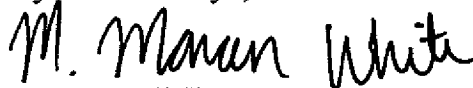
L. That Cleveland Golf be awarded such further relief as this Court deems fair, equitable, and proper.

### **Jury Trial Claim**

Plaintiff Cleveland Golf claims a trial by jury on all issues so triable.

This 18<sup>th</sup> day of August 2009.

Respectfully Submitted,  
Plaintiff,  
ROGER CLEVELAND GOLF COMPANY, INC.,  
by its attorneys,



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# EXHIBIT A

<b>TO:</b> Mail Stop 8 Director of the U.S. Patent and Trademark Office 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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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 Atlanta Division on the following  Patents or  Trademarks:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT Atlanta Division
PLAINTIFF ROGER CLEVELAND GOLF COMPANY, INC.		DEFENDANT KING SPORTS, INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 3,286,218	8/28/2007	Roger Cleveland Golf Company, Inc.
2 2,070,054	6/10/1997	Roger Cleveland Golf Company, Inc.
3 2,070,051	6/10/1997	Roger Cleveland Golf Company, Inc.
4 3,262,726	7/10/2007	Roger Cleveland Golf Company, Inc.
5 (see attached)		

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	
1			
2			
3			
4			
5			

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

DECISION/JUDGEMENT
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CLERK	(BY) DEPUTY CLERK	DATE
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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

Cont'd

PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
2,269,074	8/10/1999	Roger Cleveland Golf Company, Inc.
2,302,251	12/21/1999	Roger Cleveland Golf Company, Inc.
1,306,203	11/20/1984	Roger Cleveland Golf Company, Inc.
3,421,090	5/6/2008	Roger Cleveland Golf Company, Inc.
3,501,697	9/16/2008	Roger Cleveland Golf Company, Inc.
3,575,685	2/17/2009	Roger Cleveland Golf Company, Inc.
3,447,556	4/1/2008	Roger Cleveland Golf Company, Inc.
1,511,907	11/8/1988	Roger Cleveland Golf Company, Inc.

# EXHIBIT B



**United States Patent and Trademark Office**

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Sat Aug 15 04:01:45 EDT 2009

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG BOTTOM HELP

Logout Please logout when you are done to release system resources allocated for you.

**Record 1 out of 1**

TARR Status ASSIGN Status TDR TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)

**CLEVELAND GOLF**

**Word Mark** CLEVELAND GOLF

**Goods and Services** IC 018. US 001 002 003 022 041. G & S: Carry all bags, duffel bags, backpacks, shoe bags for travel, and umbrellas. FIRST USE: 19930111. FIRST USE IN COMMERCE: 19930111

IC 024. US 042 050. G & S: Towels. FIRST USE: 19930902. FIRST USE IN COMMERCE: 19930902

IC 025. US 022 039. G & S: Caps, hats, visors, shirts, wind shirts, wind vests, rain jackets, rain vests and rain pants. FIRST USE: 19930902. FIRST USE IN COMMERCE: 19930902

IC 028. US 022 023 038 050. G & S: Golf gloves; golf clubs, golf balls, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, golf ball shag bags used to store golf balls, golf club head covers, and golf ball bags. FIRST USE: 19930401. FIRST USE IN COMMERCE: 19930401

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78900537

**Filing Date** June 5, 2006

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** June 12, 2007

**Registration Number** 3286218

**Registration Date** August 28, 2007

**Owner** (REGISTRANT) Roger Cleveland Golf Company, Inc. CORPORATION CALIFORNIA 5601 Skylab Road Huntington Beach CALIFORNIA 92647

**Attorney of Record** Roger W. Parkhurst  
**Prior Registrations** 2070051;2070054  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE GOLF APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Typed Drawing**

**Word Mark** CLEVELAND  
**Goods and Services** IC 018. US 001 002 003 022 041. G & S: carry all bags and umbrellas. FIRST USE: 19860000. FIRST USE IN COMMERCE: 19860000  
 IC 025. US 022 039. G & S: golf apparel, namely, shirts, caps, visors, sweatshirts and sweater vests. FIRST USE: 19870000. FIRST USE IN COMMERCE: 19870000  
 IC 028. US 022 023 038 050. G & S: golf clubs, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, and golf club head covers. FIRST USE: 19810000. FIRST USE IN COMMERCE: 19810000  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75175245  
**Filing Date** October 1, 1996  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** March 18, 1997  
**Registration Number** 2070054  
**Registration Date** June 10, 1997  
**Owner** (REGISTRANT) ROGER CLEVELAND GOLF COMPANY, INC. CORPORATION CALIFORNIA 5601 Skylab Road Huntington Beach CALIFORNIA 92647  
**Attorney of Record** ROGER W PARKHURST  
**Prior Registrations** 1297821  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL-2(F)  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070412.  
**Renewal** 1ST RENEWAL 20070412

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*Cleveland*

<b>Word Mark</b>	CLEVELAND
<b>Goods and Services</b>	IC 018. US 001 002 003 022 041. G & S: carry all bags and umbrellas. FIRST USE: 19860000. FIRST USE IN COMMERCE: 19860000  IC 025. US 022 039. G & S: golf apparel, namely, shirts, caps, visors, sweatshirts and sweater vests. FIRST USE: 19870000. FIRST USE IN COMMERCE: 19870000  IC 028. US 022 023 038 050. G & S: golf clubs, golf club heads, golf club shafts, golf club grips, golf bags, golf bag covers, and golf club head covers. FIRST USE: 19810000. FIRST USE IN COMMERCE: 19810000
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Serial Number</b>	75175012
<b>Filing Date</b>	October 1, 1996
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	March 18, 1997
<b>Registration Number</b>	2070051
<b>Registration Date</b>	June 10, 1997
<b>Owner</b>	(REGISTRANT) ROGER CLEVELAND GOLF COMPANY, INC. CORPORATION CALIFORNIA 5630 Cerritos Avenue Cypress CALIFORNIA 90630
<b>Attorney of Record</b>	ROGER W PARKHURST
<b>Prior Registrations</b>	1297821

**Type of Mark** TRADEMARK  
**Register** PRINCIPAL-2(F)  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070414.  
**Renewal** 1ST RENEWAL 20070414  
**Live/Dead Indicator** LIVE

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# HIBORE

**Word Mark** HIBORE  
**Goods and Services** IC 028. US 022 023 038 050. G & S: Golf clubs and golf club heads. FIRST USE: 20060131. FIRST USE IN COMMERCE: 20060131  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 78690835  
**Filing Date** August 11, 2005  
**Current Filing Basis** 1A  
**Original Filing Basis** 1B  
**Published for Opposition** April 25, 2006  
**Registration Number** 3262726  
**Registration Date** July 10, 2007  
**Owner** (REGISTRANT) Roger Cleveland Golf Company, Inc. CORPORATION CALIFORNIA 5601 Skylab Road Huntington Beach CALIFORNIA 92647  
**Attorney of Record** Roger W. Parkhurst  
**Prior Registrations** 2269074  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**Typed Drawing**

**Word Mark** HIGH BORE  
**Goods and Services** IC 028. US 022 023 038 050. G & S: Golf clubs, namely, metal wood-type golf clubs. FIRST USE: 19980601. FIRST USE IN COMMERCE: 19980601  
**Mark Drawing Code** (1) TYPED DRAWING  
**Serial Number** 75528206  
**Filing Date** July 30, 1998  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** May 18, 1999  
**Registration Number** 2269074  
**Registration Date** August 10, 1999  
**Owner** (REGISTRANT) ROGER CLEVELAND GOLF COMPANY, INC. CORPORATION CALIFORNIA 5601 SKYLAB ROAD HUNTINGTON BEACH CALIFORNIA 92647  
**Attorney of Record** Roger W. Parkhurst  
**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BORE" APART FROM THE MARK AS SHOWN  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 8 (6-YR).  
**Live/Dead Indicator** LIVE

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**Word Mark** CG  
**Goods and Services** IC 028. US 022 023 038 050. G & S: Golf clubs, and golf club heads, namely, woods, irons and putters. FIRST USE: 19920102. FIRST USE IN COMMERCE: 19920102  
**Mark Drawing Code** (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM  
**Serial Number** 75631280  
**Filing Date** February 1, 1999  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** September 28, 1999  
**Registration Number** 2302251  
**Registration Date** December 21, 1999  
**Owner** (REGISTRANT) ROGER CLEVELAND GOLF COMPANY, INC. CORPORATION CALIFORNIA 5601 Skylab Road Huntington Beach CALIFORNIA 92647  
**Attorney of Record** Roger W. Parkhurst  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090423.  
**Renewal** 1ST RENEWAL 20090423  
**Live/Dead Indicator** LIVE

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**Word Mark** C

**Goods and Services** IC 028. US 022. G & S: Golf Clubs. FIRST USE: 19810921. FIRST USE IN COMMERCE: 19810921

**Mark Drawing Code** (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

**Design Search Code** 26.07.03 - Diamonds, incomplete or divided in the middle; Incomplete diamonds or divided in the middle  
 26.07.13 - Diamonds, exactly two diamonds; Two diamonds  
 26.07.21 - Diamonds that are completely or partially shaded  
 26.07.28 - Diamond shapes (miscellaneous overall shape); Miscellaneous designs with overall diamond shape, including letters forming or comprising a diamond

**Serial Number** 73414185

**Filing Date** February 18, 1983

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** September 11, 1984

**Registration Number** 1306203

**Registration Date** November 20, 1984

**Owner** (REGISTRANT) Roger Cleveland Golf Company, Inc. CORPORATION CALIFORNIA 5630 CERRITOS AVENUE CYPRESS CALIFORNIA 90630

**Attorney of Record** ROGER W. PARKHURST

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20040429.

**Renewal** 1ST RENEWAL 20040429

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**CG10**

**Word Mark** CG10

**Goods and Services** IC 028. US 022 023 038 050. G & S: Golf clubs and golf club heads. FIRST USE: 20040108. FIRST USE IN COMMERCE: 20040108

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Trademark Search Facility Classification Code** LETS-2 CG Two letters or combinations of multiples of two letters  
 NUM-10 The number 10 or the word Ten  
 SHAPES-MISC Miscellaneous shaped designs

**Serial Number** 76590959

**Filing Date** May 7, 2004

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** February 19, 2008

**Registration Number** 3421090

**Registration Date** May 6, 2008

**Owner** (REGISTRANT) ROGER CLEVELAND GOLF COMPANY, INC. CORPORATION CALIFORNIA 5630 Cerritos Avenue Cypress CALIFORNIA 90630

**Attorney of Record** ROGER W. PARKHURST

**Prior Registrations** 2302251  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# CG12

**Word Mark** CG12  
**Goods and Services** IC 028. US 022 023 038 050. G & S: Golf clubs, namely, wedges. FIRST USE: 20070117. FIRST USE IN COMMERCE: 20070117  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Trademark Search Facility Classification Code** LETS-2 CG Two letters or combinations of multiples of two letters NUM-12 The number 12 or the word Twelve  
**Serial Number** 77398597  
**Filing Date** February 15, 2008  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** July 1, 2008  
**Registration Number** 3501697  
**Registration Date** September 16, 2008  
**Owner** (REGISTRANT) Roger Cleveland Golf Company, Inc. CORPORATION CALIFORNIA 5601 Skylab Road Huntington Beach CALIFORNIA 92647  
**Attorney of Record** Roger W. Parkhurst

**Prior Registrations** 2302251;3421090;3421091  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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# CG14

**Word Mark** CG14

**Goods and Services** IC 028. US 022 023 038 050. G & S: Golf clubs, namely, wedges. FIRST USE: 20080100. FIRST USE IN COMMERCE: 20080100

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Trademark Search Facility Classification Code** LETS-2 CG Two letters or combinations of multiples of two letters  
NUM-14 The number 14 or the word Fourteen

**Serial Number** 77514760

**Filing Date** July 3, 2008

**Current Filing Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 2, 2008

**Registration Number** 3575685

**Registration Date** February 17, 2009

**Owner** (REGISTRANT) Roger Cleveland Golf Company, Inc. CORPORATION CALIFORNIA 5601 SkyLab Road Huntington Beach CALIFORNIA 92647

**Attorney of Record** Roger W. Parkhurst

**Prior Registrations** 3421090;3421091  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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**588**

**Word Mark** 588  
**Goods and Services** IC 028. US 022 023 038 050. G & S: Iron-type golf clubs and golf club heads, namely, wedges. FIRST USE: 19921010. FIRST USE IN COMMERCE: 19921010  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Trademark Search Facility Classification Code** NUM-26-UP 588 Other Numerals - 26 and Up  
**Serial Number** 77107987  
**Filing Date** February 15, 2007  
**Current Filing Basis** 1A  
**Original Filing Basis** 1A  
**Published for Opposition** April 1, 2008  
**Registration Number** 3447556  
**Registration Date** June 17, 2008  
**Owner** (REGISTRANT) Roger Cleveland Golf Company, Inc. CORPORATION CALIFORNIA 5601 SkyLab Road Huntington Beach CALIFORNIA 92647  
**Attorney of Record** Roger W. Parkhurst

Type of Mark    TRADEMARK  
Register        PRINCIPAL  
Live/Dead  
Indicator       LIVE

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**Typed Drawing**

<b>Word Mark</b>	LAUNCHER
<b>Goods and Services</b>	IC 028. US 022. G & S: GOLF CLUBS. FIRST USE: 19880120. FIRST USE IN COMMERCE: 19880120
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	73722932
<b>Filing Date</b>	April 18, 1988
<b>Current Filing Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	August 16, 1988
<b>Change in Registration</b>	CHANGE IN REGISTRATION HAS OCCURRED
<b>Registration Number</b>	<b>1511907</b>
<b>Registration Date</b>	November 8, 1988
<b>Owner</b>	(REGISTRANT) ROGER CLEVELAND GOLF COMPANY, INC. CORPORATION CALIFORNIA 5601 SKYLAB ROAD HUNTINGTON BEACH CALIFORNIA 92647
<b>Attorney of Record</b>	ROGER W. PARKHURST
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080913.
<b>Renewal</b>	1ST RENEWAL 20080913
<b>Live/Dead Indicator</b>	LIVE

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