

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS**INTERNATIONAL DEVELOPMENT CORPORATION**

(b) County of Residence of First Listed Plaintiff: Tarrant County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

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DEFENDANTS**INTP, Inc**

County of Residence of First Listed Defendant: Broward County, Florida

Attorneys (If Known)

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APR 22 2004
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

304 CV - 854 P**II. BASIS OF JURISDICTION** (Place an "x" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "x" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF** Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place ☐ 4 ☐ 4
- PTF DEF** Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place ☐ 5 ☐ 5
- PTF DEF** Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/ PENALTY | BANKRUPTCY | OTHER STATUTES | |
|--|---|---|--|--|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relation <input type="checkbox"/> 730 Labor/Mgmt Report & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405g) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 | <input type="checkbox"/> 400 State reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agriculture Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitution of State State Statutes <input type="checkbox"/> 890 Other Statutory Actions |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. 15 U.S.C. § 1125 (false advertising), Do not cite jurisdictional statutes unless diversity) 28 U.S.C. § 2201 (declaratory judgment); 17 U.S.C. § 101 et seq. (copyright)**VII. REQUESTED IN COMPLAINT:** ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$2,000,000 plus** ☐ CHECK YES only if demanded in complaint: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

DATE **APRIL 22, 2004**

DOCKET NUMBER
SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
APR 2 2004
CLERK, U.S. DISTRICT COURT
By _____ Deputy

[illegible]

DALLAS 1396872v1

II. PARTIES

2. Plaintiff International Development Corporation is a Texas corporation, having its principal place of business in Southlake, Texas, and conducting business throughout the State of Texas and in this judicial district.

3. Upon information and belief, defendant INTP, Inc. is a Florida corporation, having a principal place of business in Fort Lauderdale, Florida. This cause of action arises out of acts of INTP directed at the State of Texas. On information and belief, INTP regularly and systematically conducts business and commits the acts complained of herein in the State of Texas and in this judicial district.

III. JURISDICTION AND VENUE

4. The cause of action for false advertising arises under the Laws of the United States, 15 U.S.C. § 1125; and this Court has subject matter jurisdiction of such actions and claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a). This court has jurisdiction over IDC's copyright-related declaratory judgment claims under 28 U.S.C. §§ 2201 and 2202 and 17 U.S.C. § 101 et seq. This court has jurisdiction over IDC's state law claims under 28 U.S.C. §§ 1338(b) and 1367 and pursuant to the doctrine of pendent jurisdiction. Venue is based upon the provisions of 28 U.S.C. § 1391(b) and (c). There is diversity of citizenship between the parties and, on information and belief, the amount in controversy exceeds \$75,000, such that this court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332.

**IV.
FACTS OF THE CASE**

5. IDC and INTP are in the business of manufacturing and marketing solar-powered lighting products, including solar-powered lighted house numbers, which they market to the trade, including but not limited to retailers.

6. On information and belief, INTP has misrepresented, and is misrepresenting, to one or more customers and potential customers of IDC, during the course of promotion of INTP's products, that certain products being offered for sale by INTP were and are "copyrighted," and that the sale of products by IDC and purchased by one or more of IDC's customers constitutes an infringement of INTP's copyrights, when IDC's products in question were neither copyrighted nor subject to copyright.

7. On information and belief, INTP has misrepresented, and is misrepresenting, to one or more customers of IDC, during the course of promotion of INTP's products, that certain products being offered for sale by INTP were "patented," when such products were not, in fact, patented.

8. INTP has willfully and intentionally threatened IDC and one or more customers and potential customers of IDC with a lawsuit for copyright infringement arising out of the sale of products purchased by such customers from IDC.

9. As a result of INTP's threats, IDC's customers and potential customers have a reasonable apprehension that they will be sued by INTP for copyright infringement if they purchase the products from IDC.

10. At the time of INTP's threats and misrepresentations, IDC had ongoing business relationships with its customers, including existing sales contracts and a high likelihood of

entering into proposed sales contracts.

11. Absent interference by INTP, IDC had a reasonable probability of entering into proposed new sales contracts with existing and prospective customers.

12. The IDC products complained of by INTP do not, in fact, infringe any cognizable right of INTP. The threats made by INTP against IDC's existing and potential customers do not have a reasonable basis in law, and on information and belief were and are willfully and intentionally made with knowledge that they were and are legally baseless, with malice and with the intent to disrupt the existing business relationships, the existing contractual relationships and potential contractual relationships between IDC and IDC's existing and potential customers.

13. INTP knew, or had reason to know, that its threats of litigation would interfere with existing and potential contracts between IDC and IDC's existing and potential customers.

14. IDC has been damaged by the baseless threats and misrepresentations made by INTP to IDC's existing and potential customers.

V.

FALSE AND MISLEADING REPRESENTATIONS

15. Paragraphs 1 through 14 are incorporated herein for the purpose of providing the initial factual allegations for this cause of action.

16. The above misrepresentations of fact made in commercial advertising and promotion of INTP's products constitutes false and misleading description of fact, and false and misleading representation of fact, as to the nature, characteristics, and qualities of INTP's goods, with such misrepresentations being designed to influence, and having the effect of influencing, the purchasing decisions of those to whom these misrepresentations are directed. These misrepresentations constitute a violation of 15 U.S.C. § 1125(a)(1)(B), and unless restrained, will

continue to occur, to the damage of plaintiff IDC.

**VI.
TORTIOUS INTERFERENCE WITH
EXISTING CONTRACT**

17. Paragraphs 1 through 14 are incorporated herein for the purpose of providing the initial factual allegations for this cause of action.

18. INTP's acts constitute tortious interference with IDC's existing contracts with IDC's existing customers, in violation of Texas law.

**VII.
TORTIOUS INTERFERENCE WITH
PROSPECTIVE CONTRACT**

19. Paragraphs 1 through 14 are incorporated herein for the purpose of providing the initial factual allegations for this cause of action.

20. INTP's acts constitute tortious interference with IDC's proposed contracts with IDC's existing and potential customers, in violation of Texas law.

**VIII.
TORTIOUS INTERFERENCE WITH
BUSINESS RELATIONSHIP**

21. Paragraphs 1 through 14 are incorporated herein for the purpose of providing the initial factual allegations for this cause of action.

22. INTP's acts constitute tortious interference with the business relationships between IDC and IDC's customers, in violation of Texas law.

**IX.
DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF COPYRIGHT**

23. Paragraphs 1 through 14 are incorporated herein for the purpose of providing the

initial factual allegations for this cause of action.

24. In the present case, INTP asserts copyright protection on its products, which are useful articles not constituting proper subject matter for copyright protection. The copyrights asserted by INTP cover only photographs and drawings of INTP's products registered as literary works, and not the design of the products themselves.

25. IDC has not reproduced, performed, displayed, distributed copies of, or prepared derivative works based upon, any validly-copyrighted work of INTP.

26. INTP's threats of litigation, without action, against IDC's existing and potential customers have created a cloud over the business relationships between IDC and its existing and potential customers.

27. The dispute between IDC and INTP represents an actual controversy within the jurisdiction of this Court.

28. IDC seeks a judicial declaration from this Court to confirm its rights and legal status. In this case, there is a real controversy regarding the copyrights alleged by INTP, coupled with a clear manifestation that the declaration sought will be of practical value in resolving the entire controversy between the parties regarding such. Accordingly, IDC is entitled to a declaratory judgment from this court that INTP has no valid copyright on the design of its products and the products of IDC and the acts of IDC and its existing and potential customers complained of do not constitute infringement of any valid copyrights owned by INTP.

WHEREFORE PLAINTIFF PRAYS:

(a) That INTP, and its agents, servants, attorneys, employees, successors, and assigns, and any and all persons, firms, associations, and corporations, wholly or acting by, through or under any of the defendants, or in aid or in conjunction with any of the defendants, and those in privity therewith, during the pendency of this action, and thereafter permanently, be enjoined and restrained from:

(i) engaging in acts of false advertising, including but not limited to making representations that unpatented and uncopyrighted products are patented and/or copyrighted;

(ii) tortiously interfering with existing contracts between IDC and any other party;

(iii) tortiously interfering with potential contracts between IDC and any other party; and

(iv) tortiously interfering with business relationships between IDC and any other party.

(b) That this Court declare that no product of IDC or act of IDC or its existing or potential customers infringes any copyright of INTP;

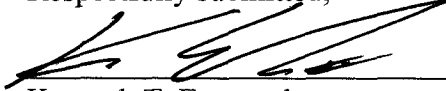
(c) That judgment be entered against INTP for any and all damages sustained and suffered by IDC, including enhanced damages, by reason of the acts complained of herein. IDC is not informed and is unable to state at this time the exact amount of profits and damages due it.

(d) That plaintiff recover its costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117; and

(e) That plaintiff have such other and further relief as the Court may deem just, equitable and proper in the premises.

Date: APRIL 22, 2004

Respectfully submitted,



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