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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	92063392
Applicant	Plaintiff Masterchem Industries LLC
Other Party	Defendant PPG Architectural Finishes, Inc.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

Motion for Suspension in View of Civil Proceeding With Consent

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Masterchem Industries LLC hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Masterchem Industries LLC has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Masterchem Industries LLC has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,

/s/ Perry Viscounty

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04/15/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Masterchem Industries LLC,)	Cancellation No. 92063392
a Missouri limited liability company,)	In re the Registration of PPG Architectural
)	Finishes, Inc.
Petitioner,)	
v.)	Mark: SPRED COMPLETE
)	Registration No. 4085130
PPG Architectural Finishes, Inc.,)	Registration Date: January 10, 2012
a Delaware corporation,)	
)	
Respondent.)	
_____)	

JOINT MOTION TO SUSPEND CANCELLATION PROCEEDING

Pursuant to 37 C.F.R. § 2.117 and Rule 510.02(a) of the Trademark Trial and Appeal Board’s Manual of Procedure (“TBMP”), Petitioner Masterchem Industries LLC, together with Respondent PPG Architectural Finishes, Inc., jointly file this Motion to Suspend this cancellation proceeding pending the outcome of the civil action, *Masterchem Industries LLC v. PPG Architectural Finishes, Inc.*, Case No. 8:16-cv-00491, pending in the U.S. District Court for the Central District of California. A copy of the Complaint filed by Petitioner Masterchem Industries LLC is attached as Exhibit A.

Dated: April 15, 2016

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EXHIBIT A

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9 **MASTERCHEM INDUSTRIES LLC**

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

14 **MASTERCHEM INDUSTRIES LLC,**
15 a Missouri limited liability company,

16 Plaintiff,

17 v.

18 **PPG ARCHITECTURAL FINISHES,**
INC., a Delaware corporation; and
19 **DOES 1-10,**

20 Defendants.
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CASE NO. 8:16-cv-00491

Complaint For:

- (1) **Trademark Infringement**
(Lanham Act, 15 U.S.C. § 1114)
- (2) **Unfair Competition/False Designation of Origin**
(Lanham Act, 15 U.S.C. § 1125(a))
- (3) **Common Law Trademark Infringement**
- (4) **Common Law Unfair Competition**
- (5) **Cancellation of Registration**

DEMAND FOR JURY TRIAL

1 Plaintiff Masterchem Industries LLC (“Plaintiff”), for its Complaint against
2 PPG Architectural Finishes, Inc. (“PPG”) and Does 1-10 (collectively,
3 “Defendants”), alleges as follows:

4 **NATURE OF ACTION**

5 1. Plaintiff brings this complaint against Defendants for federal
6 trademark infringement, false designation of origin, and unfair competition in
7 violation of the Lanham Act, 15 U.S.C. § 1051, *et seq.*; common law trademark
8 infringement and unfair competition under California law; and cancellation of
9 federal registration pursuant to 15 U.S.C. §§ 1064 and 1119.

10 **THE PARTIES**

11 2. Plaintiff is a limited liability company organized and existing under
12 the laws of the State of Missouri, with its principal place of business at 3400 W.
13 Segerstrom Avenue, Santa Ana, California 92704.

14 3. On information and belief, PPG is Delaware corporation with its
15 principal place of business at One PPG Place, Pittsburgh, Pennsylvania 15272.

16 4. Plaintiff is ignorant of the true names of defendant Does 1 through 10
17 (“Doe Defendants”), inclusive, and therefore sues those defendants by such
18 fictitious names. On information and belief, Doe Defendants are jointly
19 responsible, along with PPG, for the acts alleged in this Complaint. When the true
20 names of the Doe Defendants are ascertained, Plaintiff will seek leave of this Court
21 to amend this Complaint to name those individuals or entities.

22 5. On information and belief, Defendants were the agents of each other
23 and, at all times mentioned, acted within the course and scope of such agency.

24 **JURISDICTION AND VENUE**

25 6. Pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. § 1338(a), this Court
26 has subject matter jurisdiction over Plaintiff’s claims for relief for violation of the
27 Lanham Act. Pursuant to 28 U.S.C. § 1338(b), this Court has supplemental
28 jurisdiction over Plaintiff’s state law claims because the claims are joined with

1 substantial and related claims under the Lanham Act. This Court also has
2 supplemental jurisdiction over Plaintiff's state law claims pursuant to
3 28 U.S.C. § 1367(a) because all of Plaintiff's claims arise out of a common nucleus
4 of operative facts.

5 7. This Court has personal jurisdiction over Defendants because, on
6 information and belief, they conduct substantial business in this State.

7 8. Venue in this Court exists under 28 U.S.C. §§ 1391(b)(2) because a
8 substantial part of the events giving rise to Plaintiff's claims occurred in this
9 District.

10 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

11 **The KILZ COMPLETE® Trademark**

12 9. Plaintiff is a leading provider of paint, primer, and specialty/stain
13 products throughout the nation, under the KILZ® brand. Plaintiff maintains its
14 executive offices, marketing team, research and design facilities, and documents at
15 its headquarters in Santa Ana, California.

16 10. Since at least August 2007, Plaintiff has marketed and sold a line of
17 primers and sealers under the name KILZ COMPLETE®. These popular oil-based
18 primer, sealer and stainblocker products are available at home improvement
19 centers and neighborhood hardware stores nationwide, including The Home Depot
20 and Walmart.

21 11. Through nearly a decade of use, marketing, branding, promotion, and
22 sales, the KILZ COMPLETE® mark has become well-known and enjoys
23 substantial recognition, goodwill, and association with Plaintiff. The public
24 distinguishes Plaintiff's goods from those of other companies and providers of
25 home improvement goods on the basis of the KILZ COMPLETE® mark.
26 Accordingly, Plaintiff has extensive common law rights in the KILZ COMPLETE®
27 mark.

28 12. Plaintiff also owns an incontestable United States federal trademark

1 registration (No. 3,370,767, filed on June 21, 2006, issued on January 15, 2008) for
2 the KILZ COMPLETE[®] mark in connection with “paint primers” in Class 2 (the
3 “KILZ COMPLETE[®] Registration”). The KILZ COMPLETE[®] Registration
4 constitutes prima facie evidence that the KILZ COMPLETE[®] mark is valid and
5 that Plaintiff is entitled to the exclusive use of the mark in commerce throughout
6 the United States on the goods listed in the registration.

7 **Defendants’ Infringing Activities**

8 13. Defendants directly compete with Plaintiff, marketing and selling
9 paints, primers, and stains under a number of different brands, including CIL,
10 Dulux, Flood, Glidden, Olympic, Pinturas Superior, PPG Paints, and others.
11 Indeed, the large number of formerly separate and competitive brands that have
12 now been consolidated under the PPG’s corporate umbrella is illustrative of the
13 extent to which the market for paints, primers, and stains has undergone extensive
14 consolidation with many brands now sharing common ownership.

15 14. Defendants’ Glidden-branded products are sold through the same
16 retail channels as Plaintiff’s KILZ COMPLETE[®] products, including in The Home
17 Depot and Walmart.

18 15. On July 30, 2015, Defendants filed U.S. Application Serial No.
19 86/709858 (the “’858 Application”) with the United States Patent and Trademark
20 Office, indicating an intent to use the mark GLIDDEN COMPLETE in connection
21 with “coating compositions in the nature of paint for architectural applications” in
22 Class 2. Plaintiff has instituted an opposition proceeding against the ’858
23 Application concurrently with the filing of this Complaint.

24 16. Defendants also own U.S. Registration No. 4,085,130, for the mark
25 SPRED COMPLETE in Class 2 for “coatings, namely, paints for interior and/or
26 exterior use,” claiming a first use in commerce date of June 1, 2011. Defendants
27 market and sell a “2-in-1 Paint + Primer” product under the name, “Glidden Spred
28 Complete.” Plaintiff has instituted a cancellation proceeding against this

1 registration concurrently with the filing of this Complaint.

2 17. Plaintiff contacted certain of Defendants via letter in February 2016
3 requesting that they withdraw the '858 Application and refrain from using the
4 confusing GLIDDEN COMPLETE mark (the "February 2016 letter").

5 18. Defendants have failed to substantively respond to the February 2016
6 letter, and have refused to withdraw the '858 Application or refrain from using the
7 GLIDDEN COMPLETE mark, thus requiring Plaintiff to bring this action to
8 protect its valuable intellectual property rights.

9 **Plaintiff is Suffering Harm from Defendants'**

10 **Continuing Infringement and Unlawful Conduct**

11 19. Due to Plaintiff's renown and consumers' recognition of the KILZ
12 COMPLETE[®] mark, consumers will likely suffer confusion and mistakenly believe
13 that Defendants and their goods are endorsed, approved, or sponsored by, or
14 affiliated, connected, or associated with Plaintiff. Defendants will thus enjoy the
15 benefits of Plaintiff's reputation and goodwill based on this consumer confusion, to
16 Plaintiff's detriment.

17 20. Defendants' use of the GLIDDEN COMPLETE mark in commerce
18 violates Plaintiff's valuable intellectual property rights in the KILZ COMPLETE[®]
19 mark, and this knowing, intentional, and willful infringement is damaging Plaintiff.

20 21. Defendants' use of the SPRED COMPLETE mark in commerce
21 violates Plaintiff's valuable intellectual property rights in the KILZ COMPLETE[®]
22 mark, and this knowing, intentional, and willful infringement is damaging Plaintiff.

23 22. Because of Defendants' continuing willful infringement and unlawful
24 conduct, Plaintiff is now forced to bring this Complaint to protect its valuable
25 intellectual property rights. Plaintiff has retained counsel and incurred attorneys'
26 fees and costs (and it continues to incur those fees and costs) to prosecute this
27 lawsuit and pursue its claims.

28 23. Plaintiff's interests in protecting its intellectual property rights and

1 product from consumer confusion outweigh any harm to Defendants. The public
2 interest is best served by granting Plaintiff's requested relief against Defendants.

3 **FIRST CLAIM FOR RELIEF**

4 **Federal Trademark Infringement – 15 U.S.C. § 1114**

5 24. Plaintiff incorporates by reference the factual allegations set forth
6 above.

7 25. Plaintiff owns the KILZ COMPLETE® Registration. The mark
8 reflected in the KILZ COMPLETE® Registration is strong and distinctive and
9 designates Plaintiff as the source of all products advertised, marketed, sold, or used
10 in connection with the KILZ COMPLETE® mark.

11 26. Plaintiff is the senior user of the KILZ COMPLETE® mark as it began
12 use of the mark in interstate commerce prior to Defendants' first use of either the
13 GLIDDEN COMPLETE mark or the SPRED COMPLETE mark.

14 27. Defendants do not have authorization, license, or permission from
15 Plaintiff to advertise, market, and sell their products under the GLIDDEN
16 COMPLETE mark or SPRED COMPLETE mark, each of which is confusingly
17 similar to the KILZ COMPLETE® mark and is used on products that are virtually
18 identical to the products with which the KILZ COMPLETE® mark and the KILZ
19 COMPLETE® Registration have come to be associated.

20 28. On information and belief, Defendants were aware of the KILZ
21 COMPLETE® mark and the KILZ COMPLETE® Registration as they were on
22 constructive notice based on Plaintiff's federal registration, as well as on actual
23 notice based on the strong success of the KILZ COMPLETE® product, which
24 directly competes with Defendants' products. Thus, Defendants' unauthorized use
25 of marks that are confusing similar to the KILZ COMPLETE® mark was and is
26 knowing, intentional, and willful.

27 29. As a direct and proximate result of Defendants' wrongful conduct,
28 Plaintiff has been and will continue to be damaged.

1 30. Defendants' actions thus constitute trademark infringement.

2 31. Unless an injunction is issued enjoining any continuing or future use
3 of the GLIDDEN COMPLETE mark by Defendants, such continuing or future use
4 is likely to continue to cause confusion, mistake, or deception as to source, origin,
5 affiliation, or sponsorship, and will thereby irreparably damage Plaintiff.

6 32. Unless an injunction is issued enjoining any continuing or future use
7 of the SPRED COMPLETE mark by Defendants, such continuing or future use is
8 likely to continue to cause confusion, mistake, or deception as to source, origin,
9 affiliation, or sponsorship, and will thereby irreparably damage Plaintiff.

10 33. Defendants' activities have caused and will continue to cause
11 irreparable harm to Plaintiff, for which it has no adequate remedy at law, in that:
12 (A) the KILZ COMPLETE[®] mark and the KILZ COMPLETE[®] Registration
13 comprise unique and valuable property rights that have no readily determinable
14 market value; (B) Defendants' infringement interferes with Plaintiff's goodwill and
15 customer relationships and will substantially harm Plaintiff's reputation as a source
16 of high-quality products; and (C) Defendants' wrongful conduct, and the damages
17 resulting to Plaintiff, are continuing. Accordingly, Plaintiff is entitled to injunctive
18 relief pursuant to 15 U.S.C. § 1116(a).

19 34. Pursuant to 15 U.S.C. § 1117(a), Plaintiff is entitled to an order:
20 (A) requiring Defendants to account to Plaintiff for any and all profits they derived
21 from their actions, to be increased in accordance with the applicable provisions of
22 law; and (B) awarding all damages sustained by Plaintiff that were caused by
23 Defendants' conduct.

24 35. Defendants' conduct was intentional and without foundation in law,
25 and, pursuant to 15 U.S.C. § 1117(a), Plaintiff is therefore entitled to an award of
26 treble damages against Defendants.

27 36. Defendants' acts make this an exceptional case under 15 U.S.C.
28 § 1117(a); thus Plaintiff is entitled to an award of attorneys' fees and costs.

SECOND CLAIM FOR RELIEF

Federal Unfair Competition/False Designation of Origin – 15 U.S.C. § 1125(a)

37. Plaintiff incorporates by reference the factual allegations set forth above.

38. The KILZ COMPLETE[®] mark is strong and distinctive and designates Plaintiff as the source of all goods advertised, marketed, sold, or used in connection with the mark. In addition, by virtue of Plaintiff’s substantial promotion and use of the KILZ COMPLETE[®] mark in connection with its products, the KILZ COMPLETE[®] mark has acquired secondary meaning, whereby the consuming public of this District, the State of California, and the United States, associate the KILZ COMPLETE[®] mark with a single source of products.

39. Plaintiff is the senior user of the KILZ COMPLETE[®] mark as it began use of the mark in interstate commerce prior to (a) Defendants’ first use of the GLIDDEN COMPLETE mark; and (b) Defendants’ first use of the SPRED COMPLETE mark.

40. On information and belief, Defendants were aware of the KILZ COMPLETE[®] mark and the KILZ COMPLETE[®] Registration as they were on constructive notice based on Plaintiff’s federal registration, as well as on actual notice based on the strong success of the KILZ COMPLETE[®] product, which directly competes with Defendants’ products. Thus, Defendants’ unauthorized use of marks that are confusingly similar to the KILZ COMPLETE[®] mark was and is knowing, intentional, and willful.

41. On information and belief, through their use of the confusingly similar GLIDDEN COMPLETE mark, Defendants intended to, and did in fact, confuse and mislead consumers into believing, and misrepresented and created the false impression, that Plaintiff somehow authorized, originated, sponsored, approved, licensed, or participated in Defendants’ use of the confusingly similar GLIDDEN COMPLETE mark.

1 42. On information and belief, through their use of the confusingly similar
2 SPRED COMPLETE mark, Defendants intended to, and did in fact, confuse and
3 mislead consumers into believing, and misrepresented and created the false
4 impression, that Plaintiff somehow authorized, originated, sponsored, approved,
5 licensed, or participated in Defendants' use of the confusingly similar SPRED
6 COMPLETE mark.

7 43. In fact, there is no connection, association, or licensing relationship
8 between Plaintiff and Defendants, nor has Plaintiff ever authorized, licensed, or
9 given permission to Defendants to use the KILZ COMPLETE[®], GLIDDEN
10 COMPLETE, or SPRED COMPLETE marks in any manner.

11 44. On information and belief, Defendants' use of the GLIDDEN
12 COMPLETE mark will likely cause confusion as to the origin and authenticity of
13 Defendants' products and will likely cause others to believe that there is a
14 relationship between Defendants and Plaintiff.

15 45. On information and belief, Defendants' use of the SPRED
16 COMPLETE mark will likely cause confusion as to the origin and authenticity of
17 Defendants' products and will likely cause others to believe that there is a
18 relationship between Defendants and Plaintiff.

19 46. As a direct and proximate result of Defendants' wrongful conduct,
20 Plaintiff has been and will continue to be damaged.

21 47. Defendants' actions thus constitute false designation of origin and
22 unfair competition.

23 48. Defendants' activities have caused, and will continue to cause,
24 irreparable harm to Plaintiff, for which it has no adequate remedy at law, in that:
25 (A) the KILZ COMPLETE[®] mark and the KILZ COMPLETE[®] Registration
26 comprise unique and valuable property rights that have no readily determinable
27 market value; (B) Defendants' infringement interferes with Plaintiff's goodwill and
28 customer relationships and will substantially harm Plaintiff's reputation as a source

1 of high-quality products; and (C) Defendants' wrongful conduct, and the damages
2 resulting to Plaintiff, are continuing. Accordingly, Plaintiff is entitled to injunctive
3 relief pursuant to 15 U.S.C. § 1116(a).

4 49. Pursuant to 15 U.S.C. §1117(a), Plaintiff is entitled to an order:
5 (A) requiring Defendants to account to Plaintiff for any and all profits they derived
6 from their actions, to be increased in accordance with the applicable provisions of
7 law; and (B) awarding all damages sustained by Plaintiff that were caused by
8 Defendants' conduct.

9 50. Defendants' conduct was intentional and without foundation in law,
10 and, pursuant to 15 U.S.C. § 1117(a), Plaintiff is therefore entitled to an award of
11 treble damages against Defendants.

12 51. Defendants' acts make this an exceptional case under 15 U.S.C.
13 § 1117(a); thus Plaintiff is entitled to an award of attorneys' fees and costs.

14 **THIRD CLAIM FOR RELIEF**

15 **Common Law Trademark Infringement**

16 52. Plaintiff incorporates by reference the factual allegations set forth
17 above.

18 53. Plaintiff has valid and protectable common law rights in the KILZ
19 COMPLETE[®] mark.

20 54. Plaintiff is the senior user of the KILZ COMPLETE[®] mark.

21 55. Defendants' conduct constitutes infringement of Plaintiff's common
22 law rights in the KILZ COMPLETE[®] mark.

23 56. Defendants' use of the confusingly similar GLIDDEN COMPLETE
24 mark with unauthorized products is likely to cause confusion as to the origin of
25 Defendants' products and is likely to cause others to believe that there is a
26 relationship between Defendants and Plaintiff.

27 57. Defendants' use of the confusingly similar SPRED COMPLETE mark
28 with unauthorized products is likely to cause confusion as to the origin of

1 Defendants' products and is likely to cause others to believe that there is a
2 relationship between Defendants and Plaintiff.

3 58. Defendants' wrongful acts have permitted and will permit them to
4 receive substantial profits based upon the strength of Plaintiff's reputation and the
5 substantial goodwill built up in the KILZ COMPLETE[®] mark.

6 59. As a direct and proximate result of Defendants' wrongful conduct,
7 Plaintiff has been and will continue to be damaged.

8 60. Unless an injunction is issued enjoining any continuing or future use
9 of the GLIDDEN COMPLETE mark by Defendants, such use is likely to continue
10 to cause confusion and thereby irreparably damage Plaintiff. Plaintiff has no
11 adequate remedy at law and is thus entitled to such an injunction.

12 61. Unless an injunction is issued enjoining any continuing or future use
13 of the SPRED COMPLETE mark by Defendants, such use is likely to continue to
14 cause confusion and thereby irreparably damage Plaintiff. Plaintiff has no
15 adequate remedy and is thus entitled to such an injunction.

16 **FOURTH CLAIM FOR RELIEF**

17 **Common Law Unfair Competition**

18 62. Plaintiff incorporates by reference the factual allegations set forth
19 above.

20 63. Plaintiff has expended significant time and expense in developing the
21 KILZ COMPLETE[®] mark and the high quality product it markets, offers, and sells
22 under that mark. The KILZ COMPLETE[®] mark has been very successful and has
23 developed a substantial reputation and goodwill in the marketplace.

24 64. Through their wrongful conduct, Defendants have misappropriated
25 Plaintiff's efforts and are exploiting the KILZ COMPLETE[®] mark and Plaintiff's
26 reputation to market and sell their products under the GLIDDEN COMPLETE and
27 SPRED COMPLETE marks. These actions constitute unfair competition.

28 65. As a direct and proximate result of Defendants' wrongful conduct,

1 Plaintiff has been and will continue to be damaged.

2 66. Unless an injunction is issued enjoining Defendants' unfairly
3 competitive conduct, Plaintiff will continue to be damaged irreparably. Plaintiff
4 has no adequate remedy at law. Accordingly, Plaintiff is entitled to an injunction.

5 67. On information and belief, Defendants have acted willfully,
6 intentionally, and maliciously, such that Plaintiff is entitled to an award of punitive
7 damages.

8 **FIFTH CLAIM FOR RELIEF**

9 **Cancellation of Registration under 15 U.S.C. §§ 1064 and 1119**

10 68. Plaintiff incorporates by reference the factual allegations set forth
11 above.

12 69. Defendants currently own a registration for the SPRED COMPLETE
13 mark on the Principal Register.

14 70. The SPRED COMPLETE mark so resembles Plaintiff's registered
15 KILZ COMPLETE[®] mark as to be likely, when used in connection with
16 Defendants' goods, to cause confusion, or to cause mistake, or to deceive.

17 71. Plaintiff is being, and will continue to be, damaged by the registration
18 of the SPRED COMPLETE mark, including as a result of confusion with and
19 dilution of the KILZ COMPLETE[®] mark.

20 72. Accordingly, pursuant to Section 37 of the Lanham Act, Plaintiff
21 requests that the Court order the cancellation of the SPRED COMPLETE
22 registration, and certify such order to the Director of the Patent and Trademark
23 Office to make the appropriate entry upon the records of that Office.

24 **PRAYER**

25 WHEREFORE, Plaintiff prays for the following relief:

26 A. An injunction whereby Defendants, and their principals, officers,
27 directors, members, partners, agents, servants, employees, authorized
28 representatives, and attorneys, and all other persons acting in concert or

1 participating with them, who receive actual notice of the injunction order by
2 personal or other service, are permanently enjoined from:

- 3 1. using the GLIDDEN COMPLETE mark, the SPRED
4 COMPLETE mark, or any other mark likely to cause confusion
5 with the KILZ COMPLETE[®] mark, in connection with the
6 promotion, advertising, offering for sale, or sale, of any
7 products;
- 8 2. using any false designation of origin, false representation, or
9 any false or misleading description of fact, that can, or is likely
10 to, lead the consuming public or individual members thereof, to
11 believe that any products offered, promoted, marketed,
12 advertised, provided, or sold by Defendants are in any manner
13 associated or connected with Plaintiff, or are licensed,
14 approved, or authorized in any way by Plaintiff;
- 15 3. representing, suggesting in any fashion to any third party, or
16 performing any act that may give rise to the belief, that
17 Defendants, or any of their products, are related to, or
18 authorized or sponsored by, Plaintiff;
- 19 4. unfairly competing with Plaintiff in any manner whatsoever, or
20 engaging in any unfair, fraudulent, or deceptive business
21 practices that relate in any way to the distribution, marketing,
22 sale, or use of products bearing the GLIDDEN COMPLETE,
23 SPRED COMPLETE, or KILZ COMPLETE[®] marks; and
- 24 5. applying or seeking to register any mark that is likely to cause
25 confusion with the KILZ COMPLETE[®] mark.

26 B. An order, pursuant to 15 U.S.C. § 1116(a), that within thirty (30) days
27 after the entry and service on Defendants of an injunction, Defendants file with this
28 Court and serve upon Plaintiff's counsel a report in writing and under oath setting

1 forth in detail the manner and form in which Defendants have complied with the
2 injunction.

3 C. An order finding that Defendants have infringed Plaintiff's federally
4 registered trademark in violation of 15 U.S.C. § 1114.

5 D. An order finding that Defendants have created a false designation of
6 origin and false representation of association in violation of 15 U.S.C. § 1125(a).

7 E. An order finding that Defendants have engaged in common law
8 trademark infringement.

9 F. An order finding that Defendants have engaged in common law unfair
10 competition.

11 G. An order cancelling Defendants' federal registration for SPRED
12 COMPLETE, and directing the Director of the Patent and Trademark Office to
13 remove such registration from the Principal Register.

14 H. An order awarding Plaintiff damages as follows:

15 1. Plaintiff's actual damages, as well as all of Defendants' profits
16 or gains of any kind from their acts of trademark infringement,
17 false designation of origin, and unfair competition, including a
18 trebling of those damages, pursuant to 15 U.S.C. § 1117(a); and

19 2. Punitive damages pursuant to California common law.

20 I. An order finding that this is an exceptional case and, under 15 U.S.C.
21 § 1117(a), awarding Plaintiff its reasonable attorneys' fees.

22 J. An order awarding Plaintiff all of its costs, disbursements, and other
23 expenses incurred due to Defendants' unlawful conduct, pursuant to 15 U.S.C.
24 § 1117(a).

25 K. An order awarding Plaintiff interest.

26 L. An order awarding Plaintiff such other relief as the Court deems just
27 and appropriate.

28

JURY DEMAND

1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure and Civil L.R.
2 38-1, Plaintiff hereby demands a trial by jury.

3 Dated: March 16, 2016

Respectfully submitted,

4 LATHAM & WATKINS LLP

5 By /s/ Perry Viscounty

6 Perry J. Viscounty

7 Jennifer L. Barry

8 *Attorneys for Plaintiff*

9 MASTERCHEM INDUSTRIES LLC
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