

**FILED**

**SCHEPER KIM & HARRIS LLP**  
MARC S. HARRIS (State Bar No. 136647)  
mharris@scheperkim.com  
ALEXANDER H. COTE (State Bar No. 211558)  
acote@scheperkim.com  
601 West Fifth Street, 12th Floor  
Los Angeles, CA 90071-2025  
Telephone: (213) 613-4655  
Facsimile: (213) 613-4656

2012 JUN -5 PM 4: 10

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

**Attorneys for Plaintiff KERR CORPORATION**

**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

**KERR CORPORATION,**

Plaintiff,

v.

**TRI DENTAL INC.; TRI DENTAL  
INNOVATORS CORPORATION;  
AHN LUU; and DOES 1-10**

Defendants.

CASE NO. *SACV12-891-EVS(ANX)*

**COMPLAINT FOR TRADEMARK  
COUNTERFEITING; TRADEMARK  
INFRINGEMENT; FEDERAL  
UNFAIR COMPETITION;  
CALIFORNIA UNFAIR PRACTICES  
ACT; AND TRADEMARK DILUTION**

1 Plaintiff Kerr Corporation ("Plaintiff") states the following for its complaint  
2 against Tri Dental, Inc., Tri Dental Innovators Corporation and Ahn Luu:

3 **JURISDICTION**

4 1. This Court has jurisdiction over the subject matter of this action under  
5 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(b). This Court has personal  
6 jurisdiction over Defendants because the acts complained of occurred and are  
7 occurring in interstate commerce in this District and as Plaintiff is suffering injuries  
8 within this District as a result of Defendants' conduct.

9 **VENUE**

10 2. Venue is properly laid in this District under 28 U.S.C. § 1391 as the  
11 acts complained of occurred and are occurring in interstate commerce in the Central  
12 District of California and as Plaintiff has a place of business within the Southern  
13 Division of this District.

14 **THE PARTIES**

15 3. Plaintiff is a Delaware corporation with a principal place of business  
16 located within this District at 1717 W. Collins Ave., Orange, California 92867.

17 4. Plaintiff manufactures high technology dental restorative materials and  
18 consumables. Plaintiff's products are consistent sales and technology leaders in the  
19 dental restorative industry.

20 5. Tri Dental Inc. ("TDI") was a corporation that dissolved on or about  
21 February 1, 2012. TDI had an office and principal place of business located at 13902  
22 West Street, Garden Grove, California 92843. This action is brought against TDI  
23 pursuant to Section 2011 of the California Corporations Code.

24 6. Tri Dental Innovators Corporation ("TDIC") was a corporation that  
25 dissolved on or about June 23, 2008. TDIC had an office and principal place of  
26 business located at 13902 West Street, Garden Grove, California 92843. This action  
27 is brought against TDIC pursuant to Section 2011 of the California Corporations

28 ///

1 Code. On information and belief, TDI is or was the successor in interest or alter ego  
2 of TDIC.

3 7. On information and belief, and notwithstanding their purported  
4 dissolution, TDI and TDIC continued to operate and commit the prohibited acts  
5 identified herein after the dates of their dissolutions. Accordingly, TDI and TDIC  
6 are also sued, in the alternative, as unknown business entities.

7 8. Ahn Luu is an individual citizen of California. Luu is a former  
8 executive of Kerr Corporation, and a founder of TDI. Luu is also TDI's former  
9 designated agent for service of process. On information and belief, Luu is also a  
10 former officer, director, employee or shareholder of TDIC. This action is brought  
11 against Luu individually and pursuant to Section 2011 of the California  
12 Corporations Code.

13 9. The true names of TDI and/or TDIC's former shareholders, sued  
14 pursuant to Section 2011 of the California Corporations Code and individually  
15 herein as Does 1-10, are unknown to Plaintiff, which therefore sues said defendants  
16 by such fictitious names. Plaintiff will amend its pleadings to allege their true names  
17 and capacities when the same are ascertained.

18 **FACTUAL BACKGROUND**

19 10. Since at least 1905, Plaintiff has used the KERR trademark in  
20 connection with dental materials, namely, impression compounds, impression-trays,  
21 dental waxes, investment compounds for use in the investment casting of dental  
22 articles, Plaster of Paris for use in the creation of dental articles, sealing agents for  
23 dental purposes; dental instruments, namely, pulp-canal instruments, broach holders,  
24 mouth-mirrors, handles for dental instruments, articulators, dental spatulas, and  
25 engine-drills. The KERR mark is a nonfunctional and an inherently distinctive  
26 indicator of origin that additionally has acquired distinctiveness through Plaintiff's  
27 widespread sales under, and advertising of, the mark.

28 ///

1           11. Since at least 1986, Plaintiff has used the HERCULITE mark in  
2 connection with a dental composite. The HERCULITE mark is a nonfunctional and  
3 an inherently distinctive indicator of origin that additionally has acquired  
4 distinctiveness through Plaintiff's widespread sales under, and advertising of, the  
5 mark.

6           12. Since at least 1992, Plaintiff has used the OPTIBOND mark in  
7 connection with a dental adhesive. The OPTIBOND mark is a nonfunctional and an  
8 inherently distinctive indicator of origin that additionally has acquired  
9 distinctiveness through Plaintiff's widespread sales under, and advertising of, the  
10 mark.

11           13. Since at least 1994, Plaintiff has used the REVOLUTION trademark in  
12 connection with a dental composite filling material. The REVOLUTION mark is a  
13 nonfunctional and an inherently distinctive indicator of origin that additionally has  
14 acquired distinctiveness through Plaintiff's widespread sales under, and advertising  
15 of, the mark.

16           14. Since at least 1996, Plaintiff has used the NEXUS trademark in  
17 connection with dental resin cement. The NEXUS mark is a nonfunctional and an  
18 inherently distinctive indicator of origin that additionally has acquired  
19 distinctiveness through Plaintiff's widespread sales under, and advertising of, the  
20 mark.

21           15. Since at least 2004, Plaintiff has used the PREMISE trademark in  
22 connection with a universal dental restorative composite compound in a flowable  
23 configuration. The PREMISE mark is a nonfunctional and an inherently distinctive  
24 indicator of origin that additionally has acquired distinctiveness through Plaintiff's  
25 widespread sales under, and advertising of, the mark.

26           16. Since at least 2008, Plaintiff has used the MAXCEM ELITE trademark  
27 in connection with a self-etch, self-adhesive, resin dental cement. The MAXCEM  
28 ELITE mark is a nonfunctional and an inherently distinctive indicator of origin that

1 additionally has acquired distinctiveness through Plaintiff's widespread sales under,  
2 and advertising of, the mark.

3 17. Since at least 2003, Plaintiff has used the NX3 mark in connection with  
4 a permanent dental resin cement system featuring a color-stable adhesive dental  
5 resin cement. The NX3 mark is a nonfunctional and an inherently distinctive  
6 indicator of origin that additionally has acquired distinctiveness through Plaintiff's  
7 widespread sales under, and advertising of, the mark.

8 18. Plaintiff is the owner of numerous registrations from the U.S. Patent  
9 and Trademark Office covering the trademarks under which Plaintiff's products are  
10 sold. These include, but are not limited to, the following:

11 Mark	Reg. No.	Reg. Date	Goods
12 REVOLUTION	3645913	June 30, 2009	dental composite filling 13 material
14 KERR	3443640	June 10, 2008	dental materials, namely, 15 impression compounds, 16 impression-trays, dental 17 waxes, investment 18 compounds for use in the 19 investment casting of dental 20 articles, Plaster of Paris for 21 use in the creation of dental 22 articles, sealing agents for 23 dental purposes; dental 24 instruments, namely, pulp- 25 canal instruments, broach 26 holders, mouth-mirrors, 27

1	<b>Mark</b>	<b>Reg. No.</b>	<b>Reg. Date</b>	<b>Goods</b>
2				handles for dental
3				instruments, articulators,
4				dental spatulas, engine-
5				drills
6	OPTIBOND	2119642	Dec. 9, 1997	dental adhesive
7	NEXUS	2114553	Nov. 18, 1997	dental products, namely,
8				cement
9				
10	KERR	0671899	Dec. 30, 1958	dental tools, dental
11				instruments, and accessories
12				for use therewith
13				

14        19. Because declarations under Section 15 of the federal Lanham Act, 15  
15 U.S.C. § 1065, have been filed for the KERR mark, Reg. No. 0671899, the NEXUS  
16 mark, Reg. 2114553, and the OPTIBOND mark, Reg. No. 2119642, those  
17 registrations are incontestable and therefore constitute conclusive evidence of  
18 Plaintiff's ownership of the marks underlying those registrations. Registrations for  
19 the REVOLUTION Mark, Reg. No. 3645913 and KERR mark, Reg. No. 3443640,  
20 are prima facie evidence of Plaintiff's ownership of the marks underlying those  
21 registrations.

22        20. Plaintiff has spent substantial time, money, and effort in promoting its  
23 products under the KERR, REVOLUTION, PREMISE, MAXCEM ELITE,  
24 NEXUS, NX3, OPTIBOND and HERCULITE marks (collectively, the "Marks,"  
25 each, a "Mark"). As a result of Plaintiff's extensive and continuous use of the  
26 marks, and through the marks' widespread fame, distinctiveness, and favorable  
27 public acceptance and recognition, consumers throughout the United States,  
28 including in this District and in this Division, associated the marks exclusively with

1 Plaintiff prior to the date Defendants undertook the unlawful conduct described in  
2 this Complaint.

3 21. Prior to the date Defendants undertook the unlawful conduct described  
4 in this Complaint, the Marks were famous and distinctive in the state of California  
5 in light of:

- 6 a. Plaintiff's extensive advertising and promotion of the marks  
7 throughout California;
- 8 b. the extensive volume and geographic extent of sales in California  
9 of goods under the marks;
- 10 c. the actual recognition of the marks throughout California; and
- 11 d. in the case of the KERR, REVOLUTION, NEXUS and  
12 OPTIBOND marks, their federally registered status.

13 **DEFENDANTS' WRONGFUL ACTS**

14 22. Defendants have manufactured and sold dental supplies and materials  
15 in this District, including dental supplies and materials bearing counterfeits of the  
16 Marks.

17 23. Through its own independent investigation, Plaintiff learned that  
18 Defendants had contracted with local printers to produce unauthorized copies of the  
19 instruction booklets (called "Directions for Use" or "DFUs") that are included in the  
20 packages of Plaintiff's dental products.

21 24. Plaintiff did not authorize Defendants to print DFUs bearing Plaintiff's  
22 trademarks, and therefore, the DFUs were counterfeit.

23 25. Defendants have ordered and received between 10,000 and 15,000  
24 counterfeit DFUs each month since 2010.

25 26. Defendants can have only one reason for ordering this volume of  
26 counterfeit DFUs: to support a massive counterfeit operation distributing millions of  
27 dollars of counterfeit product each month.

28 ///



**COUNT I**

**FEDERAL TRADEMARK COUNTERFEITING**

27. Plaintiff repeats and incorporates by reference the allegations in paragraphs 1-26 as if fully set forth here.

28. Without authorization of Plaintiff, Defendants have used in commerce marks that are identical to, or substantially indistinguishable from, Plaintiff's federally registered KERR, NEXUS, REVOLUTION and OPTIBOND marks. Insofar as Defendants deliberately have used spurious copies of Plaintiff's federally registered KERR, NEXUS, REVOLUTION and OPTIBOND marks in connection with goods falling within the scope of Plaintiff's trademark rights, Defendants have intentionally violated 15 U.S.C. § 1116(d).

29. As a consequence of Defendants' actions, Plaintiff has suffered, and is continuing to suffer, irreparable harm and damage, including a diversion of sales from it to Defendants and a loss of goodwill. Plaintiff has no adequate remedy at law.

30. Given that Defendants' actions were willful, deliberate, and fraudulent, Plaintiff is entitled to an award of statutory damages and attorneys' fees under 15 U.S.C. § 1117(c).

**COUNT II**

**FEDERAL TRADEMARK INFRINGEMENT**

31. Plaintiff repeats and incorporates by reference the allegations in paragraphs 1-30 as if fully set forth here.

32. Defendants' use in connection with the sale of dental supplies and materials of marks identical or confusingly similar to Plaintiff's KERR, NEXUS, REVOLUTION and OPTIBOND marks is causing and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that Defendants' business and products are affiliated, connected, or associated with Plaintiff or have the sponsorship, endorsement, or approval of Plaintiff.



33. Defendants' activities constitute infringements of Plaintiff's KERR, NEXUS, REVOLUTION and OPTIBOND marks in violation of 15 U.S.C. § 1114(1) that are causing and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception and injury to Plaintiff's good will and reputation as symbolized by its KERR, NEXUS, REVOLUTION and OPTIBOND marks, for which Plaintiff has no adequate remedy at law.

34. Defendants' actions demonstrate an intentional, willful, and bad faith intent to trade on the good will associated with Plaintiff's KERR, NEXUS, REVOLUTION and OPTIBOND marks to the irreparable injury of Plaintiff.

35. Defendants' conduct is causing and is likely to cause substantial injury to the public and to Plaintiff, and Plaintiff is entitled to injunctive relief, and to recover Defendants' profits, actual damages, costs, and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

### COUNT III

## FEDERAL UNFAIR COMPETITION

36. Plaintiff repeats and incorporates by reference the allegations in paragraphs 1-35 as if fully set forth here.

37. Defendants' use in connection with the sale of dental supplies and materials of marks identical or confusingly similar to the Marks is causing, and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that Defendants' business and products are affiliated, connected, or associated with Plaintiff or have the sponsorship, endorsement, or approval of Plaintiff.

38. Defendants' activities constitute false representations, false descriptions, and false designations of origin of Defendants' products in violation of 15 U.S.C. § 1125(a) that are causing and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception and injury to Plaintiff's

/ / /

1 good will and reputation as symbolized by the Marks, for which Plaintiff has no  
2 adequate remedy at law.

3 39. Defendants' actions demonstrate an intentional, willful, and bad faith  
4 intent to trade on the good will associated with the Marks to the irreparable injury of  
5 Plaintiff.

6 40. Defendants' conduct is causing and is likely to cause substantial injury  
7 to the public and to Plaintiff and Plaintiff is entitled to injunctive relief, and to  
8 recover Defendants' profits, actual damages, costs, and reasonable attorneys' fees  
9 pursuant to 15 U.S.C. § 1117.

10 **COUNT IV**

11 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW**

12 41. Plaintiff repeats and incorporates by reference the allegations of  
13 paragraphs 1-40 as if fully set forth here.

14 42. Through its use of confusingly similar imitations of the Marks,  
15 Defendants have engaged in unlawful, unfair or fraudulent business acts or practices  
16 within the meaning of Cal. Bus. & Prof. Code § 17200 and Plaintiff is therefore  
17 entitled to injunctive relief.

18 **COUNT V**

19 **COMMON-LAW UNFAIR COMPETITION**

20 43. Plaintiff repeats and incorporates by reference the allegations set forth  
21 in paragraphs 1-42 above as if fully set forth here.

22 44. Defendants' use in connection with the sale of dental supplies and  
23 materials of marks identical or confusingly similar to the Marks constitute false  
24 representations, false descriptions, and false designations of origin of Defendants'  
25 products that are causing and, unless enjoined by this Court, will continue to cause a  
26 likelihood of confusion and deception and injury to Plaintiff's good will and  
27 reputation as symbolized by the Marks, for which Plaintiff has no adequate remedy  
28 at law.



**PRAYER FOR RELIEF**

Plaintiff therefore respectfully requests:

1. that Defendants and all agents, officers, employees, representatives, successors, assigns, attorneys, and all other persons acting for, with, by, through, or under authority from Defendants, or in concert or participation with Defendants, and each of them, be enjoined preliminarily and permanently from:
  - a. using any copy, reproduction, or colorable imitation or simulation of the Marks in connection with goods not manufactured under Plaintiff's authority;
  - b. using any mark that is a copy, reproduction, colorable imitation, or simulation of or, confusingly similar to Plaintiff's trademarks, or is likely to cause confusion, mistake, deception, or public misunderstanding that Defendants' products are products of Plaintiff, or are sponsored by or in any way related to Plaintiff;
  - c. passing off, palming off, or assisting in passing off or palming off, Defendants' products as those of Plaintiff, or otherwise continuing any and all acts of unfair competition;
2. that, in light of the risk to the public health posed by Defendants' conduct, Defendants be compelled to recall any products it has distributed bearing or associated with the Marks and not manufactured under Plaintiff's authority;
3. that Defendants be compelled to account to Plaintiff for any and all profits derived by Defendants and for all damages caused to Plaintiff under 15 U.S.C. § 1117 and the common law, and that Plaintiff's award be trebled as provided for by 15 U.S.C. § 1117(b);
4. that, in light of Defendants' willful counterfeiting of Plaintiff's KERR, NEXUS, REVOLUTION and OPTIBOND marks, Plaintiff be awarded

1 statutory damages under 15 U.S.C. § 1117(c) in the amount of  
2 \$2,000,000 for each of those marks for a total of \$8,000,000 in  
3 statutory damages;

4 5. that, in light of Defendants' willful and deliberate infringement of the  
5 Marks, Plaintiff be awarded punitive damages in connection with its  
6 California law causes of action;

7 6. that Defendants be required to pay to Plaintiff the costs of this action  
8 and its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;

9 7. that Defendants be required to pay prejudgment and post-judgment  
10 interest on the foregoing damages and profits awards; and

11 8. that Defendants be ordered to deliver up for destruction all bags, boxes,  
12 labels, signs, packages, receptacles, advertising, promotional material  
13 or the like in possession, custody, or under the control of Defendants  
14 that are found to adopt, to infringe, or likely to dilute any of Plaintiff's  
15 trademarks or that otherwise unfairly compete with Plaintiff; and

16 9. that Plaintiff have such other and further relief as the Court may deem  
17 just.

18 DATED: June 5, 2012

SCHEPER KIM & HARRIS LLP  
MARC S. HARRIS  
ALEXANDER H. COTE

21  
22 By: 

Alexander H. Cote  
Attorneys for Plaintiff KERR  
CORPORATION

**DEMAND FOR JURY TRIAL**

Plaintiff Kerr Corporation hereby demands that all issues be determined by jury.

DATED: June 5, 2012

SCHEPER KIM & HARRIS LLP  
MARC S. HARRIS  
ALEXANDER H. COTE

By: 

Alexander H. Cote  
Attorneys for Plaintiff KERR  
CORPORATION

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge James V. Selna and the assigned discovery Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

**SACV12- 891 JVS (ANx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☐ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☒ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



## Name &amp; Address:

SCHEPER KIM &amp; HARRIS LLP

MARC S. HARRIS (SBN #136647)

mharris@scheperkim.com

ALEXANDER H. COTE (SBN #211558)

acote@scheperkim.com

601 West Fifth Street, 12th Floor

Los Angeles, CA 90071-2025

Telephone: (213) 613-4655

Facsimile: (213) 613-4656

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

KERR CORPORATION,

PLAINTIFF(S)

v.

TRI DENTAL INC.; TRI DENTAL INNOVATORS  
CORPORATION; AHN LUU; and DOES 1-10,

DEFENDANT(S).

CASE NUMBER

SACV 12-891-JVS (LAN)

## SUMMONS

TO: DEFENDANT(S): TRI DENTAL INC.; TRI DENTAL INNOVATORS CORPORATION;  
AHN LUU; and DOES 1-10

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ \_\_\_\_\_ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Alexander H. Cote, whose address is SCHEPER KIM & HARRIS LLP, 601 W. Fifth St., 12th FL, Los Angeles, CA 90071-2025. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUN - 5 2012

By: \_\_\_\_\_

MARILYN DAVIS

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> )  <b>KERR CORPORATION</b>	<b>DEFENDANTS</b>  <b>TRI DENTAL INC.; TRI DENTAL INNOVATORS CORPORATION; AHN LUU; and DOES 1-10</b>
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Alexander H. Cote (SBN #211558) Telephone: (213) 613-4655 SCHEPER KIM & HARRIS Facsimile: (213) 613-4656 601 West Fifth Street, 12th Floor Los Angeles, CA 90071-2025	<b>Attorneys (If Known)</b>  <b>Unknown</b>

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:40%; border: none;">Citizen of This State</td> <td style="width:10%; border: none; text-align: center;">PTF</td> <td style="width:10%; border: none; text-align: center;">DEF</td> <td style="width:10%; border: none; text-align: center;">PTF</td> <td style="width:10%; border: none; text-align: center;">DEF</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 1</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td style="border: none;">Incorporated or Principal Place of Business in this State</td> <td colspan="4" style="border: none;"></td> </tr> <tr> <td style="border: none;">Citizen of Another State</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 2</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td style="border: none;">Incorporated and Principal Place of Business in Another State</td> <td colspan="4" style="border: none;"></td> </tr> <tr> <td style="border: none;">Citizen or Subject of a Foreign Country</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 3</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> <td style="border: none; text-align: center;"><input type="checkbox"/> 6</td> </tr> <tr> <td style="border: none;">Foreign Nation</td> <td colspan="4" style="border: none;"></td> </tr> </table>	Citizen of This State	PTF	DEF	PTF	DEF	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Incorporated or Principal Place of Business in this State					Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Incorporated and Principal Place of Business in Another State					Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6	Foreign Nation				
Citizen of This State	PTF	DEF	PTF	DEF																																
<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4																																
Incorporated or Principal Place of Business in this State																																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5																																
Incorporated and Principal Place of Business in Another State																																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6																																
Foreign Nation																																				

**IV. 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 Multi-District Litigation    ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:** JURY DEMAND: ☒ Yes    ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☐ Yes    ☒ No    **MONEY DEMANDED IN COMPLAINT:** \$ More than \$8,000,000

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
Lanham Act, 15 U.S.C. § 1116

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <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/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <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"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <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 Constitutionality of State Statutes	<b>CONTRACT</b> <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 Loan (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 <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. 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 <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <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 <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related <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	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & 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 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
---	--	--	---	---	--

FOR OFFICE USE ONLY: Case Number: SACV12-891

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☐ No ☒ Yes  
If yes, list case number(s): SACV 11-313 and SACV 11-1300

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or  
☒ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☒ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☒ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
☒ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
☒ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

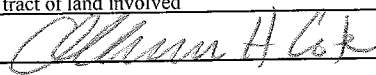
County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date June 5, 2012

**Notice to Counsel/Parties:** The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))