

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

WEITAT TOH, Individually and On Behalf of All
Others Similarly Situated,

Plaintiff,

-against-

SOUTHERN TELECOM, INC., AND SOUTHERN
TELECOM ELECTRONICS, INC.

Defendants,

CA No.

DEFENDANTS' NOTICE OF REMOVAL

Defendants Southern Telecom, Inc. and Southern Telecom Electronics, Inc. ("Defendants"), pursuant to 28 U.S.C. §§ 1332 and 1441, hereby remove this civil action from the Massachusetts Superior Court, Norfolk County, Case No. 16-cv-1253, to the United States District Court for the District of Massachusetts. Removal is based on diversity of citizenship.

Removal of this action is proper for the following reasons:

1. A civil action was commenced on or about October 3, 2016, captioned WEITAT TOH, Individually and On Behalf of All Others Similarly Situated v. Southern Telecom, Inc., and Southern Telecom Electronics, Inc., No. 16-cv-1253, in the Massachusetts Superior Court, Norfolk County (the "State Court Action").
2. On information and belief, Defendants were served with the Summons and Complaint on October 19, 2016. True and correct copies of the Summons and Complaint and Certificates of Service are attached hereto as Exhibits 1-2.

3. Defendants have thus filed this Notice of Removal within thirty days of service of the Summons and Complaint and is thus timely pursuant to 28 U.S.C. § 1446 (b)(1).

4. Defendants are authorized to remove this action under 28 U.S.C. § 1441 because this Court has original jurisdiction over this civil action: (1) Plaintiff and Defendants are “citizens of different States,” and (2) the amount of controversy “exceeds the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C. § 1332(a). Removal to this Court is also proper because this Court is the district court “for the district and division embracing the place where such action is pending,” and because Defendants are not citizens of Massachusetts, the state in which the action was brought. *See* 28 U.S.C. § 1441.

5. At the time of the commencement of this action, and since that time, Defendants were and are New York Corporations with a principal office at 14-C 53rd Street, Brooklyn, NY 11232.

6. As alleged in the Complaint, Plaintiff WEITAT TOH is a resident of Quincy, Massachusetts.

7. Thus, complete diversity is satisfied because Plaintiff does not share the state of citizenship with Defendants, and none of the parties are citizens of Massachusetts. *See* 28 U.S.C. § 1441(b).

8. Plaintiff’s Complaint alleges that if not for the alleged deception/misrepresentation on the part of Defendants, Plaintiff would not have purchased the speaker in question. (¶ 19). Exhibit B to Plaintiff’s Complaint illustrates that the speaker in question was purchased for \$79.99. Plaintiff’s Complaint further alleges that that

proposed class consists of “thousands of consumers.” (§ 30). The Complaint requests statutory damages, double or treble damages as allowed by law and attorney’s fees. (Prayer for Relief (C)). As such, it is clear that Plaintiff is seeking significantly more than \$75,000 in damages. The amount in controversy, exclusive of interest and costs, therefore exceeds \$75,000.

9. Pursuant to 28 U.S.C. § 1446(a), all process, pleadings, and orders served in the State Court Action are attached to this Notice of Removal as Exhibits 1-2.

10. A copy of a Notice of Filing of Notice of Removal is attached hereto as Exhibit 3. Promptly after filing this notice, Defendants will file that notice with the Norfolk Superior Court, and serve a copy on counsel for plaintiff as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants, notice the removal of this case to the United States District Court for the District of Massachusetts.

Dated: November 16, 2016

Respectfully submitted,
SOUTHERN TELECOM, INC.,
AND SOUTHERN TELECOM ELECTRONICS, INC.,

By their attorneys

/s/ David S. Godkin

David S. Godkin (BBO #196530)
James E. Kruzer (BBO #670827)
BIRNBAUM & GODKIN, LLP
280 Summer Street, 5th Floor
Boston, MA 02210
Tel: (617) 307-6100
Fax: (214) 307-6101
godkin@birnbaumgodkin.com
kruzer@birnbaumgodkin.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent to those indicated as non-registered participants on the above date.

/s/ David S. Godkin
David S. Godkin

EXHIBIT A

(TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:
TORT - MOTOR VEHICLE TORT - CONTRACT -
EQUITABLE RELIEF - OTHER)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
CIVIL ACTION

NO.

16 1253

Western Tel. Indus. Corp. and its Subsidiaries
et al. Individually and Jointly, Plaintiff(s)

v.

Southern Telecomm. Inc. and
Southern Telecomm. Electronics, Inc., Defendant(s)

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon FIRESTON W. LEONARD,
plaintiff's attorney, whose address is LEONARD LAW FIRM, PC, 63 ATLANTIC AVE, SUITE 2, DEDHAM, MA 02110
an answer to the complaint which is herewith served upon you, within 20 days after service of this
summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken
against you for the relief demanded in the complaint. You are also required to file your answer to the
complaint in the office of the Clerk of this court at Dedham either before service upon the plaintiff's
attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim
which you may have against the plaintiff which arises out of the transaction or occurrence that is the
subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other
action.

WITNESS, JUDITH FABRICANT, Esquire, at DEDHAM the THIRD

day of OCTOBER, in the year of our Lord two thousand and SIXTEEN

Walter A. D'Amico Clerk.

NOTES:

1. This summons is issued pursuant to Rules 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption.
If a separate summons is used for each such defendant, each should be addressed to the particular defendant.

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT DEPARTMENT

WEITAT TOH, Individually and On Behalf of All
Others Similarly Situated,

Plaintiff,

v.

SOUTHERN TELECOM, INC., and
SOUTHERN TELECOM ELECTRONICS, INC.,
Defendants.

Civil Action No. _____

CLASS ACTION COMPLAINT

I. INTRODUCTION

1. Plaintiff, Weitatt Toh ("Toh"), by and through undersigned counsel, on behalf of himself and all others similarly situated, submits the following class action complaint against Southern Telecom, Inc., and Southern Telecom Electronics Inc., collectively, ("Southern" or "Defendants") alleging claims of unfair and deceptive conduct in violation of G.L. c. 93A, § 2, untrue and misleading advertising in violation of G. L. c. 266 §91, and unjust enrichment.

2. Defendants engage in the deceptive practice of selling consumer electronics products containing dummy components. Specifically, Defendants market and sell tower speakers advertising four vertical speakers. In fact, only two of these are operating speakers. The other two are dummy speakers lacking wiring, a magnet, or any other components of real speakers.

3. By selling speakers that purport to have four working speakers, but in truth only have two working speakers, Defendants are able to entice consumers into purchasing something that appears more desirable than it actually is, the quintessence of a false advertising scheme.

II. PARTIES

4. Toh is an individual residing at 21 Linden St. Apt. 135, Quincy, MA 02170.

5. Southern Telecom, Inc. is a New York entity with a principal place of business at 14C 53rd St., Brooklyn, NY, 11232.

6. It appears that ATF, Inc. dissolved on August 31, 2016.

7. Southern Telecom Electronics, Inc. is a New York entity with a principal place of business at 14C 53rd St., Brooklyn, NY 11232, and a successor in interest to the dissolved ATF, Inc., which was a New York entity.

III. JURISDICTION AND VENUE

8. This Court has personal jurisdiction over Defendants pursuant to G.L. c. 223A § 3(a) because Defendants: regularly transact and have transacted business in the Commonwealth of Massachusetts by selling products to customers within Massachusetts; Defendants solicit business within Massachusetts; and the acts or conduct that are the subject matter of this action arose from the defendants' transaction of business in Massachusetts. Plaintiff is a citizen of Massachusetts and bought the speaker in Massachusetts

9. The jurisdiction of this Court is lawful and proper as the damages are in excess of twenty-five thousand dollars.

10. Venue in Norfolk County is lawful and proper as the defendants' unlawful acts occurred there.

IV. FACTUAL ALLEGATIONS

The Defendant's Deceptive Practices

11. Defendants sell a variety of consumer electronics, including a line of tower speakers that claim to have four speakers.

12. These speakers are sold through multiple channels of distribution, both brick and mortar and Internet, including but not limited to Bed Bath & Beyond, Big Lots, and Amazon.

13. These tower speakers (the "Products") generally have three common attributes: they are approximately forty inches tall, claim to have four speakers, and have only two operating speakers.

14. The defendants sell these speakers under several different brand names.

15. For example, though a licensing agreement with the now defunct Polaroid corporation, Defendants sell a "Polaroid Bluetooth Tower Speaker with Disco Party Light," model number PBT3012 (the "PBT3012") with external packaging and product labels bearing the Polaroid name and logo artwork.

16. The Products' packaging (cardboard boxes with words and images printed on them) all bear prominent pictorial representation of four speakers. See Exhibit A, Figure 1.

17. Likewise, advertising graphics displayed in connection with the Products on e-commerce sites where the Products are sold convey the unmistakable impression that the Products have four working speakers. See Exhibit A, Figure 2.

18. Plaintiff purchased his speaker through the retailer Amazon.com, after viewing a photo of the product on the site. A photo of how the product appears on Amazon is annexed

hereto as Exhibit A, Figure 2. Based on the representation of four speakers, Plaintiff believed the tower contained four working speakers.

19. If not for the four speaker claim, Plaintiff would not have purchased the PBT3012, or would not have purchased it at the price he paid for it, just as members of the Class would not have purchased the Products.

20. Defendants have sold and continue to sell the Products to consumers throughout the United States, and Massachusetts by means of false, deceptive and misleading labeling, advertising, marketing and promotion. Respondent makes claims in packaging, labeling and advertising for the Products that are false and that are intended to, and do mislead consumers into believing that the Products contain four speakers.

21. The representation by Defendants that the Products have four speakers is literally false because the Products have only two working speakers. Only the top and bottom speakers are complete, functioning speakers.

22. The middle two are dummy speakers, lacking basic parts necessary to produce sound, and not connected to any wiring. The absent parts include, but are not limited to: (a) magnet structure; (b) voice coil; (c) signal input; (d) connective wiring. See Exhibit A, Figure 3.

23. The two dummy speakers in the middle of the speaker tower make the Products appear more substantial and desirable to consumers than they are.

24. The middle sham speakers deceive consumers into believing that the Products are comparable to those offered for sale by competitors with four functioning speakers.

25. The two speakers on the far ends, or top and bottom, are fully functioning, wired speakers. See Exhibit A, Figure 4.

26. The Products are not true four-speaker towers, and are therefore worth significantly less than Plaintiff and Class members paid for them.

27. No reasonable person would expect that half of the speakers in the Products would not be functional.

V. CLASS ACTION ALLEGATIONS

28. Plaintiff brings Counts I-III, as set forth below, on behalf of himself and as a class action, pursuant to the provisions of the Massachusetts Rules of Civil Procedure 23(a)(1-4) and G. L. c. 9A, § 2 on behalf of a class defined as:

All persons who purchased the Products in the Commonwealth of Massachusetts on or after September 30, 2012 (the "Class").

Excluded from the Class are Defendants and their subsidiaries and affiliates; governmental entities; and the judge to whom this case is assigned and any immediate family members thereof.

29. Certification of Plaintiff's claims for classwide treatment is appropriate because Plaintiff can prove the elements of her claims on a classwide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

30. **Numerosity – Massachusetts Rule of Civil Procedure 23(a)(1).** The Class is so numerous that individual joinder of all Class members is impracticable. Plaintiff is informed and believes that there are thousands of consumers who have been affected by Defendants' unlawful conduct. The precise number of Class members and their addresses are unknown to Plaintiff, but may be ascertained from Defendant's or retailer's books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination

methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

31. **Commonality and Predominance – Massachusetts Rule of Civil Procedure 23(a)(2) and 23(b).** This action involves common questions of law and fact, which predominate over any questions affecting only individual Class members. All Class members were exposed to the same false and misleading claims and representations that the Products contained four working speakers, and they all purchased the Products as a result of those claims and representations. Furthermore, common questions of law and fact, include, but are not limited to:

- a. whether Southern advertises or markets the products in a way that is false, deceptive, or misleading;
- b. whether, by the misconduct set forth in this Complaint, Southern has engaged in unfair, deceptive or unlawful business practices with respect to the labeling, advertising, marketing and sales of the products;
- c. whether Southern failed to disclose material facts regarding the products;
- d. whether Southern violated Massachusetts General Laws Chapter 93A, § 2, and regulations promulgated thereunder;
- e. whether Southern was unjustly enriched by its conduct; and
- f. whether, as a result of Southern's misconduct as alleged herein, Plaintiff and Class members are entitled to restitution, injunctive and/or monetary relief and, if so, the amount and nature of such relief.

32. **Typicality – Massachusetts Rule of Civil Procedure 23(a)(3).** Plaintiff's claims are typical of the claims of the other members of the Class because, among other things, all Class members were similarly injured through the uniform misconduct described herein, and all Class members have the same claims, i.e., that Defendants made false and misleading product claims.

33. Adequacy of Representation – Massachusetts Rule of Civil Procedure

23(a)(4). Plaintiff is an adequate Class representative because his interests do not conflict with the interests of the other members of the Class he seeks to represent; he has retained counsel competent and experienced in class action litigation and employment litigation; and Plaintiff intends to prosecute this action vigorously. The Class's interests will be fairly and adequately protected by Plaintiff and his counsel.

34. Declaratory and Injunctive Relief - Southern has acted or refused to act on grounds generally applicable to Plaintiff and the other Class members, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to Class members as a whole.

35. Superiority – Massachusetts Rule of Civil Procedure 23(b). A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other Class members are relatively small compared to the burden and expense that would be required to individually litigate their claims against Southern, so it would be impracticable for Class members to individually seek redress from Southern's wrongful conduct. Even if Class members could afford individual litigation, the court system could not. Individualized litigation creates the potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

VI. CAUSES OF ACTION

**COUNT I:
UNJUST ENRICHMENT**

36. Plaintiff incorporates each of the foregoing allegations as if fully set forth herein.

37. Plaintiff and the other Class members conferred a benefit upon Southern, in the form of the excess prices they paid for the Products over and above their actual value.

38. Southern had an appreciation or knowledge of the excess prices paid for the Products by Plaintiff and the other members of the Class, as demonstrated by the fact that the Products offer no benefits not available from smaller speakers costing substantially less and unaccompanied by such claims.

39. Southern's acceptance or retention of these benefits is inequitable under the circumstances as outlined above.

40. Plaintiff, on behalf of himself and the other members of the Class, seeks restitution or, in the alternative, imposition of a constructive trust on the funds inequitably received and retained.

**COUNT II:
UNTRUE AND MISLEADING ADVERTISING UNDER G. L. c. 266, § 91**

41. Plaintiff incorporates each of the foregoing allegations as if fully set forth herein.

42. Southern's labeling, advertising, promotion, and marketing of the Products is untrue, deceptive and misleading, in violation of G. L. c. 266, § 91.

43. At all times relevant to this action, Southern knew, or could, upon reasonable investigation have ascertained that its labeling, advertising, marketing, and promotion of the Products was untrue, deceptive and misleading.

44. Southern's untrue, deceptive and misleading labeling, advertising, marketing and promotion of the Products has continued throughout the Class Period, and is continuing as of the present date.

45. As purchasers of the Products who were aggrieved by Southern's untrue and misleading advertising (in that Plaintiff and the other Class members purchased a product that did not conform to the claims and representations made about it by Southern, including claims regarding the number of working speakers contained in the Products, and other claims and representations), Plaintiff is entitled to and brings this class action to seek all available remedies under G. L. c. 266, § 91, including injunctive relief. The injunctive relief would include an Order directing Southern to cease its false and misleading labeling and advertising, retrieve existing false and misleading advertising and promotional materials, and publish corrective advertising.

**COUNT III:
UNFAIR AND DECEPTIVE CONDUCT IN VIOLATION OF G. L. c. 93A, § 2**

46. The Plaintiff readopts and realleges the preceding paragraphs, and incorporates them into this count.

47. Plaintiff incorporates each of the foregoing allegations as if fully set forth herein.

48. Southern's conduct, as alleged herein, constitutes unfair or deceptive acts or practices and unfair methods of competition in trade or commerce in violation of G. L. c. 93A, § 2 and the regulations promulgated thereunder, including, without limitation, 940 C.M.R. §§ 3.02(2), 3.05(1) and (2), 3.08(2) and 3.16(2).

49. Southern's unlawful conduct includes its false and misleading statements, representations, and depictions in its labeling and advertising for the Products, as alleged in greater detail above. Such conduct injured Plaintiff and each of the other Class members, in that:

(a) they paid more for the falsely advertised the Products than they would have paid (i) for the Products, absent the false and misleading claims or (ii) for speaker towers containing four working speakers as opposed to two or (b) they purchased the Products that, absent the false and misleading claims, they would not have purchased at all.

50. Alternatively, even in rare instances where Class members did not pay higher prices for the Products than they would have paid for the Products, absent the false and misleading claims, or for an accurately advertised similar product, at the time of their purchase, those Class members were injured in that the Products they purchased were and continue to be, due to the false advertising, worth less than the amounts they paid for them at the time of purchase.

51. Southern's unfair or deceptive acts or practices, as alleged herein, were willful or knowing violations of G. L. c. 93A, § 2, within the meaning of G. L. c. 93A, § 9(3).

52. Plaintiff and the other members of the Class have been injured by Southern's unfair or deceptive acts or practices and unfair methods of competition, as described above.

53. On July 20, 2016, Plaintiff served Southern with a demand letter, in accordance with M.G.L. c. 93A, § 9(3). The demand letter explained in detail the nature of the unfair or deceptive acts or practices, the injuries suffered by Plaintiff and the other members of the Class he seeks to represent, as well as demanding compensation for those injuries and other relief. A copy of the demand letter is annexed hereto as Exhibit B.

54. In response to that letter, Southern has failed and refused to make a reasonable offer of relief.

55. Pursuant to G. L. c. 93A, §§ 9(3) and 9(4), Plaintiff and each of the other members of the Class are entitled to recover statutory damages or actual damages, including recovery of double or treble the amount of their actual damages, plus their reasonable attorneys' fees and the costs of this action.

56. Plaintiff and the other members of the Class are also entitled to injunctive relief in the form of an order directing Southern to cease its false and misleading labeling and advertising, retrieve existing false and misleading labeling, advertising and promotional materials, and publish corrective advertising.

VI. PRAYER FOR RELIEF

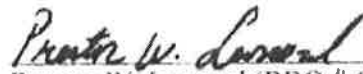
WHEREFORE, Plaintiff, individually and on behalf of the other members of the Class proposed in this Complaint, respectfully requests that the Court order the following relief:

- A. An Order certifying the Class as requested herein;
- B. An Order awarding restitution and disgorgement of Defendants' revenues to Plaintiff and the other members of the proposed Class;
- C. An Order awarding equitable relief, including: enjoining Defendants from continuing the unlawful false advertising practices as set forth herein, directing Defendants to retrieve existing false and misleading advertising and promotional materials, directing Defendants to engage in a corrective advertising campaign, directing Defendants to identify, with Court supervision, victims of their conduct and pay them restitution, and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful;
- D. An Order awarding statutory damages or actual damages, whichever results in a greater recovery, and double or treble damages as allowable by law;
- E. An Order awarding attorneys' fees and costs to Plaintiff and the other members of the Class; and
- F. Such other and further relief as may be just and proper.

VII. JURY DEMAND

Plaintiff and the Class demand a trial by jury of all claims in this Complaint so triable.

Respectfully submitted,



Preston W. Leonard (BBO # 680991)

LEONARD LAW OFFICE, PC

63 Atlantic Avenue, 3rd Floor

Boston, MA 02110

Telephone: (617) 329-1295

pleonard@theleonardlawoffice.com



Andrei Rado

MILBERG LLP

One Pennsylvania Plaza

New York, New York 10119-0165

Telephone: (212) 594-5300

Facsimile: (212) 868-1229

arado@milberg.com

(*Pro Hac Vice* Petition to be Submitted)

Counsel for Plaintiff and the Class

Dated: September 30, 2016

EXHIBIT A

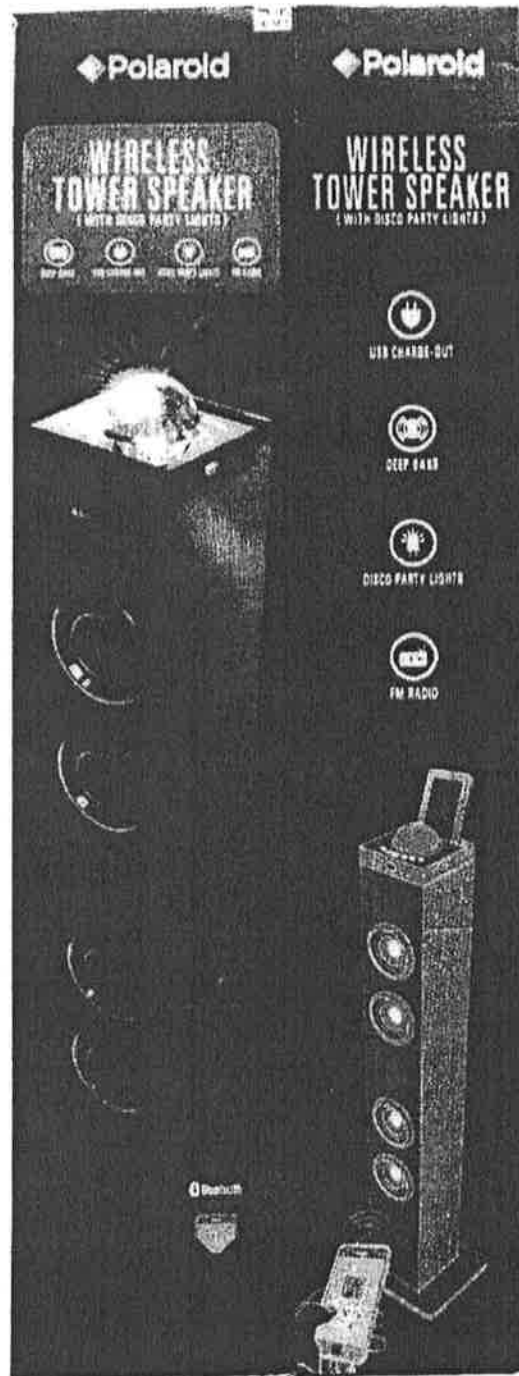


Figure 1 – Box Pictorial Representation



Figure 2 – Amazon Pictorial Representation

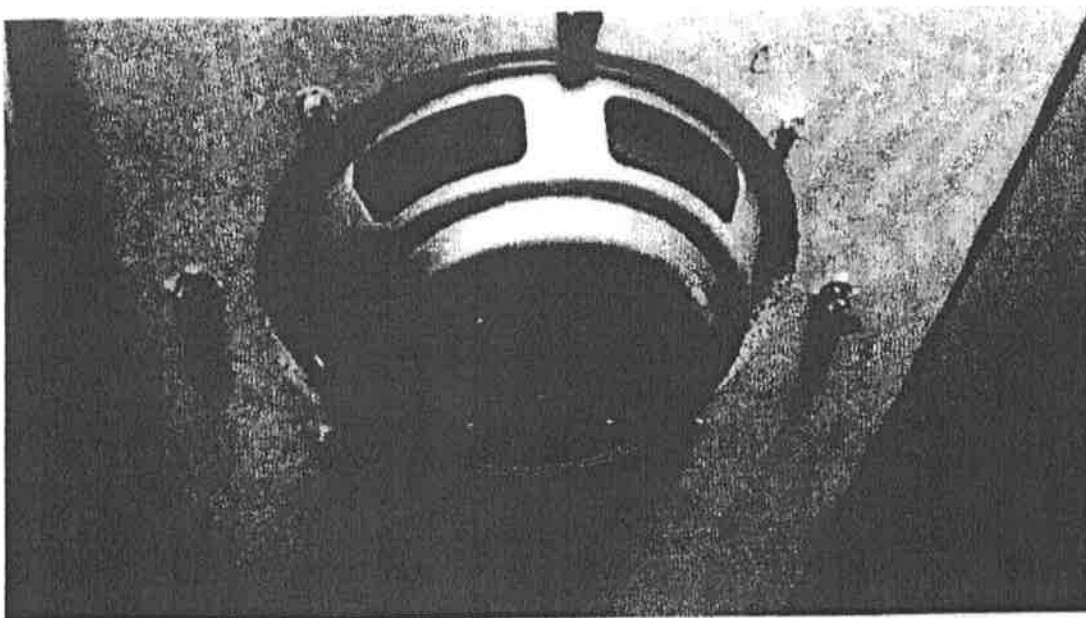


Figure 3 - Dummy Speaker

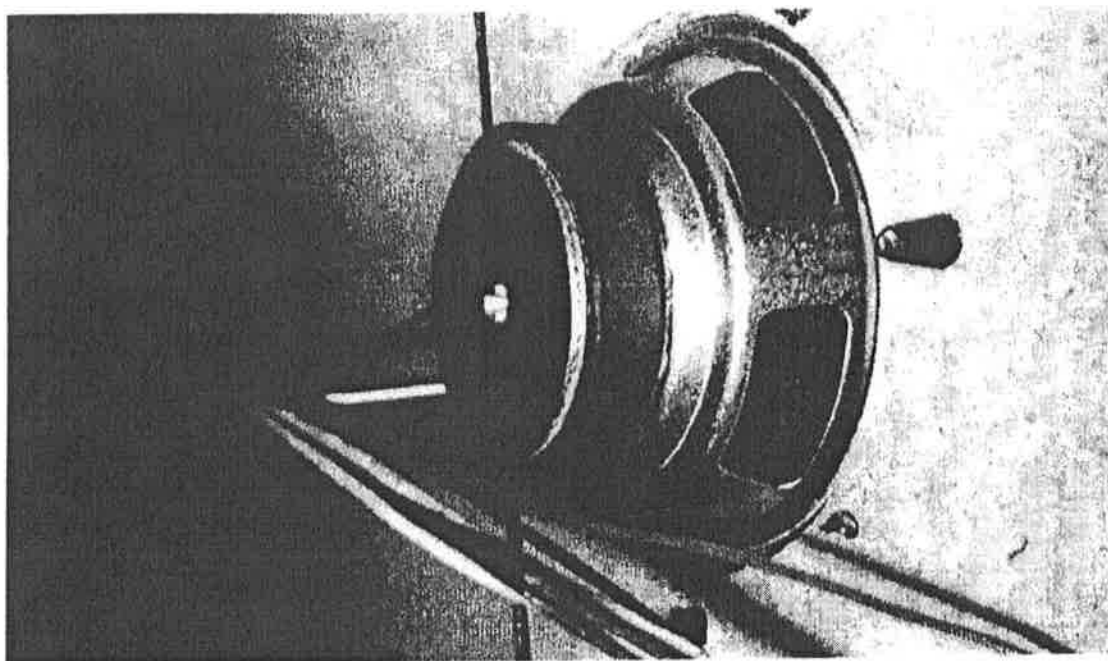


Figure 4 - Functioning Speaker

EXHIBIT B

LEONARD LAW OFFICE, PC

63 Atlantic Avenue

3RD Floor

Boston, MA 02110

Telephone: 617-329-1295

Facsimile: 617-742-9701

pleonard@theleonardlawoffice.com

July 19, 2016

VIA UPS

Legal Department
Southern Telecom, Inc. & AIT, Inc.,
14-C 53rd St.
Brooklyn, NY 11232

DEMAND FOR RELIEF PURSUANT TO M.G.L., CHAPTER 93A, § 9(3)

Dear Sir/Madam:

We represent Wei Toh ("Claimant"), individually and as a representative of a class of all persons similarly situated, as defined below. This is a written demand to AIT, Inc., and Southern Telecom, Inc. (referred to as the "Respondent" or "AIT/Southern"), pursuant to Massachusetts General Laws, Chapter 93A, §9(3), with respect to false, deceptive and misleading labeling and advertising of tower speakers with (seemingly) four discreet speakers manufactured, advertised, and distributed by AIT and Southern Telecom under various brand names, including, without limitation, Polaroid, Sharper Image, Art & Sound, and Sylvania (the "Products").

CLAIMANT AND THE CLASS:

Claimant, a resident of Massachusetts, makes this demand on behalf of himself and classes comprised of all persons in Massachusetts and the United States who purchased the Products from AIT/Southern during the period from June 7, 2012, through the present (the "Class").

During the Class Period, Claimant purchased the Polaroid Bluetooth Tower Speaker with Disco Party Light, model number PBT3012 (the "Product"), from Amazon. When making a decision to purchase this product, he viewed and reasonably relied on the prominent pictorial representation of four speakers on product labeling and packaging. If not for the four speaker claim, Claimant would not have purchased the Product, or would not have purchased it at the price he paid for it.

Southern/ATF
July 19, 2016
Page 2

UNFAIR OR DECEPTIVE ACTS OR PRACTICES:

Respondent has engaged in unfair or deceptive acts or practices including, but not limited to, the following:

Respondent sold the Products to consumers throughout the United States, by means of false, deceptive and misleading labeling, advertising, marketing and promotion. Respondent makes claims in packaging, labeling and advertising for the Products that are false and that are intended to, and do mislead consumers into believing that the Products contain four speakers. The box in which the Products are sold prominently display photographs and drawings of the Products. The Products are depicted as having four identical speakers, evenly spaced within a tall, floor-standing tower speaker cabinet.

The representation by Respondent that the Products have four speakers is literally false because the Products have only two *working* speakers. Only the top and bottom speakers are complete, functioning speakers. The middle two are dummy speakers, lacking basic parts necessary to produce sound, and not connected to any wiring. The absent parts include, but are not limited to:

- magnet structure
- voice coil
- signal input
- connective wiring

The two dummy speakers in the middle of the tower make the Products appear more substantial and desirable to consumers than they are. The middle sham speakers deceive consumers into believing that the Products are comparable to those offered for sale by competitors. The Product, a floor-standing, 40" tall speaker, is not a true four-speaker tower, and is therefore worth significantly less than Claimant and Class members paid for it. No reasonable person would expect that half of the speakers in the Products would not be powered.

Respondents' acts and practices constitute unfair methods of competition and unfair or deceptive acts and practices in the conduct of trade or commerce, declared unlawful by M.G.L., c. 93A, § 2. In addition, Respondent's conduct is in violation of the following regulations promulgated by the Massachusetts Attorney General under c. 93A:

- (a) 940 C.M.R. § 3.02 (prohibiting, among other things, statements or illustrations used in advertisements which create a false impression of the grade, quality, value, or usability of the product offered);
- (b) 940 C.M.R. § 3.05(1) (prohibiting claims or representations "made by any means concerning a product which, directly, or by implication, or by failure to adequately disclose additional relevant information, has the capacity or

Southern/ATF
July 19, 2016
Page 3

tendency or effect of deceiving buyers or prospective buyers in any material respect");

- (c) 940 C.M.R. §3.05(2) (prohibiting the use of any advertisement "which would mislead or tend to mislead buyers or prospective buyers, through pictorial representations or in any other manner, as to the product being offered for sale");
- (d) 940 C.M.R. § 3.08(2) (providing that it "shall be an unfair and deceptive act or practice to fail to perform or fulfill any promises or obligations arising under a warranty");
- (e) 940 C.M.R. § 3.16(2) (providing that it is a violation of c. 93A, § 2 to "fail to disclose to a buyer or prospective buyer any fact, the disclosure of which may have influenced the buyer or prospective buyer to enter into the transaction"); and
- (f) 940 C.M.R. § 3.16(3) (providing that an act or practice violates c. 93A, § 2 if it "fails to comply with existing statutes, rules, regulations or laws, meant for the protection of the public's health, safety or welfare promulgated by the Commonwealth or any political subdivision thereof intended to provide consumers of this Commonwealth protection").

As a proximate and direct result of this conduct, Claimant and similarly situated consumers have been injured and suffered damages by being induced to pay more for an inferior product or to purchase a product they would not have purchased had they known that half of the Products' speakers are non-working, unwired dummy speakers. Likewise, Respondent has unreasonably profited from its conduct by increased sales.

INJURIES SUFFERED:

Claimant, as well as the other members of the Class, has been injured as a result of Respondent's use or employment of unfair or deceptive acts or practices as follows: Claimant and members of the Class have incurred actual damages, including the amounts they paid for their respective purchases of the falsely and deceptively advertised Product during the Class Period; Claimant and Class members have been injured by the amount of the profits made by Respondent on sales of the Product to Class members; and Claimant and Class members have suffered non-economic injuries from having purchased a falsely advertised product. The aggregate amount of actual damages suffered by the Class cannot be determined without reference to Respondent's records and notice to the Class.

Southern/AIT
July 19, 2016
Page 4


DEMAND FOR RELIEF:

Claimant, on behalf of himself and all others similarly situated, demands that Respondent:

1. Compensate Claimant and Class members for the actual damages incurred by them (including but not limited to: the total amounts spent by Class members on the Product or pay statutory damages of \$25.00 for each class member pursuant to c. 93A, § 9(3), whichever results in a greater recovery);
2. Modify the Products' labeling, packaging and advertising to eliminate any misleading pictorial representations, and otherwise to modify or remove all statements that are false, deceptive or misleading, and;
3. Reimburse Claimant and Class members for their reasonable attorneys' fees and expenses incurred in bringing this claim.

Please be advised that Respondent has thirty (30) days to make a reasonable offer of relief. If Respondent fails to make a reasonable offer for the Class, a claim will be brought under Chapter 93A, seeking damages, injunctive relief and attorneys' fees. You are advised that if the Court determines that Respondent's conduct was willfully or knowingly unfair or deceptive, the Court must award the Class up to three times, but not less than two times, their actual damages.

Very truly yours,


Preston W. Leonard

cc: Andrei Rado, Esq., Milberg LLP (via email only)
John Serebinski, Esq., Milberg LLP (via email only)

EXHIBIT B

7/19/2016

UPS Internet Shipping: Shipment Label

UPS Internet Shipping: View/Print Label

1. Ensure there are no other shipping or tracking labels attached to your package. Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. Fold the printed label at the solid line below. Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. GETTING YOUR SHIPMENT TO UPS
 Customers with a Daily Pickup
 Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

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 TANGS FURNITURE
 100 BEACH ST
 BOSTON, MA 02111

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PRESTON W. LEONARD, ESQ. 617-339-1260 LEONARD LAW OFFICE, PC 10 ATLANTIC AVE BOSTON, MA 02110 SHIP TO: LEGAL DEPARTMENT 877-768-8481 SOUTHERN TELECOM, INC. 14 C 53RD STREET BROOKLYN NY 11232	0.1 LBS LTR 1 OF 1	NY 112 9-01 	2 UPS 2ND DAY AIR TRACKING #: 1Z 203 1R6 35 9501 9812 	BILLING: P/P SIGNATURE REQUIRED 
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PROOF OF SERVICE OF PROCESS

I hereby certify and return that on _____, 20____, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5):

.....

.....

.....

Dated: _____, 20_____

N. B. TO PROCESS SERVER:-

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON
DEFENDANT.

_____, 20____

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT
CIVIL ACTION

NO.

WEST AT TOW. Individually and Collectively of All

Other, Sincerely, Sincerely, Plaintiff

V.

SOUTHERN TELECOM, INC., and

SOUTHERN TELECOM, INC., Defendant

SUMMONS

(Mass. R. Civ. P.4)

EXHIBIT C

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
DOCKET NO. 16-cv-1253

WEITAT TOH, Individually and On Behalf of All
Others Similarly Situated,

Plaintiff,

-against-

SOUTHERN TELECOM, INC., AND SOUTHERN
TELECOM ELECTRONICS, INC.

Defendants,

DEFENDANTS' NOTICE OF FILING OF NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446 (d) Defendants Southern Telecom, Inc. and Southern Telecom Electronics, Inc. hereby notify the Court of the filing of a Notice Of Removal of the above-captioned action to the United States District Court for the District of Massachusetts. The Notice of Removal, attached hereto as Exhibit 1, was filed with the United States District Court for the District of Massachusetts on November 16, 2016.

WHEREFORE, Defendants, notice the removal of this case to the United States District Court for the District of Massachusetts.

Dated: November 17, 2016

Respectfully submitted,

SOUTHERN TELECOM, INC.,
AND SOUTHERN TELECOM ELECTRONICS, INC.,

By their attorneys



David S. Godkin (BBO #196530)
James E. Kruzer (BBO #670827)
BIRNBAUM & GODKIN, LLP
280 Summer Street, 5th Floor
Boston, MA 02210
Tel: (617) 307-6100
Fax: (214) 307-6101
godkin@birnbaumgodkin.com
kruzer@birnbaumgodkin.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party on this 16th day of November, 2016, by U.S. mail directed to the following address:

Preston W. Leonard, Esq.
Leonard Law Office, PC
63 Atlantic Avenue, 3rd Floor
Boston, MA 02110


James E. Kruzer

JS 44 (Rev. 09/11)

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Weitatz Toh, Individually and On Behalf of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff Norfolk

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Preston W. Leonard, Esq.

Leonard Law Office, PC

63 Atlantic Avenue, 3rd Floor, Boston, MA 02110

DEFENDANTS

Southern Telecom, Inc. et al

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

David S. Godkin, Esq.

Birnbaum & Godkin, LLP,

280 Summer Street, Boston, MA 02210

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)

(For Diversity Cases Only)

Citizen of This State

PTF

DEF

☒ 1☐ 1

Incorporated or Principal Place of Business in This State

Citizen of Another State

☐ 2☐ 2

Incorporated and Principal Place of Business in Another State

Citizen or Subject of a Foreign Country

☐ 3☐ 3

Foreign Nation

PTF

DEF

☐ 4☐ 4☐ 5☒ 5☐ 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 <input type="checkbox"/> 196 Franchise	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	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury 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"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395(f)) <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)) 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"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <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"/> 850 Securities/Commodities Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332

Brief description of cause:

unjust enrichment, G.L.c. 93A; G.L.c. 266 § 91

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/17/2016

SIGNATURE OF ATTORNEY OF RECORD

/s/ David S. Godkin

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Weitat Toh, Individually and On Behalf of All Others Similarly Situated v. Southern Telecom, Inc. et al.
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☒ I. 410, 441, 470, 535, 830*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 790, 820*, 840*, 850, 870, 871.
- ☐ III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.
- *Also complete AO 120 or AO 121. for patent, trademark or copyright cases.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
- YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
- YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
- YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
- YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
- Eastern Division ☒ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
- YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME David S. GodkinADDRESS Birnbaum & Godkin, LLP 280 Summer Street, Boston, MA 02210TELEPHONE NO. 617-307-6101