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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Taser International, Inc. an Arizona Corporation,

Plaintiff,

v.

Linden Research, Inc., an entity of unknown origin; **Linden Lab**, an entity of unknown origin; **Philip Rosedale**; **Mark Kingdon**; **Frank Ambrose**; **Sandy Gould**; **Tom Hale**; **Howard Look**; **Brian Michon**; **Joe Miller**; **Marty Roberts**; **Cyn Skyberg**; **Judy Wade**; **Ginsu Yoon**; and **John Zdanowski**; all related individuals, **Virtuatrade, LLC**, an entity of unknown origin, also doing business as **XStreet SL**; **XStreet SL**, an entity of unknown origin; and **Jay Geeseman**; a related individual.

Defendants

Case No.

COMPLAINT

**TRADEMARK INFRINGEMENT;
UNFAIR COMPETITION; VIOLATION
OF LANHAM ACT; FALSE
DESIGNATION OF ORIGIN AND
TRADE DRESS INFRINGEMENT;
ARIZONA COMMON LAW
TRADEMARK/TRADE NAME
INFRINGEMENT; DESIGN PATENT
INFRINGEMENT; RICO
VIOLATIONS; and THE
INDUCEMENT OF ALL CLAIMS
ABOVE)**

DEMAND FOR JURY TRIAL

1 Plaintiff Taser International, Inc. for its Complaint against Linden Research, Inc.,
2 Linden Lab, Philip Rosedale; Mark Kingdon; Frank Ambrose; Sandy Gould; Tom Hale;
3 Howard Look; Brian Michon; Joe Miller; Marty Roberts; Cyn Skyberg; Judy Wade; Ginsu
4 Yoon; and John Zdanowski; and Virtuatrade, LLC and Jay Geeseman, alleges as follows:

5
6 **JURISDICTION AND VENUE**

7 1. This action arises under the Patent Laws of the United States, 35 U.S.C.
8 §§271 and 281, for patent infringement and under §43(a) of the Lanham Act, 15 U.S.C.
9 §1125(a), for false designation of origin, and the Trademark Laws of the United States, 15
10 U.S.C. § 1051 et. seq. The action also arises under the laws of the State of Arizona for
11 Arizona Common Law Trademark/Trade Name Infringement per A.R.S. §§ 44-1441 to
12 1460.05

13 2. This Court has jurisdiction under 15 U.S.C. § 1121, 28 U.S.C. § 1331 and 28
14 U.S.C. § 1338(a) and (b).

15 3. This Court has jurisdiction over the unfair competition claims asserted herein
16 under the provisions of 28 U.S.C. § 1338(b) in that the claims are joined with a substantial
17 and related claim under the Trademark Laws of the United States.

18 4. This Court also has jurisdiction under 28 U.S.C. § 1332, as there is a
19 diversity of citizenship between the parties, the matter in controversy exceeds the sum of
20 Seventy Five Thousand Dollars (\$75,000), exclusive of interest and costs, and it includes
21 an action under Arizona law, for conduct within Arizona. Venue is proper in this District
22 under 28 U.S.C. § 1391 and § 1391(b)(2).

23 5. This Court also has pendent jurisdiction over the state law claims asserted
24 herein in that they arise out of a common nucleus of operative fact with Plaintiff's federal
25 claims.

26 6. Upon information and belief, all the Defendants are advertising, or have
27 caused or allowed their respective goods and business to be advertised, sold, and/or offered
28 for sale, and they have directed sales of product to be sold within this district, and are

1 therefore doing business in this district, and have committed many and varied acts of
2 infringement of at least the TASER trademark sued upon herein in this district.

3 7. Upon information and belief, all the Defendants are advertising, or have
4 caused or allowed their respective goods and business to be advertised, sold, and/or offered
5 for sale, and they have directed sales of weaponry products to be sold within this district.

6
7 **THE PARTIES**

8 8. Taser International, Inc. (also known as TII) (hereafter TII or Plaintiff) is a
9 Delaware corporation, authorized to do business in Arizona.

10 9. Defendant Linden Research, Inc. is an entity of unknown origin with its
11 principal place of business in San Francisco, CA, and does business within this district. TII
12 is informed and believes this Defendant has its business advertised on the internet in this
13 district on its website at <http://www.lindenlab.com>, under the name Linden Research, Inc.
14 (hereafter LRI or Defendant LRI). See Exhibit 1. It also distributes an application named
15 Second Life for free use or with paid membership use so that it may sell and profit from
16 accessories for such application. Some of these accessories clearly infringe upon
17 Plaintiff's trademark rights.

18 10. On information and belief, Defendant Linden Lab is an entity of unknown
19 origin with its principal place of business in San Francisco, CA, and does business within
20 this district. In the alternative, Defendant Linden Lab is a doing business name of
21 Defendant LRI.

22 11. On information and belief, Defendants LRI and Linden Lab also own and
23 operate two other websites, available and advertised on the internet in this district on their
24 website at <http://secondlife.com> and <https://www.xstreetsl.com>. See Exhibits 2 and 3.

25 12. On information and belief, on their websites Defendants LRI and Linden Lab
26 sell virtual weaponry using the name TASER to use in virtual computer animations
27 provided by these Defendants in this district on their website at <http://secondlife.com>. A
28

1 copy of relevant webpages for Defendants LRI and Linden Labs showing use of the
2 TASER mark for virtual weaponry is available in this district is included in Exhibit 3.

3 13. Upon information and belief, Defendants Philip Rosedale; Mark Kingdon;
4 Frank Ambrose; Sandy Gould; Tom Hale; Howard Look; Brian Michon; Joe Miller; Marty
5 Roberts; Cyn Skyberg; Judy Wade; Ginsu Yoon; and John Zdanowski are all officers of
6 Defendants LRI and Linden Lab, and they own, operate, and/or manage Defendants LRI
7 and Linden Labs and decide on their Defendants LRI and Linden Labs acquisitions. Upon
8 information and belief, TII alleges all of these Defendants make operative decisions for
9 Defendants LRI and Linden Labs.

10 14. Upon information and belief, Defendant Virtuatrade, LLC is an entity of
11 unknown origin with its principal place of business in Royersford, PA. TII is informed and
12 believes this Defendant had its business advertised on the internet in this district on its
13 website at <https://www.xstreetsl.com>, under the name XSTREET SL (hereafter VLC or
14 Defendant VLC). Until recently VLC sold virtual weaponry using the name TASER to use
15 in virtual computer animations provided by the Defendants LRI and Linden Labs
16 Defendants in district on its website at <http://secondlife.com>.

17 15. Upon information and belief, Defendant VLC's website at
18 <https://www.xstreetsl.com> is or was managed and directed by Defendant Jay Geeseman,
19 and recently sold for a large sum of money, after the due diligence performed by
20 Defendants Philip Rosedale; Mark Kingdon; Frank Ambrose; Sandy Gould; Tom Hale;
21 Howard Look; Brian Michon; Joe Miller; Marty Roberts; Cyn Skyberg; Judy Wade; Ginsu
22 Yoon; and John Zdanowski, to Defendants LRI and Linden Lab.

23 16. Upon information and belief, Defendant VLC's website at
24 <https://www.xstreetsl.com> is or was operated as Defendant XSTREET SL.

25 17. Upon information and belief, the VLC and XSTREET SL Defendants are or
26 were managed, owned, and/or operated by Defendant Jay Geeseman, an individual. *See*
27 Exhibit 4.

1 18. Upon information and belief, all of the Defendants that sell virtual weaponry
2 like Plaintiff's real ones, under the mark TASER for use in the Second Life programs and
3 grids, also sell adult-only explicit images and scenes, attached within Exhibit 2, thus
4 attaching such content to the TASER mark. *See* Exhibits 2 and 3.

5 19. Upon information and belief, all of the Defendants that sell virtual weaponry
6 like Plaintiff's real ones, under the mark TASER for use in the Second Life programs and
7 grids, also sell unlawful drug materials, *see* reference to "crack den" in Exhibit 3, page 9,
8 thus attaching such content to the TASER mark.

9 20. Upon information and belief, the Defendants LRI, Linden Labs, VLC and
10 XStreet SL are managed, owned, and/or operated by an individual, and that individual is
11 part of a spousal relationship. Upon information and belief, all actions of each of the
12 Defendants that are managed, owned, and/or operated by an individual alleged herein were
13 on behalf of that individual's spousal community.

14 21. Plaintiff, pursuant to the Federal Rules of Civil Procedure, hereby demands a
15 trial by jury in this matter.
16

17 **DEVELOPMENT OF THE TASER BRAND**

18 22. Plaintiff TII began operations as a weaponry manufacturer and seller years
19 ago.

20 23. As early as November 1974, Plaintiff, by and through predecessor entities,
21 began selling non-lethal weaponry under the mark TASER. An early registration last
22 owned by Plaintiff, was issued registration as early as April 26, 1983 under US Trademark
23 Registration No. 1,235,685. A copy of this registration is attached as Exhibit 5.

24 24. In January 1994, Plaintiff began making and selling a new line of non-lethal
25 weaponry, so Plaintiff filed a new trademark application for that line of non-lethal
26 weaponry on June 20, 2003, and it allowed US Trademark Registration No. 1,235,685 to
27 lapse. By November 1, 2005, Plaintiff had a new TASER registration, Trademark
28 Registration No. 3,010,500. Plaintiff filed to correct the listing of goods in Trademark

1 Registration No. 3,010,500, and a corrected registration was provided. A copy of the
2 corrected Trademark Registration No. 3,010,500 is attached as Exhibit 6.

3 25. Plaintiff also began marketing a weapon model M26, marked as the
4 ADVANCED TASER between June and December 1999. It filed to have this mark
5 registered, as well, and the ADVANCED TASER trademark registered on December 23,
6 2003. A copy of the Trademark Registration No. 2,797,467 is attached as Exhibit 7.

7 26. Additionally, Plaintiff began selling other weaponry besides a firearm type,
8 in or about December 1999. On April 1, 2008, Plaintiff received Trademark Registration
9 No. 3,404,298, for the mark TASER, for dart launchers and data recorders for the
10 launchers. *See* Exhibit 8.

11 27. By virtue of its 1974 first use of the mark TASER for certain weaponry,
12 Plaintiff TII became the owner of the common law trademark TASER, which was first
13 used in commerce on or after November 1974. Additionally, by virtue of Plaintiff's newer
14 trademark rights, Plaintiff obtained tacking rights to its earlier use, pursuant to such case
15 law as *Brookfield Commc'ns, Inc. v. West Coast Entertainment Corporation*, 174 F.3d
16 1036, 1048 (9th Cir. 1999), *Key Corp v. Key Bank & Trust*, 99 F. Supp. 2d 814, 820 (N.D.
17 Ohio 2000). n10. *Quiksilver Inc. v. Kymsta Corp.*, 2006 U.S. App. LEXIS 25029 (9th Cir.
18 2006). And as Plaintiff continued to use the TASER mark, it secured registration of
19 several TASER marks, and marked a 2003 model as model number X26.

20 28. Plaintiff's certificates of Trademark Registration Nos. 2,797,467; 3,010,500
21 and 3,404,298 establishes Plaintiff is the owner of the active weaponry TASER and
22 ADVANCED TASER registrations currently on the Principal Register. *See* Exhibits 5, 6,
23 7, and 8.

24 29. Each of Plaintiff's marks set forth herein has been in continuous use and is
25 currently in use in the United States in connection with TII's specified goods. TII's marks,
26 including common-law rights and rights by registration, are collectively referred to herein
27 as the "TASER" mark.

1 30. TII has enjoyed continuous and substantial sales of its goods in connection
2 with the TASER mark and trade name in the United States and in multiple other countries.
3 TII has also used model number M26 for handheld electronic weapons as of the fourth
4 quarter of 1999 and model number X26 for handheld electronic weapons as of the 3rd
5 quarter of 2003.

6 31. By reason of TII’s longstanding and extensive marketing, advertising,
7 promotion, and resulting sales of its goods and services in connection with the TASER
8 mark and trade name and the high quality of those goods, the TASER mark and trade name
9 have acquired distinctiveness, recognition, and fame among purchasers and the public long
10 before any of the Defendants can claim any priority in its TASER mark.

11 32. By reason of the extensive marketing, advertising, promotion, and resulting
12 sales and public recognition of TII’s goods in connection with the TASER mark and trade
13 name and the high quality of those goods, the TASER mark and trade name have come to
14 represent extremely valuable goodwill to TII.

15 33. The Defendants’ adoption and use of the TASER mark has been without the
16 consent or permission of Plaintiff.

17 34. Upon information and belief, the Defendant’s adoption and use of its TASER
18 mark has been with actual or constructive knowledge of the prior use of, application for,
19 and registration of the TASER mark and trade name in connection with TASER’s goods
20 and services.

21 **PLAINTIFF'S DISCOVERY OF “OTHER” TASER PRODUCTS**

22 35. As Exhibit 2 shows the XSTREET SL owner was Defendant Jay Geeseman.
23 It was just a few weeks ago, Plaintiff located Exhibit 2 and the ostensible owner of the
24 XSREET SL website, selling virtual weaponry in a fully fledged copy of Plaintiff’s real
25 ones for use in the Second Life computer simulation. These Defendants sold and
26 advertised TASER brand virtual weaponry via the web, directly into this district.

1 36. Upon information and belief, until very recently, the VLC, XStreet SL, and
2 Jay Geeseman Defendants sold and advertised TASER brand virtual weaponry via the web,
3 directly into this district, as well.

4 37. Upon information and belief, the Defendants communicated amongst
5 themselves and others, via mail, email, telephone, and/or through other interstate and
6 intrastate mediums, so as to plan to nationally sell and distribute their applications directly
7 into this district; and to pass-off on TII's TASER brand weaponry as their own via the web.
8 Upon information and belief, the Defendants' actions to pass off TASER weaponry as their
9 own, were false, fraudulent, or to induce fraud within consumers, which caused harm to
10 Plaintiff by associating such weaponry with adult-oriented, nearly or actually pornographic
11 images and references to illegal "crack den" sold on the same sites. Upon information and
12 belief, the Defendants' actions to use TASER weaponry as their own, or belonging to The
13 Newman Group, falsely and fraudulently misrepresented Plaintiff ownership of the
14 exclusive right to use the registered TASER mark in commerce on or in connection with
15 the goods or services specified in the registration (TII's type of weaponry) per 15 U.S.C.
16 §§ 1072 and 1115. *See* Exhibits 2 and 3, and specifically Exhibit 3, to see where
17 Defendants market TASER branded weaponry as made by a company named The Newman
18 Group, complete with an NG mark of its own.

19 38. Upon information and belief, now all of the Defendants have sold virtual
20 weaponry for the Second Life simulations, under the TASER mark, thus associating their
21 virtual weaponry with Plaintiff, as their own via the internet, directly into this district.

22 39. This makes all of these Defendants in direct competition with Plaintiff, and
23 the actions of the Defendants prevent TII from expanding on its success with its TASER
24 brands.

25 40. By a simple internet search of the TASER mark, TII found the advertising of
26 these Defendants resellers of TASER branded weaponry (even if virtual) being sold via the
27 internet directly into this district, and/or being sold directly into this district at the hands of
28

1 these Defendants sale of infringing TASER weaponry. Exhibit 3 is an example of a result
2 of such a search.

3
4 **COUNT I**

5 **(Infringement of Federally-Registered Trademark No. 3,010,500)**

6 41. Plaintiff TII hereby incorporates by reference the allegations contained in
7 paragraphs 1-40 of this Complaint to the same extent as if they were fully restated herein.

8 42. Continuously since its available priority date of November 1974, Plaintiff TII
9 by and through its predecessors in interest, has used the TASER mark to identify its
10 weapon products and to distinguish those products made and sold by others by, among
11 other things, prominently displaying the TASER mark on products, product packaging, and
12 on the like. In addition, Plaintiff has prominently displayed the TASER mark in use with
13 its goods through direct mail advertising, in periodicals distributed throughout the United
14 States, and on the internet.

15 43. The infringing Defendants, collectively, and each of them, have infringed
16 Plaintiff's TASER mark in interstate commerce by various acts, including selling, offering
17 for sale, and advertising weapon products under the name and TASER mark. The use of
18 the name and mark by the Infringing Defendants was without permission or authority of
19 Plaintiff, and the use by Defendants is likely to cause confusion, to cause mistake, and to
20 deceive.

21 44. The infringing Defendants' collective and individual acts of trademark
22 infringement and their unfair competition have been committed with either the intent to
23 cause confusion, mistake, and to deceive, or a reckless disregard that caused confusion,
24 mistake, and to deceive.

25 45. For the longest time, Plaintiff TII has given notice that the trademark is
26 registered in the United States Patent and Trademark Office by displaying with the
27 trademark the letter R enclosed within a circle, thus ®. Each of the Defendants know of
28 Plaintiff's rights under 15 U.S.C. 1072, and should have known to cease and desist from

1 their acts of trademark infringement, but these Defendants selling TASER branded product
2 have refused to cease such acts.

3 46. By reason of Defendants' acts as alleged herein, Plaintiff TII has and will
4 suffer damage to its business, reputation and goodwill and will suffer the loss of substantial
5 dollars in sales and profits that Plaintiff (or its licensees/franchisees) would have made but
6 for Defendants' acts.

7 47. The infringing Defendants threaten to continue to do the acts complained of
8 herein, and unless restrained and enjoined, will continue to do so, all to Plaintiff's
9 irreparable damage. It would be difficult to ascertain the amount of compensation which
10 could afford Plaintiff TII adequate relief for such continuing acts and a multiplicity of
11 judicial proceedings would be required. Plaintiffs remedy at law is not adequate to
12 compensate it for the threatened injuries.

13 **WHEREFORE**, Plaintiff TII prays for judgment against all the Defendants, and
14 each of them, as follows:

- 15 a. That this Court grant an injunction pursuant to the powers granted it under 15
16 U.S.C. § 1116, enjoining and restraining Defendants and their agents, servants and
17 employees from directly or indirectly using the name TASER or any other mark,
18 word, or name similar to Plaintiff's Mark which is likely to cause confusion,
19 mistake or to deceive;
- 20 b. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order that
21 all labels, packages, advertisements, media, and product, as well as signs, prints,
22 packages, wrappers, receptacles, and advertisements in the possession or control of
23 Defendants bearing the mark TASER and all plates, molds, electronic files,
24 application software, matrices and other means of making the same, shall be
25 delivered up and destroyed;
- 26 c. That Defendants be required to account to Plaintiff for any and all profits derived by
27 Defendants from the sale of their goods and for all damages sustained by Plaintiff
28 by reason of the acts of infringement and unfair competition complained of herein;

- 1 d. For an award of punitive damages against Defendants in an amount sufficient to
2 punish Defendants for their wrongful conduct and to deter others from engaging in
3 similar conduct in the future;
4 e. For an award of the costs incurred by Plaintiff in pursuing this action, including
5 reasonable attorneys' fees; and
6 f. For all other relief deemed proper by the Court under the circumstances.

7
8 **COUNT II**

9 **(Infringement of Federally-Registered Trademark No. 2,797,467)**

10 48. Plaintiff TII hereby incorporates by reference the allegations contained in
11 paragraphs 1-47 of this Complaint to the same extent as if they were fully restated herein.

12 49. Plaintiff TII adopted the ADVANCED TASER mark for its electronic
13 handheld weapons in 1999.

14 50. The infringing Defendants, and each of them, have infringed Plaintiff's
15 ADVANCED TASER mark in interstate commerce by various acts, including selling,
16 offering for sale, and advertising weapon products under the name using the TASER mark.
17 The use of the name and TASER mark by the Infringing Defendants was without
18 permission or authority of Plaintiff, and the use by Defendants is likely to cause confusion,
19 to cause mistake, and to deceive.

20 51. The infringing Defendants' acts of trademark infringement and their unfair
21 competition have been committed with the intent to cause confusion, mistake, and to
22 deceive.

23 52. Plaintiff TII has given notice that the ADVANCED TASER mark is
24 registered in the United States Patent and Trademark Office by displaying with the mark
25 the letter R enclosed within a circle, thus ®. Each of the Defendants know of Plaintiff's
26 rights under 15 U.S.C. 1072, and should have known to cease and desist from their acts of
27 trademark infringement, but these Defendants selling TASER branded product have
28 refused to cease such acts.

1 53. By reason of Defendants' acts as alleged herein, Plaintiff TII has and will
2 suffer damage to its business, reputation and goodwill and will suffer the loss of substantial
3 dollars in sales and profits that Plaintiff (or its licensees/franchisees) would have made but
4 for Defendants' acts.

5 54. The infringing Defendants threaten to continue to do the acts complained of
6 herein, and unless restrained and enjoined, will continue to do so, all to Plaintiff's
7 irreparable damage. It would be difficult to ascertain the amount of compensation which
8 could afford Plaintiff TII adequate relief for such continuing acts and a multiplicity of
9 judicial proceedings would be required. Plaintiff's remedy at law is not adequate to
10 compensate it for the threatened injuries.

11 **WHEREFORE**, Plaintiff TII prays for judgment against all the Defendants, and
12 each of them, as follows:

- 13 a. That this Court grant an injunction pursuant to the powers granted it under 15
14 U.S.C. § 1116, enjoining and restraining Defendants and their agents, servants and
15 employees from directly or indirectly using the name ADVANCED TASER or any
16 other mark, word, or name similar to Plaintiff's Mark which is likely to cause
17 confusion, mistake or to deceive;
- 18 b. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order that
19 all labels, packages, advertisements, media, and product, as well as signs, prints,
20 packages, wrappers, receptacles, and advertisements in the possession or control of
21 Defendants bearing the mark TASER and all plates, molds, electronic files,
22 application software, matrices and other means of making the same, shall be
23 delivered up and destroyed;
- 24 c. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order that
25 the Defendants cease use of all DVDs, server applications, databases, video
26 application software, and/or web site software containing the TASER marks, and
27 that all portals bearing the TASER mark be closed;
- 28

- d. That Defendants be required to account to Plaintiff for any and all profits derived by Defendants from the sale of their goods and for all damages sustained by Plaintiff by reason of the acts of infringement and unfair competition complained of herein;
- e. For an award of punitive damages against Defendants in an amount sufficient to punish Defendants for their wrongful conduct and to deter others from engaging in similar conduct in the future;
- f. For an award of the costs incurred by Plaintiff in pursuing this action, including reasonable attorneys' fees; and
- g. For all other relief deemed proper by the Court under the circumstances.

COUNT III

(Infringement of Federally-Registered Trademark No. 3,404,298)

55. Plaintiff TII hereby incorporates by reference the allegations contained in paragraphs 1-54 of this Complaint to the same extent as if they were fully restated herein.

56. Since obtaining Trademark Registration No. 3,010,500, Plaintiff also was awarded Trademark Registration No. 3,404,298 for less-lethal electronic weaponry, namely, launchers for wire-tethered darts; cartridges comprising wire-tethered darts; launch incident data recorders for installation as a component part of the launcher. A copy of this registration is attached as Exhibit 7.

57. The infringing Defendants, and each of them, are infringing Plaintiff's TASER mark in interstate commerce by various acts, including selling, offering for sale, and advertising weapon products under the name and TASER mark. The use of the name and Mark by the Infringing Defendants was without permission or authority of Plaintiff, and the use by Defendants is likely to cause confusion, to cause mistake, and to deceive.

58. The infringing Defendants' acts of trademark infringement and their unfair competition have been committed with the intent to cause confusion, mistake, and to deceive.

59. Plaintiff TII has given notice that the mark is registered in the United States Patent and Trademark Office by displaying with the mark the letter R enclosed within a

1 circle, thus ®. Each of the Defendants know of Plaintiff's rights under 15 U.S.C. 1072,
2 and should have known to cease and desist from their acts of trademark infringement, but
3 these Defendants selling TASER branded product have refused to cease such acts.

4 60. By reason of Defendants' acts as alleged herein, Plaintiff TII has and will
5 suffer damage to its business, reputation and goodwill and will suffer the loss of substantial
6 dollars in sales and profits that Plaintiff (or its licensees/franchisees) would have made but
7 for Defendants' acts.

8 61. The infringing Defendants threaten to continue to do the acts complained of
9 herein, and unless restrained and enjoined, will continue to do so, all to Plaintiff's
10 irreparable damage. It would be difficult to ascertain the amount of compensation which
11 could afford Plaintiff TII adequate relief for such continuing acts and a multiplicity of
12 judicial proceedings would be required. Plaintiffs remedy at law is not adequate to
13 compensate it for the threatened injuries.

14 **WHEREFORE**, Plaintiff TII prays for judgment against all the Defendants, and
15 each of them, as follows:

- 16 h. That this Court grant an injunction pursuant to the powers granted it under 15
17 U.S.C. § 1116, enjoining and restraining Defendants and their agents, servants and
18 employees from directly or indirectly using the name TASER or any other mark,
19 word, or name similar to Plaintiff's Mark which is likely to cause confusion,
20 mistake or to deceive;
- 21 i. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order that
22 all labels, packages, advertisements, media, and product, as well as signs, prints,
23 packages, wrappers, receptacles, and advertisements in the possession or control of
24 Defendants bearing the mark TASER and all plates, molds, electronic files,
25 application software, matrices and other means of making the same, shall be
26 delivered up and destroyed;
- 27 j. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order that
28 the Defendants cease use of all DVDs, server applications, databases, video

1 application software, and/or web site software containing the TASER marks, and
2 that all portals bearing the TASER mark be closed;

- 3 k. That Defendants be required to account to Plaintiff for any and all profits derived by
4 Defendants from the sale of their goods and for all damages sustained by Plaintiff
5 by reason of the acts of infringement and unfair competition complained of herein;
- 6 l. For an award of punitive damages against Defendants in an amount sufficient to
7 punish Defendants for their wrongful conduct and to deter others from engaging in
8 similar conduct in the future;
- 9 m. For an award of the costs incurred by Plaintiff in pursuing this action, including
10 reasonable attorneys' fees; and
- 11 n. For all other relief deemed proper by the Court under the circumstances.

12
13 **COUNT IV**

14 **(Common Law Trademark Infringement)**

15 62. Plaintiff hereby incorporates by reference the allegations above in paragraphs
16 1-53 to the same extent as if they were fully restated herein.

17 63. TII was the first to use to use the mark TASER in commerce with weaponry
18 as of November 1974.

19 64. TII has continuously used the marks TASER and/or ADVANCED TASER in
20 commerce with at least electronic weaponry since 1994.

21 65. TII has continuously used the model numbers M26 and X26 as marks in
22 connection with TASER and ADVANCED TASER products in commerce with at least
23 electronic weaponry for many years.

24 66. The Defendants has advertised their virtual weaponry, and offered same for
25 sale, under the mark TASER over the web as if they operate in the same geographic area as
26 Plaintiff, for virtually identical goods to Plaintiff's, under the TASER brand name and
27 mark, as well as using the model numbers M26 and X26.

1 67. With Plaintiff using TASER and ADVANCED TASER marks and M26 and
2 X26 model designations for its goods and services, and Defendants using TASER, or
3 another derivation thereof, or model designations M26 and X26 for virtually identical
4 goods and services, confusion among customers and potential customers is likely.

5 68. All use of the TASER, M26, and/or X26 marks by Defendants, is common
6 law trademark infringement by them, and any company or anyone in privity with them.

7 69. The goods and services the Defendants use Plaintiff's TASER, M26, and
8 X26 marks therewith, are similar and/or closely related to the goods and services TII
9 provides in connection with its TASER and other marks, and its trade name.

10 70. The goods and services the Defendants use Plaintiff's TASER, M26, and
11 X26 marks therewith, are likely to be sold to the same customers and through the same
12 channels of trade in which TASER provides its goods and services with its TASER , M26,
13 and X26 marks and trade names as TII sells its wares via www.taser.com.

14 71. The Defendants' TASER mark wholly incorporates TII's TASER, M26, and
15 X26 marks and trade names, and the Defendants' marks are substantially and confusingly
16 similar to TII's TASER mark and trade name.

17 **WHEREFORE**, Plaintiff TII prays for judgment against all the Defendants, and
18 each of them, as follows:

- 19 a. Enjoining Defendants from utilizing the common law trademarks "TASER", and/or
20 any marks confusingly similar thereto;
- 21 b. Enjoining Defendants from utilizing the common law trademarks "M26", "X26"
22 and/or any marks confusingly similar thereto;
- 23 c. Requiring Defendants to surrender for destruction all product, letterhead,
24 advertisements, and any other articles, signs, brochures, catalogues, and all other
25 material promoting and leading to infringement of Plaintiff's TASER trademark;
- 26 d. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order that
27 the Defendants cease use of all DVDs, server applications, databases, video
28

1 application software, and/or web site software containing the TASER marks, and
2 that all portals bearing the TASER mark be closed;

3 e. Ordering that Defendants pay the damages sustained by Plaintiff as a result of the
4 actions described herein; and

5 f. Together with such other and further relief as to the Court may seem just and
6 proper.

7
8 **COUNT V**

9 **(Unfair Competition/Dilution of Trademark Rights)**

10 72. Plaintiff hereby incorporates by reference the allegations above in paragraphs
11 1-71, to the same extent as if they were fully restated herein.

12 73. The acts of the Defendants constitute unfair competition and an infringement
13 of Plaintiff's common-law rights in the TASER, M26, and X26 marks.

14 74. Continuously since at least 2003, Plaintiff has used the TASER and
15 ADVANCED TASER marks and M26 and X26 model numbers to identify its goods and
16 services and to distinguish them from those goods and services offered and sold by others,
17 in, among other things, advertising distributed throughout the United States, and in flyers
18 and brochures distributed throughout the United States, on location displays, in direct mail
19 advertising, on television, and on the internet throughout the United States.

20 75. Plaintiff's goods and services advertising have been offered and distributed
21 in the trade area where Defendants are doing business, and have now crossed over to
22 challenge Plaintiff's use. As a result of the sales and advertising by Plaintiff under the
23 TASER and ADVANCED TASER marks and the model numbers M26 and X26, the marks
24 has developed and now has a secondary and distinctive trademark meaning to customers in
25 Plaintiff's trade area.

26 76. As a result of the association by customers of each Defendant's TASER mark
27 and the model numbers M26 and X26 for branded goods and services with the Plaintiff,
28 Defendants' use of the TASER and ADVANCED TASER marks and the model numbers

1 M26 and X26, or any of these in a name is likely to cause confusion on the part of
2 Plaintiff's and Defendants' customers.

3 77. Defendants have infringed Plaintiff's rights in the TASER, ADVANCED
4 TASER, M26 and X26 marks as alleged herein with the intent to deceive the public into
5 believing that such goods and services offered by Defendants are made by, approved by,
6 sponsored by, or affiliated with the originator of the marks, TII. Defendants' acts as alleged
7 herein were committed with the intent to pass off its services as the services of Plaintiff and
8 with the intent to deceive and defraud the public.

9 78. By reason of Defendants' acts as alleged herein, Plaintiff has and will suffer
10 damage to its business, reputation, and goodwill and in the loss of sales and profits that
11 Plaintiff would have made but for Defendants' acts. By reason of Defendants' acts as
12 alleged herein, Plaintiff's rights in the TASER, ADVANCED TASER, M26 and X26
13 marks and TII's TASER trade name will also be diluted.

14 79. TII's marks and trade name are widely recognized by the general consuming
15 public of the United States as a designation of source of TII's goods and services.

16 80. TII's TASER marks and trade name are famous as the term is defined in 15
17 U.S.C § 1125(c).

18 81. TASER electronic weaponry is sold to enforcement agencies and consumers
19 at large. The mark TASER is well known by the public for promoting law and order via
20 police work and for citizen self-defense.

21 82. Defendants' use of the TASER mark is likely to cause dilution by blurring
22 and impair the distinctiveness of TII's famous TASER mark, whereby TII will be damaged
23 by the Defendants' use of the TASER mark.

24 83. Defendants' use of the TASER mark is likely to cause dilution by
25 tarnishment and will damage the reputation of TII's famous TASER mark, whereby TII
26 will be damaged by the Defendants' use of the TASER mark.

27 84. As Exhibit 3 shows, Defendants' use of the TASER mark associates the mark
28 with a company named The Newman Group, thus damaging TII's business, reputation, and

1 goodwill, will result in the loss of sales and profits that Plaintiff would have made but for
2 Defendants' acts.

3 85. Defendants threaten to continue to do the acts complained of herein, and
4 unless restrained and enjoined, will continue to do so, all to Plaintiff's irreparable damage.
5 It would be difficult to ascertain the amount of compensation that could afford Plaintiff
6 adequate relief for such continuing acts and the breach made by all of the Defendants, and
7 a multiplicity of judicial proceedings would be required. Plaintiff's remedy at law is not
8 adequate to compensate it for the threatened injuries.

9 **WHEREFORE**, Plaintiff TII prays for judgment against all of the Defendants, and
10 each of them, as follows:

- 11 a. That this Court grant an injunction enjoining and restraining Defendants and their
12 agents, servants and employees from (1) directly or indirectly using the word
13 TASER or any other mark, word, or name similar to TII's TASER, ADVANCED
14 TASER, M26, and X26 marks which is likely to cause confusion, and (2)
15 continuing any and all acts of unfair competition as herein alleged;
- 16 b. That this Court grant an injunction enjoining and restraining Defendants and their
17 agents, servants and employees from (1) directly or indirectly using the word
18 TASER or any other mark, word, or name similar to TII's TASER mark or its
19 M26, and X26 marks, near or with pornographic, lewd, or lascivious imagery, or
20 near or with any unlawful-drug-related material;
- 21 c. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order
22 that the Defendants cease use of all DVDs, server applications, databases, video
23 application software, and/or web site software containing the TASER marks, and
24 that all portals bearing the TASER mark be closed;
- 25 d. That Defendants be required to account to Plaintiff for any and all profits derived
26 by Defendants from the sale of its so-branded goods and services and for all
27 damages sustained by Plaintiff by reason of the acts of infringement and unfair
28 competition complained of herein;

- 1 e. For an award of punitive damages in an amount sufficient to punish Defendants
2 for their wrongful conduct and to deter others from engaging in similar conduct in
3 the future;
4 f. For an award of the costs incurred by Plaintiff in pursuing this action, including
5 reasonable attorneys' fees; and
6 g. For all other relief deemed proper by the Court under the circumstances.
7

8 **COUNT VI**

9 **(Unfair Competition - False Designation of Origin with Regard to Product Designs)**

10 86. Plaintiff hereby incorporates by reference the allegations above in paragraphs
11 1-84, to the same extent as if they were fully restated herein.

12 87. Plaintiff, TII, is in the business of developing, manufacturing, and selling
13 weapons of the type disclosed in the aforesaid design patents.

14 88. Plaintiff has, over a period of many years, expended time, money, and effort
15 in promoting weapons under its patented design.

16 89. Upon information and belief, purchasers and potential purchasers of these
17 weapons recognize said shapes and features as those originating from and manufactured by
18 Plaintiff.

19 90. As a result of said association by purchasers and potential purchasers, the
20 appearance of Plaintiff's weapons represents business property and goodwill owned by
21 Plaintiff.

22 91. Upon information and belief, Defendants for a time have copied the
23 appearance of Plaintiff's weaponry and have sold copies of such weaponry within this
24 jurisdiction and elsewhere for the express purpose of passing off these weapons as those of
25 Plaintiff under its exclusive marks.

26 92. That these acts of unfair competition of Defendants fall within the meaning
27 of 15 U.S.C. §1125(a), were done to divert and secure to Defendants the profits arising
28

1 from Plaintiff's goodwill and have damaged Plaintiff in an amount in excess of \$75,000,
2 exclusive of interest and costs.

3 **WHEREFORE**, Plaintiff prays:

- 4 a. For an accounting and determination of the damages Plaintiff has suffered in
5 consequence of Defendant's acts of patent infringement and of the profits gained
6 by Defendant, by copying Plaintiff's product, unfair competition, and
7 misappropriation.
- 8 b. For judgment treble the amount determined by said accounting to be attributable
9 to acts of patent infringement by Defendant.
- 10 c. That this Court, pursuant to the power granted it under 15 U.S.C. § 1118, order
11 that the Defendants cease use of all DVDs, server applications, databases, video
12 application software, and/or web site software containing copies of TII's
13 products, and that all portals software containing copies of TII's products be
14 closed;
- 15 d. For an injunction strictly commanding Defendant, its agents, servants, and
16 employees, and those in active concert or participation with it to refrain from
17 further acts of patent infringement, unfair competition, and unjust enrichment as
18 aforesaid.
- 19 e. For judgment against Defendant in the sum of at least \$75,000, to be attributable
20 to acts of breach of contract by Defendant.
- 21 f. For judgment against Defendant in the amount necessary to compensate Plaintiff
22 for its reasonable costs, interest, and attorney fees incurred and expended in
23 conjunction with this action.
- 24 g. For such other and further relief as this Court shall deem proper and necessary to
25 adequately compensate Plaintiff.
- 26
27
28

COUNT VII

(Violation of Lanham Act)

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2
3 93. Plaintiff hereby incorporates by reference the allegations, above in
4 paragraphs 1-92, to the same extent as if they were fully restated herein.

5 94. Defendants have continued to offer their identical offerings of virtual
6 products and services to enter into commerce with the designations and representations
7 TASER, M26, and X26 connected therewith. Defendants' continued use of TII's TASER,
8 M26, and X26 marks are false designations of origin, which are likely to cause confusion,
9 to cause mistake, and to deceive as to the affiliation, connection or association of
10 Defendants with Plaintiff TASER, M26, and X26 marks and as to the origin, sponsorship,
11 or approval of such products and services by Plaintiff.

12 95. These acts are in violation of 15 U.S.C. § 1125(a), in that Defendants have
13 used in connection with goods and/or services a false designation of origin, a false or
14 misleading description, and representations of fact which are likely to cause confusion, and
15 to cause mistake, and to deceive as to the affiliation, connection, or association of
16 Defendants with Plaintiff and as to the origin, sponsorship, and approval of Defendants'
17 services and commercial activities, by Plaintiff.

18 96. By reason of Defendants' acts as alleged herein, TII, the original and
19 continuous user of the TASER, M26, and X26 marks, has and will suffer damage to its
20 business, reputation and goodwill and the loss of fees, sales, and profits Plaintiff would
21 have made but for Defendants' acts.

22 **WHEREFORE**, Plaintiff TII prays for judgment against all of the Defendants, and
23 each of them, as follows:

- 24 a. For an award of treble the amount of actual damages suffered by Plaintiff
25 pursuant to Section 43(a) of the Lanham Act;
- 26 b. For an award of punitive damages in an amount sufficient to punish Defendants
27 for their wrongful conduct and to deter others from engaging in similar conduct in
28 the future;

- 1 c. For an award of the costs incurred in pursuing this action, including reasonable
2 attorneys' fees; and
3 d. For all other relief deemed proper by the Court under the circumstances.
4

5 **COUNT VIII**

6 **(Arizona Common Law Trademark Infringement)**

7 97. Plaintiff hereby incorporates by reference the allegations, above in
8 paragraphs 1-96, to the same extent as if they were fully restated herein.

9 98. Defendants' use of the TASER mark is without Plaintiff's consent.

10 99. Defendants' use of the M26 or X26 model number marks is without
11 Plaintiff's consent.

12 100. These Defendants have constructive notice per 15 U.S.C. § 1072, advising all
13 Defendants that Plaintiff owns the TASER marks, making all of them infringing. These
14 Defendants have refused to change the TASER, M26, and X26 marks or to stop advertising
15 with Plaintiff's name on it, available in this district.

16 101. Defendants' use of the mark, in this state, without Plaintiff's consent, for the
17 identical products is likely to cause confusion, cause a mistake, or deceive a person as to
18 either the affiliation, connection, or association of Plaintiff with the Defendants, and the
19 origin sponsorship, or approval of Defendants' services or commercial activities by
20 Plaintiff, all in violation of Arizona Revised Statutes §§44-1452 and 44-1460.5.

21 102. Defendants using Plaintiff's registered mark with a descriptive modifier or
22 any other modifier such as "Long Range Taser Gun" or "long range authentic taser gun"
23 (*see* Exhibit 3, page 4), in this state, without Plaintiff's consent, is likely to cause
24 confusion, cause a mistake, or deceive a person as to either the affiliation, connection, or
25 association of Plaintiff with the Defendants, and the origin sponsorship, or approval of
26 Defendants' services or commercial activities by Plaintiff, all in violation of Arizona
27 Revised Statutes §§44-1460-44-1460.5.
28

1 103. Defendants using Plaintiff's common law marks M26 and/or X26, in this
2 state, without Plaintiff's consent, is likely to cause confusion, cause a mistake, or deceive a
3 person as to either the affiliation, connection, or association of Plaintiff with the
4 Defendants, and the origin sponsorship, or approval of Defendants' services or commercial
5 activities by Plaintiff, all in violation of Arizona Revised Statutes §§44-1460-44-1460.5.

6 104. Defendants' continued use of Plaintiff's marks was intentional, and was
7 therefore willful.

8 105. Defendants ignoring the warnings of their constructive notice against
9 continuing to use TASER in its name, shows that Defendants' conduct was intentional and
10 malicious.

11 106. Defendants LRI, Linden Labs, and Philip Rosedale; Mark Kingdon; Frank
12 Ambrose; Sandy Gould; Tom Hale; Howard Look; Brian Michon; Joe Miller; Marty
13 Roberts; Cyn Skyberg; Judy Wade; Ginsu Yoon; and John Zdanowski ignoring the details
14 of this constructive notice due to their due diligence in acquiring XSreet SL from
15 Defendants Vituatrade, LLC and Jay Geeseman, and continuing to use TASER in its name,
16 shows that these Defendants' conduct was intentional and malicious.

17 107. Upon information and belief, these Defendants planning and plotting to use
18 and infringe TII's TASER mark, shows that these Defendants' conduct was intentional and
19 malicious.

20 **WHEREFORE**, Plaintiff TII prays for judgment against all of the Defendants, and
21 each of them, as follows:

- 22 a. Defendants are ordered to cease use of TASER, or any other name containing the
23 mark TASER within it, in connection with weaponry (virtual or otherwise) sales.
- 24 b. Defendants are ordered to pay damages to Plaintiff for the trademark
25 infringement committed herein.
- 26 c. Defendants are ordered to pay their profits to Plaintiff for the trademark
27 infringement committed herein.
- 28 d. Defendants are ordered to pay the costs of this action.

1 e. Defendants are ordered to pay damages to Plaintiff for the trademark
2 infringement committed herein.

3 f. Defendants are ordered to deliver up to this Court any reproductions, copies,
4 counterfeits, or colorable imitation of the registered mark for destruction.

5 g. Defendants are ordered to pay elevated and/or punitive damages to Plaintiff
6 because the listed Defendants' conduct was malicious and intentional.

7
8 **COUNT IX**

9 **(Violation of Civil RICO Sub-Section B)**

10 108. Plaintiff hereby incorporates by reference allegations in paragraphs 1-107 of
11 this First Amended Complaint to the extent as if they were fully restated herein.

12 1. Title 18 U.S.C. § 1962(b) states:

13 (b) It shall be unlawful for any person through a pattern of racketeering activity or
14 through collection of an unlawful debt to acquire or maintain, directly or
15 indirectly, any interest in or control of any enterprise which is engaged in, or the
16 activities of which affect, interstate or foreign commerce.

17 2. Title 18 U.S.C. § 1962(d) states:

18 (d) It shall be unlawful for any person to conspire to violate any of the provisions
19 of subsection (a), (b), or (c) of this section.

20 109. On information and belief, Defendants have collected monies from sales of
21 its goods and services fraudulently in connection with the TASER mark and TASER
22 electronic weapon designs.

23 110. Defendants have fraudulently misrepresented in commerce that TII does not
24 hold exclusive rights to use the registered mark in commerce on or in connection with the
25 goods or services specified in the registration under 15 U.S.C. § 1115, to collect monies
26 from sales of its goods and services.

27 111. On information and belief, Defendants, by and through their concerted
28 conduct, have violated both §§1962 (b) and (d) of Title 18. Defendants have operated LRI,
Linden Labs, XSTREET SL, and Virtuatrade, LLC, in concert with LRI and Linden Labs
as an "enterprise" in violation of the Racketeer Influenced and Corrupt Organizations Act
("RICO"), 18 U.S.C. § 1962(c).

COUNT X

(Violation of Civil RICO Sub-Section C)

1
2
3
4 112. Plaintiff hereby incorporates by reference allegations in paragraphs 1-111 of
5 this First Amended Complaint to the extent as if they were fully restated herein.

6 1. Title 18 U.S.C. § 1962(c) states:

7 (c) It shall be unlawful for any person employed by or associated with any
8 enterprise engaged in, or the activities of which affect, interstate or foreign
9 commerce, to conduct or participate, directly or indirectly, in the conduct of such
10 enterprise's affairs through a pattern of racketeering activity or collection of
11 unlawful debt.

12 2. Title 18 U.S.C. § 1962(d) states:

13 (d) It shall be unlawful for any person to conspire to violate any of the provisions
14 of subsection (a), (b), or (c) of this section.

15 113. On information and belief, Defendants have collected monies from sales of
16 its goods and services fraudulently in connection with the TASER mark and TASER
17 electronic weapon designs.

18 114. Defendants have fraudulently misrepresented in commerce that TII does not
19 hold exclusive rights to use the registered mark in commerce on or in connection with the
20 goods or services specified in the registration under 15 U.S.C. § 1115, to collect monies
21 from sales of its goods and services.

22 115. On information and belief, Defendants, by and through their concerted
23 conduct, have violated both §§1962 (c) and (d) of Title 18.

24 **WHEREFORE**, Plaintiff prays for judgment against the Defendants as follows:

- 25 (a) Declaring that any of all of the Defendants violated subsection (a), (b), or
26 (c) of Title 18 U.S.C. § 1962.
27 (b) Civil Damages for any or all of the Defendants that violated subsection (a),
28 (b), or (c) of Title 18 U.S.C. § 1962 under Title 18 U.S.C. § 1964.
(c) Criminal Penalties for any or all of the Defendants that violated subsection
(a), (b), or (c) of Title 18 U.S.C. § 1962 under Title 18 U.S.C. § 1963.

COUNT XI

(Trade Dress Infringement)

1
2
3 116. Plaintiff hereby incorporates by reference allegations in paragraphs 1-115 of
4 the Complaint to the extent as if they were fully restated herein.

5 117. The acts of the infringing Defendants constitute unfair competition and an
6 infringement of Plaintiff's rights in the TASER, M26, and/or X26 marks as well as the
7 trade dress and/or the appearance of the Plaintiff's products. On information and belief,
8 these Defendants' websites use images of weaponry and model names that are the same or
9 highly similar to Plaintiff's weaponry and model numbers of the same, under the TASER,
10 M26, and X26 marks, and is likely to cause confusion on the part of consumers.

11 118. Continuously since 1974, Plaintiff, by and through its predecessors, has used
12 the TASER mark to identify its goods and services and to distinguish them from those
13 goods and services offered and sold by others, by, among other things, prominently
14 displaying the TASER mark on its website, in brochures, advertisements, flyers, labels,
15 products, audio and video animations, and otherwise associated with the goods and
16 services. In addition, Plaintiff has displayed its mark and product pictures, directing users
17 to its website in direct mail advertising, and in periodicals distributed throughout the
18 United States.

19 119. The goods and services offered and advertising have been distributed in the
20 trade area where Defendants are doing business. As a result of the sales and advertising by
21 Plaintiff of products under the TASER mark, the marks as well as the product designs,
22 have developed and now have a secondary and distinctive trademark meaning to
23 purchasers in various trade areas. The TASER mark, and its products have come to
24 indicate to the purchasers a meaning of electronic weaponry and training and registration
25 services originating only with Plaintiff. The model numbers M26 and X26 as used by TII,
26 also have come to indicate to the purchasers a meaning of electronic weaponry and training
27 and registration services originating only with Plaintiff.

1 120. Through the registered brand name TASER, Plaintiff adopted a particular
2 dress, design and combination of features to produce a particular visual appearance for the
3 purpose of presenting its products, goods, and services to the public.

4 121. Defendants have attempted to imitate TII's particular marks, product designs,
5 model numbers, packaging and dress, as well as a combination of features, as they pertain
6 to the products on the websites it sells, in such a way as to mislead the public.

7 122. The multiplicity of similarities between each and every design in the TASER
8 line of products and the product designs offered and sold by Defendants evidence a
9 conscious intent by Defendants to copy and/or imitate the TASER brand, the X26 and M26
10 model designations, and TII.

11 123. Defendants' use of similar names and model numbers for its goods, services,
12 and similar product appearances, when copying and/or imitating the TASER, X26, and/or
13 M26 brand goods, evidences a conscious intent of Defendants to imitate and copy TII.

14 124. Defendants' actions are intended and/or operate to confuse the public.

15 125. TII's sale of its own goods and services, and expanding the reach of its
16 products, as well as its product lines, is prejudiced by Defendants' imitation and copying of
17 the TASER brand name and the TASER weaponry, all to TII's irreparable damage.

18 126. As a result of the association by users of Plaintiff's goods and services with
19 the Plaintiff, any and all of Defendants' use of similar processes with similar names is
20 likely to cause confusion on the part of consumers.

21 127. Defendants have infringed Plaintiff's trade dress in its product lines shown
22 on its website under the TASER mark as alleged herein with the intent to deceive the
23 public into believing that services sold by Defendants are made by, approved by, sponsored
24 by, or affiliated with Plaintiff. Defendants' acts as alleged herein were committed with the
25 intent to pass off Defendants' goods and services as the goods and services of Plaintiff and
26 with the intent to deceive and defraud the public.

1 128. By reason of Defendants' acts as alleged herein, Plaintiff has and will suffer
2 damage to its business, reputation, and goodwill and in the loss of sales and profits that
3 Plaintiff would have made but for defendants' acts.

4 129. Defendants threaten to continue to do the acts complained of herein, and,
5 unless restrained and enjoined, will continue to do so, all to Plaintiff's irreparable damage.
6 It would be difficult to ascertain the amount of compensation which could afford Plaintiff
7 adequate relief for such continuing acts, and a multiplicity of judicial proceedings would be
8 required. Plaintiff's remedy at law is not adequate to compensate it for the threatened
9 injuries.

10 **WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of
11 them, and each of them, as follows:

- 12 a. That this Court grant an injunction enjoining and restraining defendants and
13 their agents, servants and employees from (1) directly or indirectly using a
14 website with or without the words TASER or any other mark, word, or name
15 similar to Plaintiff's TASER mark, or with or without the product
16 appearances or any other mark, word, or name similar to Plaintiff's products,
17 goods, and services, on an operating website, which is likely to cause
18 confusion, and (2) continuing any and all acts of unfair competition as herein
19 alleged;
- 20 b. That this Court grant an injunction enjoining and restraining Defendants and
21 their agents, servants and employees from (1) directly or indirectly using
22 websites operating with Plaintiff's name and/or products designs, which is
23 likely to cause confusion, and (2) continuing any and all acts of unfair
24 competition as herein alleged;
- 25 c. That Defendants be required to account to Plaintiff for any and all profits and
26 all leads derived by Defendants from the offering to sell, and the sale of their
27 TASER branded virtual weaponry products (the infringing activities), and for
28

1 all damages sustained by plaintiff by reason of the acts of infringement and
2 unfair competition complained of herein;

- 3 d. For an award of punitive damages in an amount sufficient to punish
4 Defendants for their wrongful conduct and to deter others from engaging in
5 similar conduct in the future;
- 6 e. For an award of the costs incurred by Plaintiff in pursuing this action,
7 including reasonable attorneys' fees; and
- 8 f. For all other relief deemed proper by the Court under the circumstances.

9
10 **COUNT XII**

11 **(Design Patent Infringement)**

12 130. Plaintiff hereby incorporates by reference the allegations, above in
13 paragraphs 1-113, to the same extent as if they were fully restated herein.

14 131. On April 26, 2005, United States Design Patent No. D504,489 was duly and
15 legally issued in the name of Milan Cerovic as inventor of a Gun. *See* Exhibit 8.

16 132. Plaintiff, TII, is the owner by Assignment of the entire right, title, and interest
17 in and to said Design Patent No. D504,489. *Also see* Exhibit 8.

18 133. Upon information and belief, Defendants have been and still are infringing
19 the aforesaid United States Design Patent No. D504,489 by using, offering to sell, and
20 selling weaponry elements utilizing the design described and claimed in said design patent
21 within this District and elsewhere.

22 134. Plaintiff, TII, manufactures, offers to sell, and sells goods, including, but not
23 limited to, the model X26 electronic weapon, made in accordance with and embodying said
24 design of said design patent, and all of the goods heretofore sold by TII since the issuance
25 of said patent has borne proper notice of said patent, pursuant to 35 U.S.C. §287.

26 135. Notwithstanding the issuance of this patent, the Defendants Philip Rosedale;
27 Mark Kingdon; Frank Ambrose; Sandy Gould; Tom Hale; Howard Look; Brian Michon;
28 Joe Miller; Marty Roberts; Cyn Skyberg; Judy Wade; Ginsu Yoon; and John Zdanowski,

1 and the Linden Defendants, in complete disregard of their due diligence thereof and in
2 deliberate knowing and wanton disregard of the rights of the Plaintiff, proceeded with the
3 use, offer to sell, and sale of said infringing virtual goods, and has been, and upon
4 information and belief, is still using, offering to sell, or causing to be sold, such infringing
5 goods, thereby deriving unlawful gains and profits, and will continue to do so by continued
6 infringement of said patent in deliberate, knowing, and wanton disregard of the rights of
7 Plaintiff and to Plaintiff's irreparable damage, unless restrained by this Court.

8 136. Notwithstanding the issuance of this patent, the Defendants Jay Geeseman,
9 and thereby Defendants Virtuatrade, LLC and XSTREET SL, in complete disregard of
10 their due diligence thereof and in deliberate knowing and wanton disregard of the rights of
11 the Plaintiff, proceeded with the use, offer to sell, and sale of said infringing goods, and has
12 been, and upon information and belief, is still using, offering to sell, or causing to be sold,
13 such infringing goods, thereby deriving unlawful gains and profits, and will continue to do
14 so by continued infringement of said patent in deliberate, knowing, and wanton disregard
15 of the rights of Plaintiff and to Plaintiff's irreparable damage, unless restrained by this
16 Court

17 137. Plaintiff has been damaged by the infringing acts of the Defendant in an
18 amount unknown to Plaintiff, but Plaintiff asks leave to insert by amendment the amount of
19 damages herein when the same is ascertained.

20
21 **COUNT XIII**

22 **(Design Patent Infringement II)**

23 138. Plaintiff hereby incorporates by reference the allegations, above in
24 paragraphs 1-121, to the same extent as if they were fully restated herein.

25 139. On August 9, 2005, United States Design Patent No. D508,277 was duly and
26 legally issued in the name of Milan Cerovic as inventor of a Gun. See Exhibit 9.

27 140. Plaintiff, TII, is the owner by Assignment of the entire right, title, and interest
28 in and to said Design Patent No. D508,277. Also see Exhibit 9.

1 141. Upon information and belief, Defendants have been and still are infringing
2 the aforesaid United States Design Patent No. D508,277 by using, offering to sell, and
3 selling weaponry elements utilizing the design described and claimed in said design patent
4 within this District and elsewhere.

5 142. Plaintiff, TII, manufactures, offers to sell, and sells goods made in
6 accordance with and embodying said design of said design patent, goods, including, but not
7 limited to, the model X26 electronic weapon, and all of the goods heretofore sold by TII
8 since the issuance of said patent has borne proper notice of said patent, pursuant to 35
9 U.S.C. §287.

10 143. Notwithstanding the issuance of this patent, the Defendants Philip Rosedale;
11 Mark Kingdon; Frank Ambrose; Sandy Gould; Tom Hale; Howard Look; Brian Michon;
12 Joe Miller; Marty Roberts; Cyn Skyberg; Judy Wade; Ginsu Yoon; and John Zdanowski,
13 and the Linden Defendants, in complete disregard of their due diligence thereof and in
14 deliberate knowing and wanton disregard of the rights of the Plaintiff, proceeded with the
15 use, offer to sell, and sale of said infringing goods, and has been, and upon information and
16 belief, is still using, offering to sell, or causing to be sold, such infringing virtual goods,
17 thereby deriving unlawful gains and profits, and will continue to do so by continued
18 infringement of said patent in deliberate, knowing, and wanton disregard of the rights of
19 Plaintiff and to Plaintiff's irreparable damage, unless restrained by this Court.

20 144. Notwithstanding the issuance of this patent, the Defendants Jay Geeseman,
21 and thereby Defendants Virtuatrade, LLC and XSTREET SL, in complete disregard of
22 their due diligence thereof and in deliberate knowing and wanton disregard of the rights of
23 the Plaintiff, proceeded with the use, offer to sell, and sale of said infringing goods, and has
24 been, and upon information and belief, is still using, offering to sell, or causing to be sold,
25 such infringing goods, thereby deriving unlawful gains and profits, and will continue to do
26 so by continued infringement of said patent in deliberate, knowing, and wanton disregard
27 of the rights of Plaintiff and to Plaintiff's irreparable damage, unless restrained by this
28 Court

1 148. Upon information and belief, Defendants Philip Rosedale; Mark Kingdon;
2 Frank Ambrose; Sandy Gould; Tom Hale; Howard Look; Brian Michon; Joe Miller; Marty
3 Roberts; Cyn Skyberg; Judy Wade; Ginsu Yoon; and John Zdanowski directs and operates
4 Defendants LRI and Linden Labs.

5 149. Upon information and belief, and by operation of law, all of these Defendants
6 knew Plaintiff owned the registration of the mark TASER and had knowledge of each
7 Defendants' infringement thereof.

8 150. Upon information and belief, the Defendants Virutuatrade, LLC and Jay
9 Geeseman induced Defendants Philip Rosedale; Mark Kingdon; Frank Ambrose; Sandy
10 Gould; Tom Hale; Howard Look; Brian Michon; Joe Miller; Marty Roberts; Cyn Skyberg;
11 Judy Wade; Ginsu Yoon; and John Zdanowski and/or the Defendants LRI and Linden Labs
12 to infringe Plaintiff's trademark, to unfairly compete, to commit False Designation of
13 Origin, to commit Arizona common law trademark infringement, to violate Plaintiff's trade
14 dress, to fraudulently misrepresent Plaintiff's exclusive rights in its mark, to infringe its
15 design patents, and they conspired together to do all of same as an organized business,
16 using mail, email, phone and other interstate communications methods.

17 151. Upon information and belief, the Defendants Philip Rosedale; Mark
18 Kingdon; Frank Ambrose; Sandy Gould; Tom Hale; Howard Look; Brian Michon; Joe
19 Miller; Marty Roberts; Cyn Skyberg; Judy Wade; Ginsu Yoon; and John Zdanowski
20 induced the Defendants LRI and/or Linden Labs to infringe Plaintiff's trademark, to
21 unfairly compete, to commit False Designation of Origin, to commit Arizona common law
22 TRADEMARK infringement, to violate Plaintiff's trade dress, to fraudulently misrepresent
23 Plaintiff's exclusive rights in its mark, to infringe its design patents and conspired together
24 to do all of same as an organized business, using mail, email, phone and other interstate
25 communications methods.

26 **WHEREFORE**, Plaintiff prays for relief against Defendants as follows:

- 27 a. Declaring that Defendants unauthorized conduct violates Plaintiff's rights under the
28 Federal Trademark Act, and/or for Arizona common law trademark infringement;

- 1 b. Awarding Plaintiff Defendants' profits,
- 2 c. Awarding Plaintiff any damages sustained by the Plaintiff,
- 3 d. Awarding Plaintiff the costs of the action;
- 4 e. Awarding Plaintiff its reasonable attorney fees pursuant to Arizona Revised Statutes
- 5 §§44-1451.
- 6 f. Awarding Plaintiff, at the Plaintiff's election and in lieu of the Defendant's profits or
- 7 actual damages, presumed damages that are equal to five hundred dollars for each
- 8 copy or the manufacturer's suggested retail price for each copy, whichever is
- 9 greater, pursuant to Arizona Revised Statutes §§44-1451.
- 10 g. Awarding Plaintiff elevated and/or punitive damages to Plaintiff because the listed
- 11 Defendants' conduct was malicious and intentional.
- 12 h. Awarding Plaintiff damages for each contributory award for each judgment of
- 13 contributing to infringe Plaintiff's trademark, unfairly compete, to commit False
- 14 Designation of Origin, to commit Arizona common law trademark infringement, to
- 15 violate Plaintiff's trade dress, to fraudulently misrepresent Plaintiff's exclusive
- 16 rights in its mark, to infringe its design patents and conspired together to do all of
- 17 same as an organized business, using mail, email, phone and other interstate
- 18 communications method.
- 19 i. For judgment against Defendant in the amount necessary to compensate Plaintiff
- 20 for its reasonable costs, interest, and attorney fees incurred and expended in
- 21 conjunction with this action.
- 22 j. For such other and further relief as this Court shall deem proper and necessary to
- 23 adequately compensate Plaintiff.

24 Dated this 16th day of April, 2009

25 By: s/Jordan M. Meschkow
26 Jordan M. Meschkow, AZ Bar No. 007454
27 **MESCHKOW & GRESHAM, P.L.C.**
28 5727 North Seventh Street, Suite 409
Phoenix, AZ 85014-5818

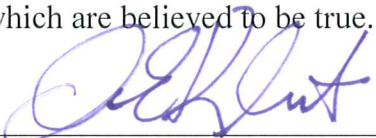
VERIFICATION

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STATE OF ARIZONA)
) ss.
County of Maricopa)

Doug Klint, being first duly sworn upon his oath deposes and says:

That he/she is the Executive VP and General Counsel of Taser International, Inc., the Plaintiff herein; that he/she has read the foregoing Complaint, knows the contents thereof; that the matters alleged therein are true of his own knowledge, except for those matters stated on information and belief, which are believed to be true.



Doug Klint, Executive VP and General Counsel
Taser International, Inc.

SUBSCRIBED TO AND SWORN before me this 16th day of April, 2009, by,
Doug Klint _____ (Name).

Paula M. Andrews
Notary Public

(Seal)

