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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION**

KIMBALL INTERNATIONAL, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 3:16-cv-00054
)	
COA, INC. d/b/a COASTER)	
COMPANY OF AMERICA,)	
)	
Defendant.)	

COMPLAINT AND JURY DEMAND

For its Complaint against Defendant COA, Inc. d/b/a Coaster Company of America, Plaintiff Kimball International, Inc., through the undersigned, states and alleges as follows:

NATURE OF THE ACTION

1. This is an action for direct and contributory trademark infringement, false designation of origin, and unfair competition arising under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and the statutes and common law of the State of Indiana.

THE PARTIES

2. Plaintiff Kimball International, Inc. (“Kimball”) is an Indiana corporation with its principal place of business in Jasper, Indiana.

3. Defendant COA, Inc. d/b/a Coaster Company of America (“Defendant”) is a California corporation with its principal place of business in Santa Fe Springs, California.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) and 15 U.S.C. § 1121(a) because Kimball’s claims arise under the Lanham Act.

5. This Court has supplemental jurisdiction over Kimball's Indiana state law and common law claims pursuant to 28 U.S.C. §§ 1338(b) and 1367(a) because those claims are joined with substantial and related claims under the Lanham Act, and are so related to the claims under the Lanham Act that they form part of the same case or controversy under Article III of the United States Constitution.

6. The exercise of *in personam* jurisdiction over Defendant comports with the laws of the State of Indiana and the constitutional requirements of due process because Defendant and/or its agents transact business, and/or offer to transact business within Indiana. For example, Defendant advertises, offers for sale, sells, and distributes furniture and other durable goods in the State of Indiana, including through a number of retailers identified on Defendant's website at < www.coasterfurniture.com/Indiana-Furniture-Stores-By-City>.

7. This Court also has personal jurisdiction over Defendant because Defendant has committed tortious acts in Indiana causing injury to Kimball in Indiana. For example, as alleged below, Defendant has, without authorization, advertised, offered for sale, sold, and distributed furniture in connection with Kimball's federally registered trademark which has caused injury to Kimball in Indiana.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1) and 1391(c)(2) because Defendant is subject to personal jurisdiction in this District.

ALLEGATIONS RELEVANT TO ALL COUNTS

A. Kimball and its KIMBALL Mark.

9. Kimball is an industry leader in furniture solutions for work, learning, healing, and hospitality environments.

10. For more than forty years, Kimball has designed, manufactured, advertised, and sold inspiring, productive, and environmentally responsible furniture under the trademark KIMBALL.

11. Kimball has expended great sums of money and substantial effort establishing, promoting and protecting the KIMBALL Mark over the years. Through continuous and extensive use and promotion of the KIMBALL Mark, and through the exercise of control over the quality of goods offered thereunder, the KIMBALL Mark has amassed substantial and valuable goodwill and consumer recognition, and consumers have come to closely associate the distinctive and valuable KIMBALL Mark with Kimball and its goods.

12. Kimball's hard-earned reputation for producing the highest quality furniture under the KIMBALL Mark is reflected in the robust and valuable body of goodwill symbolized by Kimball's federally registered, incontestable trademark KIMBALL (Reg. No. 1,180,193) for furniture, including bedroom furniture. A copy of the Certificate of Registration for the KIMBALL Mark is attached hereto as **Exhibit A**.

13. Under federal law, Kimball's nationwide priority in the KIMBALL Mark dates back to at least as early as September 7, 1979.

14. Kimball has not authorized Defendant to use the KIMBALL Mark in any manner whatsoever.

B. Defendant and Its Wrongful Conduct.

15. Defendant is a furniture importer and distributor with at least seven branches throughout the United States.

16. Defendant is unlawfully using the KIMBALL Mark in connection with a collection of bedroom furniture, as depicted below:


The screenshot displays the Coaster Furniture website. At the top left is the Coaster logo with the tagline "Fine Furniture". To the right, contact information for national call centers is provided: (877) 262-7837 for retailers and (877) 221-9666 for consumers. A search bar and a dealer locator are also visible. The navigation menu includes categories: BEDROOM, YOUTH, DINING ROOM, LIVING ROOM, HOME OFFICE, and ACCENTS. The main content area features the heading "Kimball by Coaster" and a photograph of a bedroom set. To the right, a "Features" section includes a close-up image of a cabinet and the text: "Each Item in the Kimball Collection is Completely Upholstered in Black and White Man-Made Leather".

Defendant's full furniture offerings under the KIMBALL Mark are attached hereto as **Exhibit B**.

17. Defendant's use of the KIMBALL Mark in connection with furniture is likely to cause confusion, mistake, or deception in the market as to the source or origin of Defendant's goods, and to falsely suggest that Defendant and its goods are sponsored by, connected to, or associated with Kimball.

18. In addition to directly infringing Kimball's rights in the KIMBALL Mark, Defendant has also knowingly induced and materially contributed to its retail partners' unauthorized adoption and use of the KIMBALL Mark in connection with furniture.

19. By way of example, Defendant's retail partners Bradley Home Furnishings and Astoria NY Furniture market, advertise, promote, offer to sell and sell Defendant's furniture under the KIMBALL Mark:



BRADLEY
Home Furnishings

**"Showroom Quality Furniture
at Warehouse Prices"**

Hours: Mon-Fri 8am - 5pm PST


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MORE VIEWS



Kimball Bedroom Collection - All Bed Sizes

SKU: Z9203331-4pc-FQ

Email to a Friend

\$698.00

Qty: ADD TO CART

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Quick Overview

KIMBALL BEDROOM COLLECTION

With each piece upholstered in Black and White man-made leather, the Kimball bedroom collection by Coaster puts a modern twist on contemporary decor. Ample storage is provided throughout the collection, with finger-pull drawers containing the sleek effect of the clean lines and black & white colors featured throughout the collection. The Kimball bed is available in sizes from Twin to King, and features a channel-luffed padded headboard that's sure to stand out in a youth, guest, or master bedroom space. Chic, simple, and distinctly modern, the Kimball collection offers unique contemporary style for all ages.

FEATURES:

- Padded Upholstered Headboard
- Optional Bed Sizes
- Full Extension Glides

Full Bed (86.5" x 60" x 38.5'h) \$269

Queen Bed (91" x 66" x 38.5'h) \$269

Eastern King Bed (91" x 82" x 38.5'h) \$366

CA King Bed (96" x 78" x 38.5'h) \$366

Night Stand (38" x 16" x 34.5'h) \$105

Dresser (56" x 16" x 39'h) \$289

Mirror (38" x 34.5'h) \$60

Chest (31" x 16" x 47'h) \$224

*Also Available in Twin

4 Pc Set (Full/Queen Bed, Night Stand, Dresser, Mirror) - \$698



Astoria NY Furniture
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718-606-2900

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Kimball Queen Bedroom

Kimball Queen Bedroom With each piece upholstered in Black and White man-made leather, the Kimball bedroom collection puts a mod twist on contemporary decor. Ample... [Learn More](#)

Reviews: ☆☆☆☆ Write a review

Brand: [Coaster Furniture](#)

Product Code: 203331

Availability: In Stock

Price: \$849.00

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Pin it
Share

QTY: + - Add to Cart

[Add to Wish List](#) [Add to Compare](#)

Additional examples of Defendant's retail partners' unauthorized use of the KIMBALL Mark are attached hereto as **Exhibit C**.

20. Given that Defendant has hundreds of retail partners across the country, upon information and belief, Exhibit C reflects an exceedingly small sample of Defendants' retail partners' unauthorized use of the KIMBALL Mark.

21. Defendant continues to supply its furniture to its retail partners despite the fact that Defendant knows that its retailer partners are engaging in trademark infringement by offering furniture under the KIMBALL Mark without Kimball's consent.

22. Upon information and belief, Defendant and Defendant's retail partners commenced use of the designation KIMBALL in connection with furniture long after Kimball's priority date of September 7, 1979.

23. Kimball first informed Defendant of Kimball's superior rights in the KIMBALL Mark by letter dated March 29, 2016. Notwithstanding the March 29, 2016 letter, Defendant continues its unlawful use of the KIMBALL Mark and continues to encourage, induce, and materially contribute to its retail partners' unlawful use of the KIMBALL Mark.

24. Kimball has no control over the quality or value of the furniture Defendant and its retail partners market, promote, distribute, offer for sale, and sell under the KIMBALL Mark. The invaluable goodwill represented in the KIMBALL Mark is thereby wrongfully at the mercy of Defendant and its retail partners.

25. By using the KIMBALL Mark without authorization, and by knowingly inducing and materially contributing to its retail partners' unauthorized use of the KIMBALL Mark, Defendant is and has been willfully and intentionally trading upon the goodwill in the

KIMBALL Mark that Kimball developed at its considerable expense and effort. Defendant thereby has caused and is causing Kimball substantial and irreparable harm and injury.

COUNT I
(Infringement of Federally Registered Marks – 15 U.S.C. § 1114)

26. Kimball repeats and realleges the preceding paragraphs as if fully set forth herein.

27. Defendant is not authorized to use Kimball's registered KIMBALL Mark or any mark confusingly similar to or that in any way represents or implies that Defendant's goods are in any way associated with Kimball.

28. Nevertheless, Defendant has used and continues to use in commerce the designation KIMBALL in connection with Defendant's furniture.

29. Defendant's unauthorized use of the KIMBALL Mark as alleged herein constitutes trademark infringement in violation of 15 U.S.C. § 1114. Defendant's use of the KIMBALL Mark is likely to cause confusion, mistake and/or deception as to the source or origin of Defendant's goods, and has falsely suggested that Defendant and its goods are sponsored by, connected to, or associated with Kimball.

30. Defendant's wrongful use of the KIMBALL Mark is knowing, deliberate, and willful.

31. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, irreparable injury to its business, reputation, and goodwill, unless and until the Court preliminary and permanently enjoins Defendant's actions. Kimball has no adequate remedy at law.

32. As a direct and proximate result of Defendant's actions described herein, Kimball is under 15 U.S.C. § 1117 entitled to a monetary recovery in an amount to be proven at trial.

COUNT II
(False Designation of Origin – 15 U.S.C. § 1125(a))

33. Kimball repeats and realleges the preceding paragraphs as if fully set forth herein.

34. Defendant's unauthorized use of the KIMBALL Mark as alleged herein constitutes false designation of origin in violation of 15 U.S.C. § 1125(a). Defendant's use of the KIMBALL Mark is likely to cause confusion, mistake and/or deception as to the source or origin of Defendant's goods, and to falsely suggest that Defendant and its goods are sponsored by, connected to, or associated with Kimball.

35. Defendant's wrongful use of the KIMBALL Mark is knowing, deliberate, and willful.

36. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, irreparable injury to its business, reputation, and goodwill, unless and until the Court preliminarily and permanently enjoins Defendant's actions. Kimball has no adequate remedy at law.

37. As a direct and proximate result of Defendant's actions described herein, Kimball is under 15 U.S.C. § 1117 entitled to a monetary recovery in an amount to be proven at trial.

COUNT III
(Contributory Trademark Infringement)

38. Kimball repeats and realleges the preceding paragraphs as if fully set forth herein

39. Defendant's retail partners advertise, promote, offer to sell, and sell furniture provided by Defendant under the KIMBALL Mark without authorization from Kimball.

40. This unauthorized use of the KIMBALL Mark by Defendant's retail partners constitutes trademark infringement in violation of 15 U.S.C. § 1114 and false designation of origin in violation of 15 U.S.C. § 1125(a). Defendant's retailer partners' use of the KIMBALL

Mark is likely to cause confusion, mistake and/or deception as to the source or origin of Defendant's retail partners' goods, and to falsely suggest that Defendant's retail partners and their goods are sponsored by, connected to, or associated with Kimball.

41. Defendant has knowingly induced and materially contributed to its retail partners' unauthorized adoption and use of the KIMBALL Mark in connection with furniture.

42. At the time that Defendant first induced, encouraged and facilitated its retailer partners' adoption of the KIMBALL Mark in connection with furniture, Defendant knew or should have known that the retail partners' adoption and use of the KIMBALL Mark was unauthorized and without Kimball's consent.

43. Defendant continues to supply its furniture to its retail partners despite the fact that Defendant knows that its retailer partners are engaging in trademark infringement by offering furniture under the KIMBALL Mark without Kimball's consent.

44. Defendant's conduct thus constitutes contributory infringement and contributory false designation of origin under the Lanham Act.

45. Defendant's conduct is and has been willful, intentional and purposeful, in disregard of Kimball's rights.

46. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, irreparable injury to its business, reputation, and goodwill, unless and until the Court preliminarily and permanently enjoins Defendant's actions. Kimball has no adequate remedy at law.

47. As a direct and proximate result of Defendant's actions described herein, Kimball is under 15 U.S.C. § 1117 entitled to a monetary recovery in an amount to be proven at trial.

COUNT IV
(Common Law Unfair Competition)

48. Kimball repeats and realleges the preceding paragraphs as if fully set forth herein.

49. Defendant's unauthorized use of the KIMBALL Mark as alleged herein constitutes common law unfair competition. Defendant's use of the KIMBALL Mark is likely to cause confusion, mistake and/or deception as to the source or origin of Defendant's goods, and to falsely suggest that Defendant and its goods are sponsored by, connected to, or associated with Kimball.

50. Defendant's wrongful use of the KIMBALL Mark is knowing, deliberate, and willful.

51. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, irreparable injury to its business, reputation, and goodwill, unless and until the Court preliminarily and permanently enjoins Defendant's actions. Kimball has no adequate remedy at law.

52. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, monetary damages in an amount to be proven at trial.

COUNT V
(Deception – Indiana Code § 35-43-5-3(a)(6))

53. Kimball repeats and realleges the preceding paragraphs as if fully set forth herein.

54. By engaging in the knowing, intentional, deliberate, willful, and malicious actions described above, Defendant has disseminated to the public information that Defendant knows is false, misleading, or deceptive, with the intent to promote Defendant's business and/or commercial interests.

55. Defendant has therefore committed deception under Indiana Code Section 35-43-5-3(a)(6).

56. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, irreparable injury to its business, reputation, and goodwill, unless and until the Court preliminarily and permanently enjoins Defendant's actions. Kimball has no adequate remedy at law.

57. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, monetary damages in an amount to be proven at trial.

COUNT VI
(Conversion – Indiana Code § 35-43-4-3)

58. Kimball repeats and realleges the preceding paragraphs as if fully set forth herein.

59. By engaging in the knowing, intentional, deliberate, willful, and malicious actions described above, Defendant has exerted unauthorized control over the KIMBALL Mark with the intent to deprive Kimball of its benefit.

60. Defendant has therefore committed conversion as defined under Indiana Code § 35-43-4-3.

61. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, irreparable injury to its business, reputation, and goodwill, unless and until the Court preliminarily and permanently enjoins Defendant's actions. Kimball has no adequate remedy at law.

62. As a direct and proximate result of Defendant's actions described herein, Kimball has suffered, and will continue to suffer, monetary damages in an amount to be proven at trial

COUNT VII

(Indiana Crime Victim's Relief Act– Indiana Code § 35-24-3-1)

63. Kimball repeats and realleges the preceding paragraphs as if fully set forth herein.

64. Under the Indiana Crime Victims' Act, Indiana Code Section 35-24-3-1, a person that suffers pecuniary loss as a result of the violation of Indiana Code Sections 35-43 *et seq.*, may bring a civil action against the person who caused the loss for treble damages, costs of the action, and reasonable attorneys' fees.

65. As set forth herein, Defendant has violated Indiana Code Section 35-43-5-3 through Defendant's knowing, intentional, deliberate, willful, and malicious commission of deception.

66. Kimball is the victim of Defendant's deception and other knowing, intentional, deliberate, willful, and malicious actions set forth herein, and, as a result, has suffered, and will continue to suffer, monetary damages in an amount to be proven at trial.

67. Kimball is accordingly entitled to an award of those actual damages as well as statutory treble damages, corrective advertising damages, costs, and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Kimball International, Inc. respectfully requests that judgment be entered in its favor and prays:

A. That this Court preliminarily and permanently enjoin Defendant and each of its retail partners, affiliates, associates, agents, servants and employees, and all others acting in concert with Defendant, from directly, indirectly, contributorily, or vicariously infringing Kimball's KIMBALL Mark, from any and all use of KIMBALL or any mark confusingly similar to the KIMBALL Mark or that in any way represents or implies that Defendant's goods are in

any way associated with Kimball, and from otherwise engaging in unfair competition or deception;

B. That this Court order Defendant to pay to Kimball such damages as Kimball has sustained by reason of Defendant's willful trademark infringement, false designation of origin, unfair competition, deception, and other wrongful conduct;

C. That this Court order Defendant to account for and to pay Kimball all profits derived by Defendant by reason of the acts complained of herein;

D. That this Court treble all profits and damages owing to Kimball due to (i) Defendant's willful trademark infringement and false designation of origin pursuant to 15 U.S.C. § 1117(a), and (ii) Defendant's deception pursuant to Indiana Code § 35-24-3-1;

E. That this Court order Defendant to pay Kimball its reasonable attorneys' fees and costs pursuant to 15 U.S.C. §§ 1117(a) and Indiana Code § 35-24-3-1; and

F. That this Court award Kimball such other further relief as this Court deems just.

DEMAND FOR JURY TRIAL

Kimball respectfully requests a trial by jury on all issues raised by this Complaint.

Dated: April 25, 2016

Respectfully submitted,

s/ Louis T. Perry

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