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ATTORNEYS FOR DEFENDANTS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

ABC IP, LLC, a Delaware limited liability
company, and RARE BREED TRIGGERS,
INC., a Texas Corporation,

Plaintiffs,

vs.

PEAK TACTICAL, LLC, d/b/a
PARTISAN TRIGGERS, a Wyoming
limited liability company, and NICHOLAS
NORTON, an individual,

Defendants.

Civil Action No. 2:26-cv-00018-KHR

**DEFENDANT NICHOLAS NORTON'S MEMORANDUM
IN SUPPORT OF MOTION TO DISMISS**

I. INTRODUCTION

Plaintiffs ABC IP, LLC and Rare Breed Triggers, Inc. (together, “Plaintiffs”) have sued Peak Tactical, LLC d/b/a Partisan Triggers (“Peak Tactical”) and Nicholas Norton (together, “Defendants”) for patent infringement, false patent marking, and false advertising. As to Mr. Norton individually, however, Plaintiffs have not established jurisdiction or stated a claim for personal liability with their conclusory, group-pleaded allegations that attempt to impose individual liability on a non-resident based on alleged corporate conduct. The Complaint itself concedes uncertainty as to Mr. Norton’s residence, alleging only that “Nicholas Norton is an individual residing in Wyoming or North Carolina, and working in Wyoming, and is the owner of Peak Tactical, LLC.” (Compl. ¶ 4.) It then asserts, again “on information and belief,” that Mr. Norton “commits and directs infringing activities from Peak Tactical, LLC’s principal place of business in Wyoming.” (Compl. ¶ 7.) Those allegations are not only factually wrong, but they are insufficient to establish personal jurisdiction or individual liability over Mr. Norton.

To survive a Rule 12(b)(2) motion, Plaintiffs must point to well-pleaded factual allegations, both in the complaint and in any supporting affidavits, that, if true, would support jurisdiction over each defendant. *Newsome v. Gallacher*, 722 F.3d 1257, 1266 (10th Cir. 2013) (noting that “personal jurisdiction requirements ‘must be met as to each defendant.’”). Here, Plaintiffs’ allegations as to Mr. Norton’s forum contacts are precisely the kind of conclusory, “information and belief” assertions and collective pleading that do not satisfy that burden, particularly where Mr. Norton is a Florida resident who does not own property in Wyoming, does not travel to Wyoming, and does not conduct business in Wyoming in his individual capacity.

Plaintiffs also cannot manufacture jurisdiction over Mr. Norton by imputing Peak Tactical’s alleged contacts to him. “Jurisdiction over a corporation in a particular forum does not automatically confer jurisdiction over that corporation’s employees.” *Newsome*, 722 F.3d at 1275.

And where “the acts of individual principals of a corporation in the jurisdiction were carried out solely in the individuals’ corporate or representative capacity, the corporate structure will ordinarily insulate the individuals from the court’s jurisdiction.” *Id.* at 1277. That is because “[j]urisdiction over the representatives of a corporation may not be predicated on jurisdiction over the corporation itself, and jurisdiction over the individual officers and directors must be based on their individual contacts with the forum state.” *Id.* (quoting *Ten Mile Indus. Park v. W. Plains Serv. Corp.*, 810 F.2d 1518, 1527 (10th Cir. 1987)). Plaintiffs’ allegations against Mr. Norton fail this standard.

Rule 12(b)(6) provides a second, independent basis for dismissal because the Complaint does not plausibly plead that Mr. Norton personally committed actionable infringement, false marking, or false advertising. The Tenth Circuit requires more than conclusory “Defendants did it” pleading. “To withstand a motion to dismiss, a complaint must contain enough allegations of fact ‘to state a claim to relief that is plausible on its face.’” *Robbins v. Okla. ex rel. Dep’t of Human Servs.*, 519 F.3d 1242, 1247 (10th Cir. 2008) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). And where (as here) a complaint targets an individual alongside an entity, “it is particularly important ... that the complaint make clear exactly *who* is alleged to have done *what* to *whom*, to provide each individual with fair notice as to the basis of the claims against him or her, as distinguished from collective allegations.” *Id.* at 1250 (emphasis in original).

Here, across every cause of action, the Complaint simply lumps Mr. Norton together with Peak Tactical under the collective label “Defendants,” without identifying a single specific act he personally took. Moreover, as to Plaintiffs’ claim for induced infringement, personal liability for inducement requires specific facts showing intent to aid and abet, which the Complaint also does not allege. The false marking claim, sounding in fraud, must satisfy Rule 9(b)’s heightened

pleading standard, which requires the “who, what, when, where, and how”—none of which are pled as to Mr. Norton. And the false advertising claim requires identification of specific statements Mr. Norton personally made—none are identified. Owning a company is not infringement, is not false advertising, and is not false marking. It is not, without more, a basis for personal liability of any kind, yet the Complaint lacks any non-conclusory facts at to Mr. Norton except his minority ownership of Peak Tactical.

Defendant Nicholas Norton therefore respectfully requests that the Court dismiss all claims against him pursuant to Federal Rule of Civil Procedure 12(b)(2) and, independently, pursuant to Rule 12(b)(6) for failure to state a claim.

II. BACKGROUND

The Complaint alleges that “Nicholas Norton is an individual residing in Wyoming or North Carolina, and working in Wyoming, and is the owner of Peak Tactical, LLC.” (Compl. ¶ 4.) Further, “upon information and belief,” Plaintiffs allege that Mr. Norton “has availed himself of Wyoming’s laws by owning a business in Wyoming with a principal address in Wyoming” and that, “on information and belief,” he “commits and directs infringing activities from Peak Tactical, LLC’s principal place of business in Wyoming.” (Compl. ¶ 7.) Despite naming Mr. Norton as an individual defendant, the Complaint does not plead anything Mr. Norton himself allegedly did that gives rise to liability. Instead, the operative allegations attribute conduct to “Defendants” collectively, without separating alleged acts by Peak Tactical from alleged acts by Mr. Norton.

For example, Plaintiffs allege “on information and belief” that “Defendants are currently making, using, selling, offering for sale, and/or importing” the accused product. (Compl. ¶ 24.) Plaintiffs similarly allege that “Defendants are making, using, selling, offering for sale, and/or importing the Infringing Device,” and quote statements purportedly made in online forum threads, again attributed only to “Defendants.” (Compl. ¶ 25; *see also, e.g.*, Compl. ¶¶ 28, 34–36.)

Plaintiffs’ infringement counts follow the same pattern: “Defendants have infringed, induced others to infringe, and/or contributed to the infringement” (*e.g.*, Compl. ¶¶ 49, 63, 77, 91), and “Defendants” took steps to “encourag[e], advertis[e], promot[e], and instruct[] others” (*e.g.*, Compl. ¶¶ 52, 66, 80, 94). The pleading does not attribute any specific statement, instruction, sale, offer for sale, manufacturing act, importation decision, marketing decision, or other concrete act to Mr. Norton personally.

Likewise, Plaintiffs’ false marking and false advertising theories are asserted in collective terms—“Defendants” allegedly “falsely promote” the product and “falsely advertise and promote” it. (Compl. ¶¶ 46–47, 109–19.) The Complaint does not allege with specificity what Mr. Norton personally created, published, distributed, or authorized.

The Complaint’s only concrete allegation about Mr. Norton’s role is that he “is the owner of Peak Tactical, LLC.” (Compl. ¶ 4.) Beyond that, Plaintiffs’ pleadings about Mr. Norton are framed as conclusory inferences—*e.g.*, that he “commits and directs infringing activities” (Compl. ¶ 7)—or are pleaded “on information and belief” without facts.

Plaintiffs also allege, again “on information and belief,” that Mr. Norton “is and/or has been and is working in concert with Douglas Rios” on aspects of the accused product. (Compl. ¶ 38.) But the Complaint does not plead any specific act taken by Mr. Norton with Mr. Rios, when it occurred, what was done, where it occurred, or how that alleged relationship creates personal liability for the claims asserted in this case. (*Id.* ¶¶ 38–43.)

As set forth in his attached Declaration, Mr. Norton is not a resident of Wyoming and has no property or ongoing physical presence in Wyoming. (Norton Decl. ¶ 4.) He does not own or lease any real property in Wyoming, and he does not maintain any personal residence, apartment, office, or other place of business in Wyoming. (Norton Decl. ¶ 5.) He does not maintain any

personal bank accounts in Wyoming, any personal post office box in Wyoming, or any personal telephone listing in Wyoming. (*Id.* ¶ 6.) He does not regularly travel to Wyoming; in fact, he has been to Wyoming only one time in his life, in December 2024—long before the accused product in this case was produced. That trip was for business related to Peak Tactical—not business conducted in Wyoming in his individual capacity. (*Id.* ¶ 7.) In addition, Mr. Norton did not and has not individually posted any of the accused statements identified in the Complaint as the basis for Plaintiffs’ false advertising claims, nor does he make any decisions on behalf of Peak Tactical related to product marking. (*Id.* ¶ 10.)

III. ARGUMENT

A. Plaintiffs Fail to Make a Prima Facie Showing of Personal Jurisdiction Over Mr. Norton.

1. The Court Lacks General Jurisdiction Over Mr. Norton Because He Is Domiciled in Florida and Has No Continuous or Systematic Ties to Wyoming.

Plaintiffs bear the burden of establishing personal jurisdiction over each defendant individually. *Newsome*, 722 F.3d at 1266. To survive a Rule 12(b)(2) motion, Plaintiffs “must point to well-pleaded factual allegations—both in the complaint and in any supporting affidavits—that, if true, would support ... jurisdiction over each defendant.” *Gould v. Wyse*, No. 22-2075, 2023 U.S. App. LEXIS 20140, at *5 (10th Cir. 2023) (unpublished). “[I]n considering the facts, [the court] ignore[s] conclusory allegations.” *Id.* Plaintiffs have not met, and cannot meet, this burden as to Mr. Norton. The Complaint fails to establish either general or specific jurisdiction over him, and Plaintiffs cannot bootstrap jurisdiction over Mr. Norton based upon Peak Tactical’s alleged Wyoming contacts.

General jurisdiction means jurisdiction “over a defendant in a suit not arising out of or related to the defendant’s contacts with the forum.” *Helicopteros Nacionales de Colombia, S.A. v.*

Hall, 466 U.S. 408, 414 n.9, (1984). General jurisdiction exists only where a defendant has such “continuous and systematic” contacts with the forum that the defendant is “essentially at home” there. *Hoose v. Pettersen*, No. 19-CV-91-ABJ, 2019 U.S. Dist. LEXIS 246034, at *7-8 (D. Wyo. 2019). For an individual, the paradigm forum for general jurisdiction is the individual’s domicile. *See Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014).

Here, Mr. Norton is not at home in Wyoming by any measure. He is domiciled in Bradenton, Florida. (Norton Decl. ¶¶ 3–4.) He has never lived in Wyoming, does not hold a Wyoming driver’s license, and is not registered to vote in Wyoming. (*Id.* ¶ 4.) He owns no real property in Wyoming, maintains no personal residence, apartment, or office in Wyoming, and holds no personal bank accounts, post office box, or telephone listing in Wyoming. (*Id.* ¶¶ 5–6.) He has been to Wyoming exactly once in his life—a single trip in December 2024, long before any of the alleged events or acts relevant to this case. (*Id.* ¶ 7.) He personally maintains no Wyoming registrations or licenses. (*Id.* ¶ 13.)

Plaintiffs plead only that Mr. Norton “is an individual residing in Wyoming or North Carolina.” (Compl. ¶ 4.) The Complaint’s uncertainty as to his residence is not only factually wrong, but insufficient as a basis for general jurisdiction. Because Mr. Norton’s domicile is Florida, not Wyoming (or North Carolina), and because he has no continuous, systematic, or substantial ties to Wyoming in any individual capacity, the Court cannot exercise general jurisdiction over him.

2. The Court Lacks Specific Jurisdiction Over Mr. Norton Because He Has Directed No Individual Conduct at Wyoming and Plaintiffs’ Claims Do Not Arise From Any Personal, Forum-Related Activity.

Specific jurisdiction requires a two-step analysis to determine “whether the defendant’s conduct and connection with the forum State are such that he should reasonably anticipate being haled into court here.” *Heyl v. BNSF R.R.*, No. 25-CV-133-KHR, 2025 LX 328742, at *4-5 (D.

Wyo. 2025) (citing *Benton v. Cameco Corp.*, 375 F.3d 1070, 1075 (10th Cir. 2004)). A court cannot exercise specific jurisdiction without a factual showing by the plaintiff, “first, that the out-of-state defendant . . . ‘purposefully directed’ its activities at residents of the forum state”—so called minimum contacts—and “that the plaintiff’s injuries . . . ‘arise out of’ defendant’s forum-related activities.” *Dudnikov v. Chalk & Vermilion Fine Arts, Inc.*, 514 F.3d 1063, 1071 (10th Cir. 2008) (citing *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985)). “Second if the defendant’s actions create sufficient minimum contacts, [the court] must then consider whether the exercise of personal jurisdiction over the defendant offends ‘traditional notions of fair play and substantial justice.’” *OMI Holdings, Inc. v. Royal Ins. Co. of Can.*, 149 F.3d 1086, 1091 (10th Cir. 1998). Plaintiffs cannot satisfy either step as to Mr. Norton individually.

The purposeful direction inquiry focuses on the defendant’s personal contacts with the forum state. A defendant “must deliberately direct his or her conduct at the forum state.” *Gould*, 2023 U.S. App. LEXIS 20140, at *7 n.7. Moreover, the conduct at issue must be the defendant’s *individual* contacts with the forum state, not the contacts of a related entity and not contacts made in a purely representative capacity. *See Newsome*, 722 F.3d 1257, 1276-77 (“[j]urisdiction over a corporation in a particular forum does not automatically confer jurisdiction over that corporation’s employees” and where “the acts of individual principals of a corporation in the jurisdiction were carried out solely in the individuals’ corporate or representative capacity, the corporate structure will ordinarily insulate the individuals from the court’s jurisdiction.”). “Jurisdiction over the representatives of a corporation may not be predicated on jurisdiction over the corporation itself, and jurisdiction over the individual officers and directors must be based on their individual contacts with the forum state.” *Id.*

Mr. Norton has no individual contacts with Wyoming. He does not personally market, advertise, sell, ship, or offer products for sale in Wyoming as an individual. (Norton Decl. ¶ 8.) He does not personally contract with Wyoming customers. (*Id.*) Any advertising, marketing, website content, or product sales activity concerning Peak Tactical's products is conducted by Peak Tactical as a company, not by Mr. Norton individually. (*Id.* ¶ 14.) When he performs work relating to Peak Tactical, he does so from his residence in Florida. (*Id.* ¶ 12.) He does not make business decisions while physically located in Wyoming and does not personally direct activity "into" Wyoming or "from" Wyoming. (*Id.*)

The Complaint's jurisdictional allegations as to Mr. Norton consist entirely of: (1) the uncertain residence allegation that he is "an individual residing in Wyoming or North Carolina" (Compl. ¶ 4); and (2) the conclusory, "information and belief" assertion that he "commits and directs infringing activities from Peak Tactical, LLC's principal place of business in Wyoming" (Compl. ¶ 7). These allegations, which are both incorrect, do not constitute "well-pleaded factual allegations" identifying a specific, deliberate act by Mr. Norton directed at Wyoming in his individual capacity. *Gould*, 2023 U.S. App. LEXIS 20140, at *6. Plaintiffs have not made even a prima facie showing of minimum contacts.

Nor, as a consequence, do the alleged facts support any reasonable inference the Plaintiffs suffered harm from Wyoming-related conduct by Mr. Norton. *Dudnikov*, 514 F.3d at 1071. Here, the Complaint alleges harm from Peak Tactical's alleged commercial activities, operating a website, posting on internet forums, and selling and shipping products, as the basis for the infringement, false marking, and false advertising claims. (Compl. ¶¶ 24–47.) The Complaint does not identify any specific act by Mr. Norton in his individual capacity from which Plaintiffs' injuries flow.

Without relevant Wyoming conduct, let alone conduct allegedly harmful to Plaintiffs, Mr. Norton cannot fairly and justly be haled into court here. *Schmitz v. Xiqing Diao*, No. 11-cv-157-S, 2013 U.S. Dist. LEXIS 160685, at *34-37 (D. Wyo. 2013) (finding only “miniscule contacts” by individual defendants that were “not such that they should reasonably anticipate being haled into court here” and thus did not require additional showing of injustice or unfairness). Plaintiffs have failed to establish the court’s personal jurisdiction over Mr. Norton.

3. Plaintiffs Cannot Manufacture Jurisdiction Over Mr. Norton by Imputing Peak Tactical’s Wyoming Contacts to Him—Jurisdiction Over the Company Does Not Confer Jurisdiction Over Its Owner.

Rather than allege facts to establish general or specific jurisdiction over Mr. Norton, Plaintiffs generically invoke his minority ownership of Peak Tactical. (Compl. ¶ 7). But mere ownership of a company organized in the forum state, without more, is not enough to establish jurisdiction over the company’s owner. *Credit Sage LLC v. Credit Wellness LLC*, No. 1:23-CV-110-SWS, 2024 U.S. Dist. LEXIS 6124, at *54 (D. Wyo. 2024) (“the Court cannot exercise jurisdiction over Zajpt or Copley based merely on their alleged membership or ownership interest in Credit Wellness—a Wyoming LLC.”); *id.* (citing *V-E2, LLC v. Callbutton, LLC*, 2012 U.S. Dist. LEXIS 174633, at *8-9 (W.D.N.C. 2012) (“[p]ersonal jurisdiction over a limited liability company does not automatically extend to its members, as membership in an LLC is not sufficient in-and-of itself to confer personal jurisdiction over its members.”)); *Lopes v. JetsetDC, LLC*, 994 F. Supp. 2d 135, 146 (D.D.C. 2014) (“Generally, courts do not have jurisdiction over individual officers and employees of a corporation just because the court has jurisdiction over the corporation This rule applies to LLCs.”) (internal quotations omitted). “Instead, the members must have the requisite minimum contacts with the forum state independently of the limited liability company.” *Credit Sage*, 2024 U.S. Dist. LEXIS 6124, at *54 (citing *Mt. Funding, LLC v. Blackwater Crossing, LLC*, 2006 U.S. Dist. LEXIS 96763, 2006 WL 1582403, at *2 (W.D.N.C. June 5, 2006));

Newsome, 722 F.3d at 1276 (“Jurisdiction over a corporation in a particular forum does not automatically confer jurisdiction over that corporation’s employees.”).¹ As such, the Court may disregard the Complaint’s allegation regarding Mr. Norton’s ownership of Peak.

* * *

Under these circumstances, the Court cannot exercise general or specific personal jurisdiction over Mr. Norton. His Declaration establishes that he is neither at home in nor has minimum contacts with Wyoming, as due process requires; Plaintiffs’ conclusory, group-pleaded, “information and belief” allegations are legally insufficient to rebut his Declaration and establish a prima facie case of personal jurisdiction; and mere ownership of an LLC organized in Wyoming does not confer jurisdiction upon its owner. *Credit Sage LLC*, 2024 U.S. Dist. LEXIS 6124, at *54; *Gould*, 2023 U.S. App. LEXIS 20140, at *6; *OMI Holdings*, 149 F.3d at 1091; *Newsome*, 722 F.3d at 1276. All claims against Mr. Norton should therefore be dismissed for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2).

B. The Claims Against Mr. Norton Should Be Dismissed Under Rule 12(b)(6).

Apart from the personal jurisdiction deficiency, the Complaint also fails to state a plausible claim for individual liability against Mr. Norton.

“To withstand a motion to dismiss, a complaint must contain enough allegations of fact ‘to state a claim to relief that is plausible on its face.’” *Robbins*, 519 F.3d at 1247. “Factual allegations

¹ The Tenth Circuit has made this principle unmistakably clear: “If, for example, a Kansas company markets a defective product in Oklahoma and the product ends up injuring an Oklahoma resident, that is usually enough to confer personal jurisdiction over the company in Oklahoma courts in the ensuing product liability suit. But under the no-imputed-contacts rule, Oklahoma’s jurisdiction over the company does not on its own give Oklahoma jurisdiction over the company’s Kansas employees.” *Newsome*, 722 F.3d at 1275. Furthermore, “[w]here the acts of individual principals of a corporation in the jurisdiction were carried out solely in the individuals’ corporate or representative capacity, the corporate structure will ordinarily insulate the individuals from the court’s jurisdiction.” *Id.* at 1276–77 (quoting *Ten Mile Industrial Park*, 810 F.2d at 1527).

must be enough to raise a right to relief above the speculative level.” *Id.* And the Tenth Circuit has emphasized that “[c]ontext matters in notice pleading,” and that “the burden rests on the plaintiffs to provide fair notice of the grounds for the claims made against each of the defendants.” *Id.* at 1250. In cases involving multiple defendants, “it is particularly important ... that the complaint make clear exactly *who* is alleged to have done *what* to *whom*, to provide each individual with fair notice as to the basis of the claims against him or her, as distinguished from collective allegations ...” *Id.* at 1250 (emphasis in original).

The Complaint fails to provide such necessary allegations as to Mr. Norton. The only specific factual allegation as to him is the conclusory, “on information and belief” statement that “Mr. Norton commits and directs infringing activities from Peak Tactical, LLC’s principal place of business in Wyoming.” (Compl. ¶7.) Not only is that false, but it is not “enough allegations of fact ‘to state a claim to relief that is plausible on its face,’” and it does not “make clear exactly who is alleged to have done what to whom.” *Robbins*, 519 F.3d at 1247, 1250.

1. Group Pleading Does Not Satisfy Even Basic Notice Pleading Standards.

Instead, across every cause of action, Plaintiffs plead the operative conduct as to “Defendants,” collectively. The infringement counts allege, for example, that “Defendants have infringed, induced others to infringe, and/or contributed to the infringement” by “making, using, offering for sale, selling, and/or importing into the United States” the accused product. (*See, e.g.*, Compl. ¶¶49, 63, 77, 91.) The false marking and false advertising theories likewise allege that “Defendants falsely promote” and “Defendants falsely advertise and promote” the product. (*See, e.g.*, Compl. ¶¶109, 114.) But Plaintiffs fail to allege who did what. As the Tenth Circuit has explained, “Without some factual allegation in the complaint, it is hard to see how a claimant could satisfy the requirement of providing not only ‘fair notice’ of the nature of the claim, but also

‘grounds’ on which the claim rests.” *Robbins*, 519 F.3d at 1248 (quoting *Twombly*, 550 U.S. at 555 n.3). And “[g]iven such a complaint, ‘a defendant seeking to respond to plaintiffs’ conclusory allegations . . . would have little idea where to begin.” *Id.* (quoting *Twombly*, 550 U.S. at 565 n.10).

That is exactly the problem here. The Complaint’s use of the collective term “Defendants” in place of allegations directed to Mr. Norton “provide[s] . . . [no] fair notice as to the basis of the claims against him.” *Robbins*, 519 F.3d at 1250. What did *Mr. Norton* allegedly do?

Plaintiffs do not say. They elected to sue Mr. Norton as an individual, but the Complaint does not plead “enough allegations of fact” to support a plausible claim that Mr. Norton personally committed any actionable infringement, false marking, or false advertising. *See id.* at 1247; *Pahls v. Thomas*, 718 F.3d 1210, 1216 (10th Cir. 2013) (“[i]t is particularly important that plaintiffs make clear exactly who is alleged to have done what to whom, as distinguished from collective allegations.”); *Shrum v. Cooke*, 60 F.4th 1304, 1313 (10th Cir. 2023) (“The section almost exclusively uses the collective term ‘Defendants.’ When [plaintiff] does identify specific defendants, the allegations do not address any malicious prosecution elements.”); *Fox v. Cal. Franchise Tax Bd.*, 443 F. App’x 354, 362 (10th Cir. 2011) (“When a complaint use[s] . . . the collective term ‘Defendants’ . . . with no distinction as to what acts are attributable to whom, it is impossible for any of these individuals to ascertain what particular [] acts they are alleged to have committed. Thus, the allegations generally against ‘the defendants’ are insufficient to state a claim against AllianceOne in particular.”) (internal citations omitted). For that reason, the Court should dismiss the claims against Mr. Norton under Rule 12(b)(6).

2. Mr. Norton is Not Liable as an Owner of Peak Tactical.

Aside from group pleading, Plaintiffs’ entire theory of individual liability against Mr. Norton rests on the fact that he is an owner of Peak Tactical, LLC. (Compl. ¶ 4.) That allegation,

standing alone, is legally insufficient under Federal Circuit and Tenth Circuit law to sustain any of the claims asserted against him. Ownership of a limited liability company is not infringement. It is not false marking. It is not false advertising. And it is not, without more, a basis for personal liability of any kind.

At their core, Plaintiffs' patent claims against Mr. Norton rest on an improper effort to impose personal liability for alleged corporate conduct, without pleading the facts required to overcome the corporate shield. For the Plaintiffs' patent infringement claims, Federal Circuit law is clear that while a corporate officer may be liable for his own tortious acts, the corporate veil shields an officer or owner from personal liability for direct infringement committed in the corporation's name unless the corporation is the individual's "alter ego." *Wordtech Sys., Inc. v. Integrated Network Sols., Inc.*, 609 F.3d 1308, 1313 (Fed. Cir. 2010) ("To determine whether corporate officers are personally liable for the direct infringement of the corporation under § 271(a) requires invocation of those general principles relating to piercing the corporate veil."). Personal liability for inducement is even more demanding—it requires specific facts showing the individual "possessed a specific intent to 'aid and abet' the infringement." *Wechsler v. Macke Int'l Trade, Inc.*, 486 F.3d 1286, 1292 (Fed. Cir. 2007) ("Unless the corporate structure is a sham, we have held that personal liability for inducement must be supported by personal culpability.")

Here, for direct infringement, the Complaint does not plead facts identifying Mr. Norton's own acts of making, using, offering to sell, selling, or importing, and it does not plead alter-ego facts. For inducement, the Complaint contains no facts as to Mr. Norton's intent to aid and abet the alleged infringement. The false marking claim against Mr. Norton fails for an additional reason: false marking "sounds in fraud," and "false marking claims must satisfy the heightened pleading standard of Fed. R. Civ. P. 9(b)." *Juniper Networks, Inc. v. Shipley*, 643 F.3d 1346, 1350

(Fed. Cir. 2011). The Federal Circuit has explained that, in this context, “Rule 9(b) requires a plaintiff to plead in detail ‘the specific who, what, when, where, and how’ of the alleged fraud.” *Id.* (quoting *Exergen Corp. v. Wal-Mart Stores, Inc.*, 575 F.3d 1312, 1327 (Fed. Cir. 2009)). Yet the Complaint does not plead the “specific who, what, when, where, and how” as to Mr. Norton and it does not plead facts showing that Mr. Norton acted with a purpose of deceit. Instead, the false marking allegations, like the patent counts and the false advertising count, proceed against “Defendants” collectively, with absolutely no allegations as to Mr. Norton individually. Indeed, Plaintiffs’ false marking claim against Mr. Norton fails because the Complaint does not plead the requisite matters to hold him liable in his individual capacity for alleged acts of Peak Tactical. Nor could it, as Mr. Norton does not direct or control product marking activities on behalf of Peak Tactical. (Norton Decl. ¶ 10.) Put simply, the Complaint does not plead “the specific who, what, when, where, and how” as to Mr. Norton, *Juniper Networks*, 643 F.3d at 1350, and it does not plead facts providing “some objective indication” that Mr. Norton himself had the requisite awareness. *In re BP Lubricants*, 637 F.3d 1307, 1311 (Fed. Cir. 2011).

Under *Robbins, Pahls, Shrum*, and *Juniper Networks*, Plaintiffs have not plausibly stated a false marking claim against Mr. Norton simply because he is an owner of Peak Tactical. Accordingly, Plaintiffs have not plausibly alleged a basis to hold Mr. Norton personally liable for the alleged infringing acts of Peak Tactical.

Finally, Plaintiffs’ false advertising claim under the Lanham Act requires proof that the defendant personally “made a false or misleading description of fact or representation of fact in a commercial advertisement.” *Vitamins Online, Inc. v. Heartwise, Inc.*, 71 F.4th 1222, 1233 (10th Cir. 2023). The Complaint does not identify a single statement that Mr. Norton personally made, nor did he make them. (Norton Decl. ¶ 10.) The alleged false advertisements, the Partisan Triggers

website, the forum posts on AR15.com, are attributed in every instance to “Defendants” collectively. (Compl. ¶¶ 109, 113–19.) There is no allegation that Mr. Norton personally created the website, personally authored any post, or personally published any of the commercial statements at issue. Mr. Norton’s mere partial ownership of Peak Tactical, the entity whose website and forum posts are at issue, does not make him the “maker” of those statements for Lanham Act purposes. “[I]mposition of personal liability requires consideration of the nature of the wrong, the culpability of the act, and whether the person acted in his/her personal interest or that of the corporation.” *Univ. of Kan. v. Sinks*, 565 F. Supp. 2d 1216, 1239–40 (D. Kan. 2008) (quoting *Hoover Custom Metalcraft, Inc.*, 84 F.3d 1408, 1411 (Fed. Cir. 1996)). The Complaint does not plead facts addressing any of those considerations as to Mr. Norton or any individual acts by him. Accordingly, Plaintiffs have not plausibly alleged a basis to hold Mr. Norton personally liable for the alleged acts of Peak Tactical.

IV. CONCLUSION

For the foregoing reasons, Defendant Nicholas Norton respectfully requests that the Court dismiss all claims asserted against him for lack of personal jurisdiction under Fed. R. Civ. P. 12(b)(2). In the alternative, and independently, Mr. Norton requests that the Court dismiss all claims asserted against him under Fed. R. Civ. P. 12(b)(6) for failure to state a claim.

Dated: March 24, 2026.

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2026, a copy of the foregoing was filed electronically using the CM/ECF system, which will send notification of such filing to counsel of record.

/s/ Timothy P. Getzoff
Timothy P. Getzoff

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

ABC IP, LLC, a Delaware limited liability company, and RARE BREED TRIGGERS, INC., a Texas corporation, and

Plaintiffs,

v.

PEAK TACTICAL, LLC d/b/a PARTISAN TRIGGERS, a Wyoming limited liability company, and NICHOLAS NORTON, an individual,

Defendants.

Case No. 2:26-cv-00018-KHR

**DECLARATION OF NICHOLAS
NORTON**

I, Nicholas Norton, declare and state as follows:

1. I submit this declaration in support of Defendant Nicholas Norton's Motion to Dismiss in this action.
2. I am a Defendant in this action. I have personal knowledge of the facts stated in this Declaration, and if called as a witness, I could and would testify competently to them.
3. I am not and have never been a resident of Wyoming. I am domiciled in Florida and reside in Bradenton, Florida.
4. I have lived in Florida since early 2026. Prior to living in Florida, I resided in North Carolina. I have never lived in Wyoming. I have never held a Wyoming driver's license. I have never been registered to vote in Wyoming.
5. I do not own any real property in Wyoming, nor have I ever. I do not lease any real property in Wyoming, nor have I ever. I do not maintain a personal residence, apartment, office, or other place of business in Wyoming, nor have I ever.

6. I do not and have not maintained any personal bank accounts in Wyoming. I do not and have not maintained any personal post office box in Wyoming. I do not have, and never have had, a personal telephone listing in Wyoming.

7. I do not regularly travel to Wyoming. In fact, I have only been to Wyoming one time in my life, in December 2024.

8. I do not personally market, advertise, sell, ship, or offer products for sale in Wyoming as an individual. I do not personally contract with Wyoming customers as an individual.

9. I am a minority owner of Peak Tactical, LLC (“Peak Tactical”). Peak Tactical is a limited liability company formed under the laws of Wyoming. Peak Tactical is a separate legal entity from me.

10. My responsibilities for Peak Tactical are limited to commercial and customer-facing functions, including sales, accounts receivable, marketing, customer relations, and dealer relations. I do not perform, supervise, or direct the production or manufacturing of Peak Tactical’s products, and I have no involvement in the design or engineering of Peak Tactical’s products, including the design of any fire-control components or trigger mechanisms. I do not post articles on AR15.com on behalf of Peak Tactical and did not author, post or have any involvement in the statements identified in the Complaint. I do not make decisions on behalf of or have any involvement in product marking decisions of Peak Tactical.

11. Any contacts I have had with Wyoming relating to Peak Tactical were undertaken solely in my representative capacity for Peak Tactical, not in my individual capacity.

12. I do not personally direct business activities “from” Wyoming. I do not make business decisions while physically located in Wyoming. When I perform work relating to Peak Tactical, I do so while located in Florida.

13. I do not maintain any Wyoming registrations or licenses in my individual capacity.

14. I do not personally advertise in Wyoming in my individual capacity. Any advertising, marketing, website content, or product sales activity (if any) concerning Peak Tactical's products is conducted by Peak Tactical as a company.

15. I have not consented to personal jurisdiction in Wyoming in my individual capacity.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on March 24, 2026, in Bradenton, Florida.



Nicholas Norton

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