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PATENT, TRADEMARK, COPYRIGHT
AND UNFAIR COMPETITION LAW
AND RELATED LITIGATION

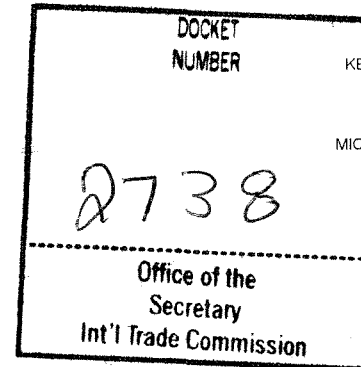
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June 4, 2010

United States International Trade Commission
Docket Services
500 E. Street S.W., Room 112-A
Washington, DC 20436

Re: VERIFIED COMPLAINT UNDER SECTION 337

Gentlemen:

Enclosed please find the following:

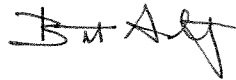
1. An EDIS Cover Sheet Document Number 426762;
2. Original and 14 copies of the VERIFIED COMPLAINT UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED, including Exhibits thereto and Complainant verification. Confidential treatment is not being requested;
3. Certified copy of the prosecution history, along with 4 copies, for each of the five patents that are the subject of the VERIFIED COMPLAINT;
4. Four copies of each of the five patents that are the subject of the VERIFIED COMPLAINT; and

United States International Trade Commission
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5. Four copies of each technical reference in the prosecution histories of each of the five patents that are the subject of the VERIFIED COMPLAINT (included with the prosecution histories themselves), unless those technical references are duplicative.

Kindly file the original as of record and time-stamp and return a copy of the VERIFIED COMPLAINT to my attention using the enclosed pre-paid FedEx Airbill label.

Very truly yours,



Brett A. Schatz

BAS:alf
Enclosures

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON D.C.

_____ X
In the Matter of: :
: Investigation No.
CERTAIN CASKETS :
: 337-TA-_____
_____ X

VERIFIED COMPLAINT UNDER SECTION 337
OF THE TARIFF ACT OF 1930, AS AMENDED
(No Confidential Version Filed)

Complainant:

Batesville Services, Inc.
One Batesville Boulevard
Batesville, Indiana 47006
(812) 934-7500

Respondent:

Ataudes Aguilares, S. de R.L. de C.V.
Volcan Osorno 5829 C.P. 44250 Huentitan El
Bajo
Guadalajara, Jal., Mexico
(0133) 31-68-24-08

Counsel For Complainant:

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DOUMENTARY EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Page</u>	<u>Para.</u>
1	U.S. Patent No. 5,611,124	3, 5, 8, 9, 12	1, 2, 6, 21, 22
2	U.S. Patent No. 5,727,291	3, 5, 8, 12	1, 2, 6, 21, 28
3	U.S. Patent No. 6,836,936	3, 5, 8, 12	1, 2, 6, 21, 28
4	U.S. Patent No. 6,976,294	3, 5, 8, 12	1, 2, 6, 21, 28
5	U.S. Patent No. 7,340,810	3, 5, 8, 9, 12	1, 2, 6, 21, 23
6	Patent Assignments to Complainant	5	7
7	Invoices showing importation	7	15
8	Proof of infringing United States sales	7	16
9	Affidavit of Ilija Rojdev	12	29
10	Photographs: Ataudes Aguilares' Product	12	29
11	Photographs: Batesville's Product	13	30
12	Patent Claim Charts - Ataudes Aguilares	12	30
13	Patent Claim Charts-Batesville's Product	12	30
14	U.S. District Court of Puerto Rico	14	36

COMPLAINT

I. Introduction – Patent Infringement

1. This Complaint is filed by Batesville Services, Inc. (“Batesville”) pursuant to Code Section 337 of the Tariff Act of 1930, as amended, based upon the importation into the United States and specifically including but not limited to importation into Puerto Rico, of certain caskets by proposed respondent Ataudes Aguilares, S. de R.L. de C.V. (“Ataudes Aguilares”), those certain caskets infringing Batesville’s United States Letters Patent Nos. 5,611,124 entitled “Casket Having Memorabilia Compartment” (“the ‘124 patent”), which was duly and legally issued on March 18, 1997; 5,727,291 entitled “Casket Having Memorabilia Compartment” (“the ‘291 patent”), which was duly and legally issued on March 17, 1998; 6,836,936 entitled “Casket Having Memorabilia Compartment” (“the ‘936 patent”), which was duly and legally issued on January 4, 2005; 6,976,294 entitled “Casket Having Memorabilia Compartment” (“the ‘294 patent”), which was duly and legally issued on December 20, 2005; and, 7,340,810 entitled “Quick Change Casket Corner Attachment Mechanism” (“the ‘810 patent”).

2. Copies of the ‘124, ‘291, ‘936, ‘294, and ‘810 patents are attached hereto as Exhibits 1-5, respectively. Collectively, these patents are referred to herein as “the patents-in-suit.”¹

3. The patents-in-suit pertain to caskets and particular features utilized therein. Until Batesville invented the technology claimed in the patents-in-suit, caskets, whether fabricated from metal or wood, did not provide any designated, easily accessible, receptacle or compartment

¹ Required certified copies and copies of each patent, each prosecution history, and each reference cited during the prosecution history are being filed under separate cover.

for placement of personal effects of the deceased that was an integral part of the casket. Nor did early caskets provide a receptacle or compartment for mementos placed by the deceased's family and friends that was an integral part of the casket. Early caskets also included ornamental corner pieces that were not quickly or efficiently installed with or affixed to the casket. Rather, they included ornamental corner pieces that were rigidly affixed to the casket shell.

4. Prior attempts at solving these shortcomings generally have taken the form of the placement of a small memento box in the casket. However, such memento boxes appeared as an afterthought, simply placed alongside the deceased haphazardly. Such memento boxes detracted from the solemnity of the service and thus did not meet the needs of the deceased's family and friends.

5. Recognizing the drawbacks of previously marketed caskets, Batesville and its affiliates began a program to revolutionize casket design and, in the process, to solve the problems associated with prior caskets. The result was the development and introduction by Batesville of the first and, until introduction by Ataudes Aguilares and others of knock-off caskets, the only patented casket with a memorabilia compartment. More specifically, Batesville introduced a casket having a memorabilia compartment, which is a designated compartment or receptacle specifically for mementos, as an integral part of the casket. These Batesville products do not present the haphazard appearance of prior memento boxes simply placed alongside the deceased. Batesville also developed and introduced an attachment mechanism to permit the quick and efficient installation and removal of ornamental corner pieces onto and from caskets.

6. Because the memorabilia compartment developed by Batesville was previously unheard of in the funeral services industry, Batesville sought and obtained patent protection. Batesville's memorabilia compartment patents, i.e., the '124 patent, the '291 patent, the '936

patent, and the '294 patent, are attached hereto as Exhibits 1-4. The memorabilia compartment patents are embodied in Batesville's caskets and are directed to a memorabilia compartment that is an integral part of the casket and do not present the haphazard appearance of prior memento boxes simply placed alongside the deceased. Because the attachment mechanism permitting the quick and efficient installation and removal of ornamental corner pieces developed by Batesville was previously unheard of in the funeral services industry, Batesville also sought and obtained patent protection. Batesville's attachment mechanism patents include the '810 patent, which is attached hereto as Exhibit 5.

7. Batesville is the owner of the patents-in-suit. More specifically, Batesville represents that all of the patents-in-suit are wholly owned by Batesville, by assignment. Attached hereto as Exhibit 6 are the assignments that demonstrate Batesville's ownership. Batesville has not licensed any of the patents-in-suit. Foreign patents and pending foreign patent applications are: (a) Canadian Patent No. 2181506, which claims priority to the '291 patent (granted on September 12, 2006); (b) Canadian Patent No. 2,161,197, which claims priority to the '124 patent (granted on November 17, 1998); and, (c) Mexican Patent No. 200864, which claims priority to the '124 patent (granted February 19, 2001, abandoned). Batesville is not aware of any foreign patents or foreign patent applications that claim priority to the patents-in-suit other than those listed above.

II. Complainant

8. Batesville is an Indiana corporation based in Batesville, Indiana, a small town located in Southern Indiana. For over a century, approximately since 1906, Batesville has operated a funeral products company. Currently, Batesville is the nation's largest manufacturer

of bronze, copper, stainless steel, steel, and wood caskets, with four plants in the United States, and with approximately 3,300 employees.

9. Well over 500 styles and colors of caskets are available from Batesville. Quality, dependability, service, and a dedication to excellence and continuous improvement are all cornerstones on which the company has been built. Batesville's commitment to product innovations has brought it to the forefront of every significant new development in manufacturing and merchandising programs in funeral service.

10. As noted above, Batesville's product innovations for caskets include a memorabilia compartment that is a designated compartment or receptacle specifically for displaying mementos during a viewing, thereby allowing family members and friends to commemorate the passing of the deceased. Batesville's product innovations for caskets also include an attachment mechanism to permit the quick and efficient installation and removal of ornamental corner pieces onto and from caskets.

11. Batesville has expended substantial time, money and effort to develop its caskets and associated technology. Batesville has expended an incalculable number of employee hours in developing technology for caskets, and devotes employee hours solely toward product development. With its technology, patented in the patents listed above, Batesville solved the very sensitive problems associated with funeral services and family members and friends participating in the solemn occasion of viewing the passing of a deceased.

12. Batesville has also invested substantial financial resources associated with marketing its caskets. Batesville also supports its business through employment of approximately 3,300 employees.

13. Conservatively speaking, national sales of Batesville's patented caskets are expected to exceed \$130 million this year.

III. Respondent and Respondent's Importation

14. Upon information and belief, Ataudes Aguilares is a Mexican company located at Volcan Osorno 5829 C.P. 44250 Huentitan El Bajo, Guadalajara, Jal., Mexico. Upon further information and belief, Ataudes Aguilares is in the business of manufacturing funeral equipment, including caskets and casket parts.

15. On or about December 2008, February 2009, and May 2009, Ataudes Aguilares imported into the United States approximately 14 caskets that incorporate a memorabilia drawer and ornamental corner pieces. The designees of the imports were Luquillo Funeral Home and Mr. Alejandro Sanchez, J.G. Perez Memorial and Mr. Johnny Galiano, and Naranjito Memorial and Messrs. Luis Matos and Glen Matos. Attached hereto as Exhibit 7 are invoices and shipment reports demonstrating this information.

16. Upon information and belief, in December 2008, February 2009, and May 2009, Ataudes Aguilares delivered or caused to be delivered multiple of these imported caskets to Luquillo Funeral Home and Mr. Alejandro Sanchez, J.G. Perez Memorial and Mr. Johnny Galiano, and Naranjito Memorial and Messrs. Luis Matos and Glen Matos. Upon further information and belief, these imported caskets have been sold to customers in the United States, including customers and potential customers of Batesville. Attached hereto as Exhibit 8 are sworn statements from representatives of the entities mentioned above confirming the importation of these caskets by Ataudes Aguilares.

17. Ataudes Aguilares did not develop these caskets on its own. Instead, in order to compete against Batesville in selling improved caskets, Ataudes Aguilares entered into contracts to import for sale in the United States caskets manufactured by Ataudes Aguilares, but copied from Batesville patent protected caskets.

18. Upon information and belief, these imported caskets have components manufactured in Mexico by Ataudes Aguilares for sale in the United States.

19. Upon information and belief, Ataudes Aguilares has imported and/or is continuing to import caskets with a memorabilia drawer and ornamental corner pieces to Batesville's customers and potential customers; has quoted prices and solicited orders and is continuing to quote prices and solicit orders for caskets with a memorabilia drawer and ornamental corner pieces from Batesville's customers and potential customers; and is selling caskets to Batesville's customers and potential customers in the United States.

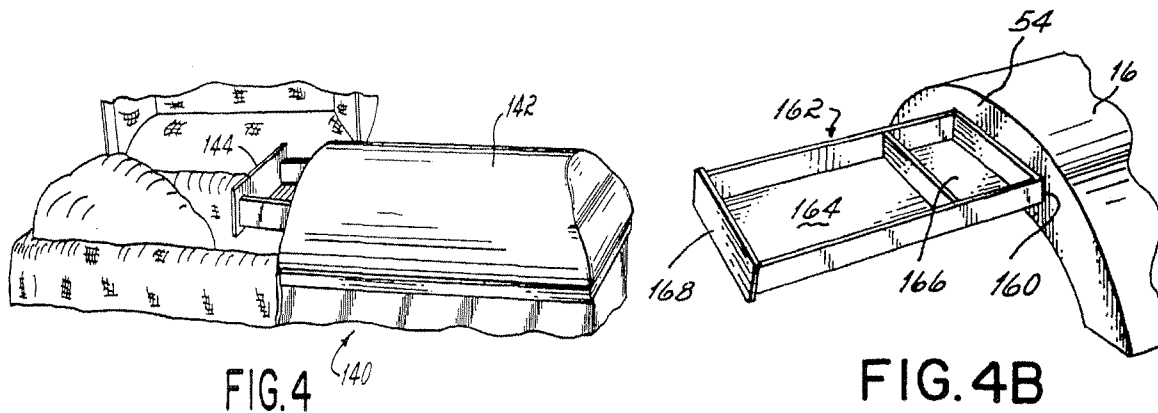
20. Upon information and belief, the caskets demonstrated and sold by Luquillo Funeral Home and Mr. Alejandro Sanchez, J.G. Perez Memorial and Mr. Johnny Galiano, and Naranjito Memorial and Messrs. Luis Matos and Glen Matos are being imported and supplied by Ataudes Aguilares.

IV. Batesville's Patent Rights Are Infringed

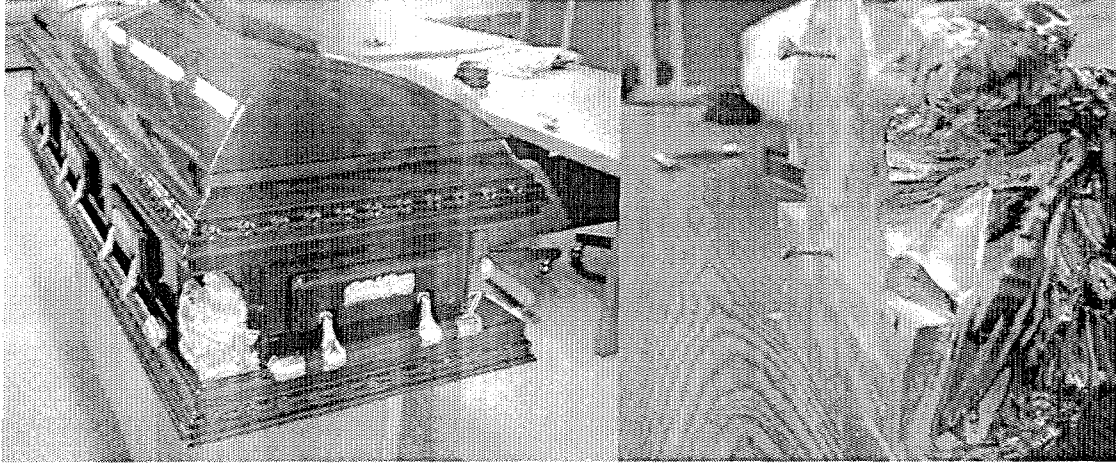
21. As noted above, Batesville is the owner by assignment of innovative memorabilia compartment technology, disclosed and claimed in United States Letters Patent Nos. 5,611,124 ("the '124 patent"); 5,727,291 ("the '291 patent"); 6,836,936 ("the '936 patent"); and, 6,976,294 ("the '294 patent"). Each of these patents is entitled "Casket Having Memorabilia Compartment," and are collectively referred to herein as "the memorabilia compartment patents."

Batesville is also the owner by assignment of innovative attachment mechanisms to permit the quick and efficient installation and removal of ornamental corner pieces onto and from caskets. This technology is disclosed and claimed in United States Letters Patent No. 7,340,810 (“the ‘810 patent”).

22. By way of example, as shown in Figures 4 and 4B of the ‘124 patent (Exhibit 1), which are reproduced below, the memorabilia compartment can be included in either a sheet metal casket (Figure 4) or in a wood casket (Figure 4B). The casket (140) of Figure 4 includes foot end cap (142) in which is slidably disposed a drawer (144). The casket of Figure 4B includes a foot cap (16) having a header wall (54) with an opening (160) therein for accepting a drawer (162). Suitable supporting structure underlies the drawer (162) to support it when pushed in. Other memorabilia compartments offered by Batesville are claimed in the ‘124 patent, as well as in the ‘291 patent, the ‘936 patent, and the ‘294 patent.



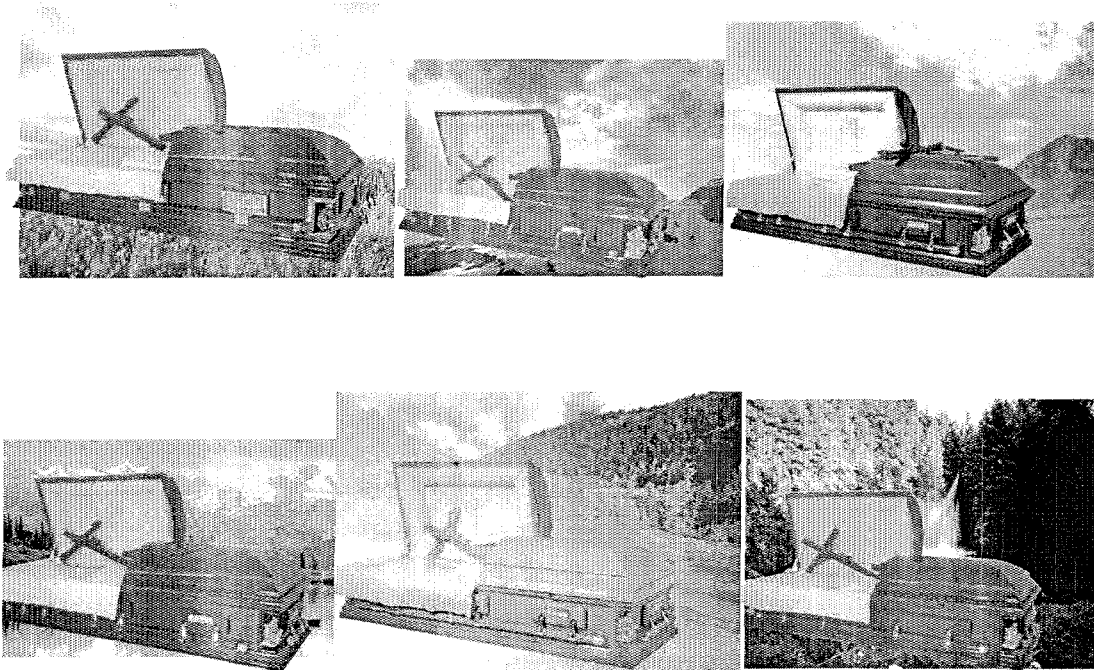
23. By way of further example, as shown in Figure 8 of the ‘801 patent (Exhibit 5), which is reproduced below, the attachment mechanism includes a first attachment element being at least one groove (140) adapted to be associated with the mounting member (132), and a second attachment element being at least one threaded fastener (90). The groove (144) comprises a slot



25. As with Batesville's patented caskets, Ataudes Aguilares' imported caskets include a memorabilia compartment disposed within the cap of the casket. The memorabilia compartment of Ataudes Aguilares' caskets can be opened and closed, and is formed in the cap. Also as with Batesville's patented caskets, Ataudes Aguilares' imported caskets include an attachment mechanism with at least one groove, and at least one threaded fastener. The groove comprises a slot and an opening communicating with the slot.

V. Ataudes Aguilares' Global Copying Of Batesville's Caskets

26. Ataudes Aguilares has copied Batesville's memorabilia compartment disposed within the cap of the casket, and its innovative attachment mechanism, across its product line offering. By way of example only, Ataudes Aguilares offers these features in the following products:



VI. Ataudes Aguilares' Unfair Trade Practices

27. Batesville is aware that Ataudes Aguilares has engaged in unfair practices in import trade with respect to Batesville's rights in its patented caskets.

28. The caskets imported by Ataudes Aguilares are covered by at least numerous claims of the patents-in-suit, including claims 1, 13, 27, and 44-53 of the '124 patent, claims 1, 6, 8-9, 16-17, 19, and 21 of the '291 patent, claims 1 and 2 of the '936 patent, claims 1-2, 5-8, and 11-12 of the '294 patent, and claims 1-2 and 4-5 of the '810 patent.

29. Attached hereto as Exhibit 9 is the Affidavit of Ilija Rojdev, who concludes upon review of Ataudes Aguilares' casket, and upon review of the photographs of Ataudes Aguilares' casket (attached hereto as Exhibit 10), that numerous claims of the patents-in-suit are infringed.

30. Attached hereto as Exhibit 12 are claim charts comparing the aforementioned claims of the patents-in-suit to Ataudes Aguilares' caskets, further demonstrating infringement. Also attached hereto as Exhibit 13 are claim charts comparing representative claims of the

patents-in-suit to photographs of Batesville's commercial products (photographs of which are attached as Exhibit 11), demonstrating that Batesville practices each of the patents-in-suit.

31. Neither Ataudes Aguilares, Luquillo Funeral Home and Mr. Alejandro Sanchez, J.G. Perez Memorial and Mr. Johnny Galiano, nor Naranjito Memorial and Messrs. Luis Matos and Glen Matos are licensed to make, use, sell, or import any apparatus covered by Batesville's patents.

32. Upon information and belief, in December 2008, February 2009, and May 2009, Ataudes Aguilares delivered multiple caskets to Luquillo Funeral Home and Mr. Alejandro Sanchez, J.G. Perez Memorial and Mr. Johnny Galiano, and Naranjito Memorial and Messrs. Luis Matos and Glen Matos. Upon information and belief, these imported caskets have been sold to customers in the United States, including customers and potential customers of Batesville.

**VII. Batesville's Operations Related To Caskets Constitute
A Domestic Industry in the United States**

33. Batesville manufactures and assembles its patented caskets in the United States in its casket production facilities in (a) Batesville, Indiana (approximately 391,000 square feet; net book value of assets of at least \$5 million); (b) Panola, Mississippi (approximately 190,000 square feet; net book value of assets of at least \$5 million); (c) Manchester, Tennessee (approximately 428,000 square feet; net book value of assets of at least \$4 million); and, (d) Vicksburg, Mississippi (approximately 123,000 square feet; net book value of assets of at least \$5 million). Batesville currently employs approximately 3,300 employees and actively runs four plants in the United States, as noted above. As such, a domestic industry exists pursuant to at least Section 337(a)(3)(A) and (B), based on significant investment in plant and equipment and significant employment of labor and capital.

34. Conservatively speaking, over 15% of Batesville's caskets include at least one of the features that are claimed in the patents-in-suit. It can be conservatively stated that at least 60% of all Batesville employees, and at least 60% of all Batesville manufacturing square footage, and at least 60% of all Batesville equipment, is utilized in the production of Batesville products that incorporate at least one of the features that are claimed in the patents-in-suit.

35. Batesville Services, Inc. conservatively represents that the inventions claimed in the patents-in-suit are utilized in at least 15% of all Batesville caskets.

VIII. Litigation

36. Batesville is aware of pending litigation regarding the subject of the Verified Complaint. In November 2009, Batesville filed in the U.S. District Court for the District of Puerto Rico a patent infringement lawsuit. The named defendants are Luquillo Funeral Home and Mr. Alejandro Sanchez, J.G. Perez Memorial and Mr. Johnny Galiano, and Naranjito Memorial and Messrs. Luis Matos and Glen Matos, all of whom are located in Puerto Rico where the Ataades Aguilares caskets have been imported. Several of the defendants have admitted to infringement of the patents-in-suit, and have admitted under oath that Ataades Aguilares is the supplier of the infringing caskets. All defendants have executed a Consent Judgment in Batesville's favor. Attached as Exhibit 14 are documents relating to the patent infringement lawsuit pending before the U.S. District Court for the District of Puerto Rico.

IX. Harmonized Tariff Schedule

37. Upon information and belief, the products that are the subject of this Verified Complaint fall within at least the following Tariff Schedule Item Numbers: Section IX, Item numbers 4420.10.00, 4420.90.65 and Section XV, Item number 7309.00.00.

X. Relief Sought

38. WHEREFORE, by reason of the foregoing, Batesville requests that the United States International Trade Commission:

(a) institute an immediate investigation pursuant to §337 of the Tariff Act of 1930, as amended, with respect to violations of that section based upon the importation into the United States, the sale for importation, or the offer for sale and sale within the United States after importation by Ataudes Aguilares of caskets that infringe any of the following valid and enforceable U.S. Letters Patents: United States Patent No. 5,611,124; United States Patent No. 5,727,291; United States Patent No. 6,836,936; United States Patent No. 6,976,294; and/or United States Patent No. 7,340,810;

(b) schedule and conduct a hearing on said unlawful acts and, following such hearing;

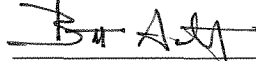
(c) issue a permanent exclusion order excluding entry into the United States of caskets that infringe the patents-in-suit;

(d) issue permanent cease and desist orders prohibiting Ataudes Aguilares from importing into the United States, selling in the United States, offering for sale in the United States, or using in the United States any caskets that infringe any of the patents-in-suit;

(e) issue such other and further relief as the Commission deems just and proper based on the facts determined by the investigation and the authority of the Commission.

Respectfully submitted,

Dated: May 27, 2010



Gregory F. Ahrens
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Brett A. Schatz
bschatz@whepatent.com

WOOD, HERRON & EVANS, L.L.P.
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Cincinnati, Ohio 45202-2917
(513) 241-2324

VERIFICATION

I, Richard S. Barnett, am Vice President and General Counsel of Batesville Services, Inc. and am duly authorized to verify this Complaint on behalf of Batesville Services, Inc. I have read the Complaint and am aware of its contents. To the best of my knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, I hereby certify as follows:

1. The Complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the investigation;
2. The claims and other legal contentions in the Complaint are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and
3. The allegations and other factual contentions in the Complaint have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

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

Executed on Aug 26, 2010.



Richard S. Barnett
Vice President and General Counsel
Batesville Services, Inc.