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17 UNITED STATES DISTRICT COURT  
18 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
19 SAN DIEGO DIVISION

20 COLUMBIA SPORTSWEAR NORTH  
21 AMERICA, INC., an Oregon corporation,

22 Plaintiff,

23 v.

24 SEIRUS INNOVATIVE ACCESSORIES,  
25 INC., a Utah corporation,

26 Defendant.

Case No.: 3:17-cv-01781-HZ

**COLUMBIA SPORTSWEAR  
NORTH AMERICA, INC.'S  
MOTION FOR TEMPORARY  
RESTRAINING ORDER AND  
INJUNCTIVE RELIEF**

**EXPEDITED HEARING  
REQUESTED**

Judge: Marco A. Hernandez

Date Action Filed: January 12, 2015  
Trial Date: September 18, 2017

1 Pursuant to Fed. R. Civ. P. 65(a) and (b), Plaintiff Columbia Sportswear North  
2 America, Inc. (“Columbia Sportswear”) hereby moves the Court for a temporary  
3 restraining order and preliminary injunction, and then a permanent injunction to enjoin  
4 Defendant Seirus Innovative Accessories, Inc. (“Seirus”), its officers, directors,  
5 employees, agents, attorneys, and all persons otherwise acting in concert or  
6 participation with Seirus, from initiating a patent reexamination proceeding with the  
7 United States Patent and Trademark Office (“PTO”) to challenge the validity of  
8 Columbia Sportswear’s Design Patent, D657,093 (“D’093 Patent”).

9 Seirus sought a declaratory judgment of invalidity of the D’093 Patent in this  
10 case, but agreed to a stipulated judgment of validity of the D’093 Patent with  
11 prejudice. [Dkt. 79, 81.] That consent judgment is binding on Seirus and precludes it  
12 from initiating a reexamination proceeding on the D’093 Patent or otherwise  
13 challenging the validity of the D’093 Patent in a new proceeding. Notwithstanding  
14 that fact, Seirus has advised Columbia Sportswear of its intent to file such a  
15 proceeding. Given the serious irreparable harm that would result from Seirus’s breach  
16 and violation of this Court’s consent judgment, Columbia Sportswear respectfully  
17 requests: (1) a temporary restraining order and preliminary injunction to maintain the  
18 *status quo* pending the issuance of a permanent injunction; and (2) a permanent  
19 injunction to enjoin Seirus from initiating a patent reexamination of the D’093 Patent  
20 at the PTO or otherwise filing any new challenges to the validity of the D’093 Patent.  
21 Columbia Sportswear is contemporaneously filing a Memorandum in Support of the  
22 Motion for Temporary Restraining Order and Injunctive Relief, along with the  
23 Declaration of Nika Aldrich.

24 Counsel for Columbia Sportswear gave prior notice of this motion to Seirus on  
25 November 16, 2017.

26 WHEREFORE, Plaintiff Columbia Sportswear respectfully requests that this  
27 Court preserve the status quo by issuing:



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on November 16, 2017, I served the foregoing document on  
3 the following counsel of record for Defendant Seirus Innovative Accessories, Inc.:

4 By electronic service via the 5 Court's CM/ECF System	6 Renée E. Rothauge 7 ReneeRothauge@markowitzherbold.com 8 <b>Markowitz Herbold PC</b> 9 Suite 3000, Pacwest Center 10 1211 SW Fifth Avenue 11 Portland, OR 97204-3730
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25 by delivering to them a true and correct copy thereof, certified by me as such.

26 */s/ David W. Axelrod*  
27 \_\_\_\_\_  
28 David W. Axelrod  
Email: daxelrod@schwabe.com