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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BOURNE INTERNATIONAL, INC.

Plaintiff,

v.

CHET STOLER, and  
SOUTH SEAS TRADING COMPANY

Defendants.

No. C06-5680RJB

**STIPULATION AND FINAL  
JUDGMENT**

**I. STIPULATION**

Come now Plaintiff BOURNE INTERNATIONAL, INC., by and through its counsel of record and Defendants CHET STOLER and SOUTH SEAS TRADING COMPANY, by and through their attorney and stipulate to the entry of a final judgment in this matter as follows:

1. Plaintiff is a closely held business incorporated in Washington and operating with it's principal place of business in Vancouver, Washington. Plaintiff performs imports and sells furniture including: THE LEAF COLLECTION®™(Leaf Mahogany Dining Suite, Leaf Canopy Bedroom Suite, Leaf Mahogany Futon Collection), Java Teak/Acacia Platform Suite, Macintosh Teak/Acacia Bedroom Suite, Macintosh Teak/Acacia Platform Bedroom Suite, Craftsman Teak/Acacia



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3 Collection, Macintosh Teak/Acacia Futon Collection, Beacon Hill Collection, Opium  
4 Collection.

5 2. The inherently distinctive THE LEAF COLLECTION®™ trade dress  
6 includes: "Leaf Collection", banana leaves, reticulate venation on each banana leaf,  
7 each leaf has dark shading representing the venation and outline, the leaves are  
8 approximately uniform in size, the leaves are carved, a pattern of banana leaves at  
9 different angles to one another, and a dark, mahogany wood color. None of these  
10 aspects are functional aspects of BOURNE's products. Plaintiff uses the mark and  
11 trade dress THE LEAF COLLECTION®™ in conjunction with imported furniture.  
12 Plaintiff has significant good will and reputation and derives significant value from  
13 use of its mark and trade dress to identify its services, and its business.

14  
15 3. Plaintiff's copyrighted work is registered with the Library of Congress,  
16 Registration No. VA 1-394-275, among others. Plaintiff's copyrights for the original  
17 ornamental features of the furniture pieces in THE LEAF COLLECTION®™ are  
18 valid.

19 4. Defendant STOLER is a former shareholder, director, officer, and/or  
20 employee of BOURNE. STOLER does business under the name SOUTH SEAS  
21 TRADING COMPANY, and resides in Oregon.

22 5. In the capacity as an employee, shareholder, director, and officer of  
23 Plaintiff, STOLER was in charge of arranging for manufacture, designing,  
24 importing, marketing and selling Plaintiff's furniture lines including: THE LEAF  
25 COLLECTION®™ (Leaf Mahogany Dining Suite, Leaf Canopy Bedroom Suite,  
26 Leaf Mahogany Futon Collection), Java Teak/Acacia Platform Suite, Macintosh  
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Teak/Acacia Bedroom Suite, Macintosh Teak/Acacia Platform Bedroom Suite, Craftsman Teak/Acacia Collection, Macintosh Teak/Acacia Futon Collection, Beacon Hill Collection, Opium Collection

6. STOLER was directly involved in bringing THE LEAF COLLECTION®™ to market. STOLER on behalf of BOURNE arranged display of THE LEAF COLLECTION®™ at trade shows in Las Vegas in January and July of 2006. To that end, STOLER issued Press Releases under BOURNE Letterhead, announcing and describing THE LEAF COLLECTION®™. STOLER was BOURNE's primary contact with a company known as Otsuka in Hawaii.

7. On or before October 17, 2006, STOLER created and registered a company in Oregon, SOUTH SEAS TRADING COMPANY.

8. Defendants sold items from THE LEAF COLLECTION®™, infringing Plaintiff's copyrights and trade dress for THE LEAF COLLECTION®™ between December 2006 and <sup>February</sup> March 2007 to customers of Plaintiff including selling, either personally or through an agent five (5) containers of THE LEAF COLLECTION®™ to Otsuka

SAC

9. Unless Plaintiff receives injunctive relief enjoining Defendants' confusing sale of items falling within Plaintiff's copyright and trade dress for THE LEAF COLLECTION®™ in the sale, marketing, and advertising of imported furniture, Plaintiff will be irreparably injured.

10. The public has an overriding interest in avoiding confusion of trade dress and in protecting copyrights and in the enforcement of trademark and copyright laws.



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11. Defendants shall be permanently enjoined from selling, marketing, manufacturing, or ordering, or assisting in the selling, marketing, manufacturing, or ordering, or deriving compensation or income from sales, manufacture, or marketing of pieces of furniture, or colorable imitations thereof, from Plaintiff's furniture lines, including: THE LEAF COLLECTION<sup>®</sup>™ (Leaf Mahogany Dining Suite, Leaf Canopy Bedroom Suite, Leaf Mahogany Futon Collection), Java Teak/Acacia Platform Suite, Macintosh Teak/Acacia Bedroom Suite, Macintosh Teak/Acacia Platform Bedroom Suite, Craftsman Teak/Acacia Collection, Macintosh Teak/Acacia Futon Collection, Beacon Hill Collection, Opium Collection


12. The parties further stipulate that all other claims and counterclaims between the parties are to be dismissed with prejudice, with each side to bear its own fees and costs.



Approved, stipulated, and agreed to

Approved, stipulated, and agreed to

RYLANDER & ASSOCIATES PC

HEURLIN POTTER JAHN LEATHAM  
HOLTMAN STOKER

By:   
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By:  pr   
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Attorney for Defendants

Dated 9/15/07

Dated 9/15/07



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**II. ORDER AND FINAL JUDGMENT**

The Court having jurisdiction over the claims and parties, and having reviewed the record in this case and the above Stipulation by the parties, hereby **ORDERS AND DECREES** as follows:

1. Defendants are **PERMANENTLY ENJOINED** from selling, marketing, manufacturing, or ordering, or assisting in the selling, marketing, manufacturing, or ordering, or deriving compensation or income from sales, manufacture, or marketing of pieces of furniture, or colorable imitations thereof, from Plaintiff's furniture lines, including: **THE LEAF COLLECTION**™ (Leaf Mahogany Dining Suite, Leaf Canopy Bedroom Suite, Leaf Mahogany Futon Collection), Java Teak/Acacia Platform Suite, Macintosh Teak/Acacia Bedroom Suite, Macintosh Teak/Acacia Platform Bedroom Suite, Craftsman Teak/Acacia Collection, Macintosh Teak/Acacia Futon Collection, Beacon Hill Collection, Opium Collection;
2. All other claims and counterclaims between the parties are **DISMISSED WITH PREJUDICE**; and
3. Each party is to bear its own fees and costs.

ENTERED THIS \_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT COURT JUDGE



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Presented by:

RYLANDER & ASSOCIATES PC

By: \_\_\_\_\_

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Of Counsel to Plaintiff

Notice of presentation waived; approved  
as to form by:

HEURLIN POTTER JAHN LEATHAM  
HOLTMAN STOKER

By: \_\_\_\_\_

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