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December 9, 2011

John G. Leckie  
Direct [REDACTED]  
Direct Fax [REDACTED]  
File No. V10452

VIA COURIER, FAX AND EMAIL

Park's Furniture  
70 Stanford Avenue  
Hamilton ON L8L 5Y9

Park's Furniture  
316 St. Paul Street  
St. Catharines ON L2R 5Y9

Attention: President

Dear Sirs:

**Re: Sleep Country Canada**

We represent Sleep Country Canada LP ("Sleep Country") in intellectual property matters.

It has come to our and our client's attention that your company has been using the trademark SLEEP COUNTRY on its website, along with statements which are false, misleading and unfairly disparaging towards Sleep Country, and intended to damage Sleep Country's business and goodwill. In particular, your use of the line "LET'S SEE SLEEP COUNTRY BEAT THIS PRICE!!" is a false, misleading and disparaging attempt to suggest that Sleep Country does not honour its lowest price guarantee.

This advertising is of great concern to Sleep Country and may have been carried out by your company without full knowledge of its ramifications. Your use of SLEEP COUNTRY constitutes unauthorized use of our client's trademark SLEEP COUNTRY CANADA (the "Sleep Country Trade-mark"), which is registered in Canada under Nos. TMA451,876 and TMA456,695 for use in association with wares and the following services:

the operation of a retail business specializing in mattresses, box springs, day beds, bed frames, and bedding accessories, and delivery and set up services.

The effect of those registrations is that Sleep Country, and no other party, has the exclusive right to use SLEEP COUNTRY CANADA, or anything confusingly similar to it, to promote mattresses and other products and the retail sale of such products.

Sleep Country takes its proprietary rights and reputation very seriously. In this regard, we have advised Sleep Country Canada that your website gives rise to claims for:

- Trade-mark infringement contrary to section 19 of the *Trade-marks Act*,

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- violation of section 7(a) the *Trade-marks Act*, which prohibits the making of a false or misleading statement tending to discredit the business, wares or services of a competitor;
- depreciation of goodwill contrary to section 22 of the *Trade-marks Act*;
- false and misleading advertising in contravention of the *Competition Act*;
- wrongful interference with economic relations; and
- injurious falsehood, or trade libel.

The *Trade-marks Act* provides our client with certain rights and remedies available to a party whose trade-mark is unlawfully used, and whose reputation is damaged, including the granting of an injunction, the award of damages and the payment by the defendant of the offended party's legal costs in any such proceeding.

You should understand that Sleep Country is fully prepared to vigorously enforce its legal rights to protect its business and reputation. In this regard, Sleep Country demands that you immediately:


1. cease and desist from publishing, broadcasting, or otherwise disseminating any communication which in any way, directly or indirectly, refers to, disparages or contains false or misleading statements regarding Sleep Country; and
2. cease and desist from any and all further use on display of the trade-mark SLEEP COUNTRY CANADA, or any other name confusingly similar thereto in any medium whatsoever, including SLEEP COUNTRY.

We look forward to receiving written confirmation of compliance with the above no later than four (4) days from the date of this letter, failing which our client may take, without further notice to you, such legal action as is available to it in order to protect its rights and reputation.

This letter is written without prejudice to Sleep Country's rights, all of which are reserved.

Sincerely,

**GOWLING LAFLEUR HENDERSON LLP**



John G. Leckie  
JGL/kjm

cc: Sleep Country Canada LP