

b. Patent Infringement

Plaintiffs seek to amend their claim of infringement of the '866 patent by more specifically describing the infringing acts and the infringing items. Plaintiffs have recently obtained and had the opportunity to examine automatic knives of the type sold by defendants and can now make good faith allegations that such knives, or similar knives, infringe the '866 patent.

c. The BALI-SONG Trademarks

To streamline the lawsuit, plaintiffs are withdrawing their claims of trademark infringement, unfair competition and dilution with respect to plaintiffs' registered trademarks BALI-SONG® and BALI-SONG and Butterfly Design®.

III. AMENDING THE CLAIMS TO MAKE THEM MORE SPECIFIC IS APPROPRIATE AND WILL NOT PREJUDICE DEFENDANTS.

a. Except for a single letter to the Court requesting pro bono counsel (unsigned with no return address) defendants have not responded to the First or Second Amended Complaints. Defendants have refused to respond to communications from plaintiffs. It is possible that plaintiffs will be forced to move for a default judgment. Since the relief available in a default judgment is limited by the complaint and prayer in order for plaintiffs to obtain the relief to which they are entitled, the complaint should be as specific as possible. Pursuant to Rule 15(a), Fed.R.Civ.P., the Court shall freely give leave to file an amended complaint when justice so requires. In this case, justice requires that plaintiffs be afforded the opportunity to obtain complete relief.

b. Defendants have not responded to the Second Amended Complaint and will not be prejudiced.