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Attorneys for Plaintiff Henrik Fisker

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

HENRIK FISKER, an individual,

Plaintiff,

vs.

ASTON MARTIN LAGONDA  
LIMITED, a United Kingdom  
corporation; ASTON MARTIN  
LAGONDA OF NORTH AMERICA,  
INC., a Connecticut corporation;  
ANDY PALMER, an individual;  
SIMON SPROULE, an individual;  
MAREK REICHMAN, an individual;  
and DOES 1 to 25, inclusive,

Defendants.

Case No.

**COMPLAINT FOR:**

- 1. CIVIL EXTORTION**
- 2. DECLARATORY RELIEF**

**[JURY TRIAL DEMANDED]**

1 **JURISDICTION AND VENUE**

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3 **A. Subject Matter Jurisdiction.**

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5 1. The Court has jurisdiction over the subject matter presented by this  
6 Complaint because it involves a determination of federal trademark rights, and a  
7 declaration by the Court under the Declaratory Judgment Act, 28 USC § 2201.  
8

9 **B. Parties and Personal Jurisdiction.**

10  
11 2. Plaintiff Henrik Fisker is a California resident, giving the Court  
12 personal jurisdiction over him.  
13

14 3. Defendant Aston Martin Lagonda Limited is a United Kingdom  
15 corporation, with its principle place of business in the United Kingdom. The  
16 Court has personal jurisdiction over Aston Martin Lagonda Limited, because it  
17 engages in significant business throughout the State of California, providing  
18 California with general jurisdiction.  
19

20 4. Defendant Aston Martin Lagonda of North America, Inc. is a  
21 Connecticut corporation, with its principle place of business in Irvine, California.  
22 The Court has personal jurisdiction over Aston Martin Lagonda of North America,  
23 Inc., because it engages in significant business throughout the State of California,  
24 providing California with general jurisdiction.  
25

26 5. Defendant Andy Palmer is an individual who is the Global CEO of  
27 Aston Martin Lagonda Limited, and is believed to reside in the United Kingdom.  
28 The Court has personal jurisdiction over Andy Palme because he regularly visits

1 California, as Global CEO of Aston Martin Lagonda Limited. Since California is  
2 one of the biggest markets for Aston Martin, and Aston Martin Lagonda of North  
3 America, Inc. is based in California, Palmer regularly travels here for work.  
4 Moreover, Palmer visits California to attend car shows, customer events and  
5 dealer meetings.

6  
7 6. Defendant Simon Sproule is an individual who is the Director of  
8 Global Marketing Communications of Aston Martin Lagonda Limited, and is  
9 believed to reside in the United Kingdom. The Court has personal jurisdiction  
10 over Simon Sproule because he regularly visits California, as Director of Global  
11 Marketing Communications of Aston Martin Lagonda Limited. Since California  
12 is one of the biggest markets for Aston Martin, and Aston Martin Lagonda of  
13 North America, Inc. is based in California, Sproule regularly travels here for  
14 work. Moreover, Sproule visits California to attend car shows, customer events,  
15 and dealer meetings.

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17 7. Defendant Marek Reichman is an individual who is the Chief  
18 Creative Officer and Design Director of Aston Martin Lagonda Limited, and is  
19 believed to reside in the United Kingdom. The Court has personal jurisdiction  
20 over Marek Reichman because he regularly visits California, as Chief Creative  
21 Officer and Design Director of Aston Martin Lagonda Limited. Since California  
22 is one of the biggest markets for Aston Martin, and Aston Martin Lagonda of  
23 North America, Inc. is based in California, Reichman regularly travels here for  
24 work. Moreover, Reichman visits California to attend car shows, customer  
25 events, and dealer meetings.

1           **C.    Venue.**

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3           8.     Venue in this District is proper under 28 U.S.C. § 1391(b) because all  
4 Defendants are subject to the Court’s personal jurisdiction with respect to this  
5 action, and because the events giving rise to this dispute occurred in this judicial  
6 district.

7  
8                                   **FACTUAL ALLEGATIONS**

9  
10          9.     Aston Martin is a low-volume sports car manufacturer established in  
11 the United Kingdom in 1913. In its current form, it operates as Defendant Aston  
12 Martin Lagonda Limited, a United Kingdom corporation located in Warwick,  
13 United Kingdom. The company sells its vehicles in the United States through  
14 Defendant Aston Martin Lagonda of North America, Inc., a Connecticut  
15 corporation located in Irvine, California.

16  
17          10.    Although the company has been in existence for 103 years, it has  
18 struggled mightily throughout its history with low sales numbers, financial  
19 distress, seven bankruptcies and fleeting ownership. As the *BBC News* noted in  
20 March 2015, “Aston Martin has always relied on someone stepping in and  
21 injecting some more cash and saving it.” In its entire corporate history, the  
22 company has sold a mere 70,000 vehicles. By way of comparison, Porsche –  
23 another low volume sports car manufacturer – currently sells 50,000 vehicles *per*  
24 *year*.

25  
26          11.    In the 1990s, Aston Martin’s sales were dismal. In 1991, the  
27 company sold a total of 42 vehicles worldwide, increasing to approximately 400  
28 vehicles per year in the mid-1990s. In response to its sales and marketing crisis,

1 the company hired world-renowned vehicle designer Plaintiff Henrik Fisker to  
2 revamp the company's vehicle lineup. Fisker had previously held the position of  
3 President of BMW Designworks, BMW's North America Design and  
4 Development Center. Fisker gained fame in the automotive industry when he  
5 designed the BMW Z8, one of BMW's most critically acclaimed vehicles and the  
6 car featured in the James Bond movie "The World Is Not Enough." To entice  
7 Fisker to join the company, Aston Martin named Fisker Director of Design and  
8 gave him a seat on the company's board of directors in the United Kingdom.  
9

10 12. While at Aston Martin, Fisker designed the Aston Martin V8  
11 Vantage, and was responsible for the production launch design of the Aston  
12 Martin DB9. The cars, which were put into production in 2005 and 2006,  
13 respectively, were largely responsible for saving the company and reestablishing  
14 market relevance. By 2006 (when both cars were in production), Aston Martin's  
15 annual global sales had grown to 7,052 – a 1,663 percent increase over the  
16 stagnated 400 units per year in the mid-1990s. By 2007, the company's annual  
17 global sales reached 7,393 vehicles.  
18

19 13. After his design work on the V8 Vantage and the DB9, Fisker left  
20 Aston Martin to pursue his own entrepreneurial projects. In the late 2000s, he  
21 launched Fisker Automotive, one of the world's first companies to manufacture  
22 alternative fuel vehicles. While captaining Fisker Automotive, he raised over a  
23 billion dollars for the company and designed the Fisker Karma, an innovative car  
24 that won numerous awards, including Time Magazine's "The 50 Best Inventions  
25 of 2011." A Fisker Karma vehicle is housed in the world-famous Peterson  
26 Automotive Museum, as a display of the vehicle's innovativeness. In 2013,  
27 Fisker resigned from Fisker Automotive, as the company experienced internal  
28

1 stress when its sole battery supplier, A123, filed for bankruptcy, leaving the  
2 company without an ability to produce its cars.

3  
4 14. Henrik Fisker is now engaged in a variety of automotive projects in  
5 the United States that leverage his ability to design world-class cars, as well as run  
6 a billion-dollar company. The focus of Fisker's new projects has been on high-  
7 performance luxury sports cars that cater to a celebrated clientele.

8  
9 15. Having witnessed firsthand Fisker's ability to grow a sports car  
10 brand, Aston Martin is greatly threatened by Fisker's return to the sports car  
11 market. Aston Martin is keenly aware that, as a public figure with a large  
12 following of elite automobile purchasers, Fisker has the ability to sway  
13 purchasers, including potential purchasers of Aston Martin vehicles, to any sports  
14 car he is involved in designing and marketing. Aston Martin's concern is  
15 exacerbated by the fact that since Fisker left Aston Martin, the company has failed  
16 to introduce new products that have garnered anywhere near the same level of  
17 attention the V8 Vantage and the DB9 did a decade ago. In fact, the V8 Vantage  
18 designed by Fisker remains the company's best selling vehicle. Yet, because the  
19 company has failed to introduce new and exciting products, Aston Martin's sales  
20 are again falling precipitously; in 2014 the company sold 3,661 vehicles globally  
21 – a 50 percent decline from the company's high water mark of 2007.

22  
23  
24 16. What is worse, Aston Martin's decline in sales continued – indeed,  
25 accelerated – as the global economy recovered from the Great Recession. From  
26 2008 (the height of the recession) to 2014 (the last full year of sales reporting), the  
27 United States market saw a 25% increase in vehicle sales. In that same time  
28 period, and without having Fisker at its side, Aston Martin's sales *decreased* 44

1 percent. Referring to Porsche for comparison again, from 2008 to 2014 the  
2 German automaker saw an 81 percent increase in sales.

3  
4 17. Aston Martin’s spiraling vehicles sales have led to severe financial  
5 stress. As the *Financial Times* reported in October 2015, “The Warwickshire  
6 manufacturer posted a pre-tax loss of £72m [\$106 million] for 2014, almost triple  
7 the £25m [\$37 million] deficit the year before.” According to *Reuters*, 2014 was  
8 “the fourth consecutive year [Aston Martin] has failed to post a profit,” a rather  
9 astonishing fact given that the luxury sports car market is currently exploding. As  
10 the *Financial Times* aptly noted, “Aston’s well-documented decline has come  
11 despite a boom in global luxury car sales.”  
12

13  
14 18. Sales figures for 2015 are not yet available, but signs indicate that the  
15 company continues to experience significant losses. *The Telegraph* reported in  
16 October 2015 that “Aston Martin is planning to cut almost 300 jobs [14 percent of  
17 the company’s workforce] as losses at its parent company more than doubled.”  
18 The *Financial Times* stated that the privately-held company has debts in excess of  
19 \$600 million, and is financing its losses through “additional investment from  
20 shareholders.” All of this was followed by a “deteriorate” credit rating in  
21 November 2015 by the well-respected Societe Generale Private Bank. As Societe  
22 Generale stated, “We maintain a DETERIORATE rating view on [Aston Martin]  
23 following its poor 9M15 results ... We maintain our view that the company’s  
24 huge capex program (~GBP 500mn during 2013–17) will result in cash burn and  
25 further worsen leverage metrics in the near-to-medium term.”  
26  
27  
28

1           19. Further denigrating its market relevance, Aston Martin prides itself as  
2 being uniquely British. However, the company's fall into financial ruin has all but  
3 stripped the United Kingdom of any meaningful ownership in the company. As  
4 reported by Societe Generale, Aston Martin is owned 47 percent by the Kuwait-  
5 based investment firm Dar Company, and 37.5 percent by the Italy-based private  
6 equity fund Investindustrial.

7  
8           20. In an effort to protect itself from further market erosion, Aston  
9 Martin and the three individuals responsible for running it – Defendants Andy  
10 Palmer (Global CEO), Simon Sproule (Director of Global Marketing  
11 Communications) and Marek Reichman (Chief Creative Officer and Design  
12 Director) – have conspired and devised a scheme to stomp out Henrik Fisker's  
13 competitive presence in the luxury sports car industry.  
14

15  
16           21. Over the past year, Aston Martin has sent Fisker threatening letters,  
17 and its executives have made disparaging comments in the press, all in an effort to  
18 shun him from the industry. Many journalists noted that Aston Martin's action  
19 have jeopardized Henrik Fisker's resurgence to the luxury sports car industry. As  
20 Automotive News, the leading automotive industry paper, commented, "Aston  
21 Martin has put the brakes on Henrik Fisker's return to the auto industry."  
22

23           22. Henrik Fisker has now designed a new American sports car, branded  
24 the Force 1, that is being launched at the January 2016 Detroit Auto Show. The  
25 Detroit Auto Show is the largest automotive show in the world, setting forth the  
26 tone for the coming year's car sales. In December 2015, Fisker introduced a  
27 single top view "teaser" sketch of the vehicle, a copy of which attached hereto as  
28



1 Exhibit A, and invited the media to attend the vehicle's launch. The response to  
2 the Force 1 has been spectacular, receiving attention from over 50 media outlets.  
3 As UK's *Daily Mail* stated, the Force 1 is one of the "nine cars ... to look out for  
4 at the Detroit motor show in January."

5  
6 23. Aston Martin, with its aging product line and inability to finance and  
7 produce new and exciting vehicles, is extremely threatened by the reception the  
8 Force 1 has received. Positioned as an American supercar with 745 horsepower  
9 and a sales price of just under \$300,000, the Force 1 is a direct competitor of  
10 many Aston Martin products.  
11

12  
13 24. Unable to respond competitively in the marketplace, on December  
14 23, 2015, just two days before Christmas, Aston Martin sent Fisker a letter  
15 demanding that he not launch the Force 1 vehicle at the Detroit Auto Show, or  
16 make design changes to the vehicle before its launch. Aston Martin made the  
17 demand under the threat of suing him if he failed to comply with Aston Martin's  
18 outrageous demands. A copy of Aston Martin's December 23, 2015 letter is  
19 attached as Exhibit B.  
20

21 25. Based *solely* on the teaser top view sketch [Ex. A], Aston Martin is  
22 claiming that the Force 1 is too similar to the Aston Martin DB10, a car that it  
23 made for the recent James Bond movie, but will not be producing. However, the  
24 company is aware that its claim is pure nonsense, as it admits in its letter, "We do  
25 not know what the final version of Fisker's Force 1 will look like." [Ex. B]. The  
26 truth is that Aston Martin and the three individuals who run it (Defendants Andy  
27 Palmer, Simon Sproule and Marek Reichman) are so concerned that Fisker will be  
28

1 competing with them in the marketplace, they are attempting to extort him into  
2 submission.

3  
4 26. As will be displayed at the Detroit Auto Show, the Force 1 is *not*  
5 based on an Aston Martin chassis, is *not* in any way connected to Aston Martin,  
6 and is completely *distinct* from any Aston Martin vehicle that has ever been made,  
7 including the DB10. As reflected in Exhibit C, the Force 1 has a round wind  
8 screen, the DB10 has a flatter wind screen; the Force 1 has a square roof with  
9 parallel lines, the DB10 has a tapered roof that narrows toward the rear; the Force  
10 1 has a long rear, the DB10 has a short rear; and the Force 1 has a Z side line, the  
11 DB10 has a straight side line.  
12

13  
14 27. In fact, there are several automakers that produce cars similar to  
15 Aston Martins, but like the Force 1, are distinct in their application. As shown in  
16 Exhibit D, the Chevrolet Corvette and the Jaguar F-Type both have front engine  
17 proportions with long hood and pushed out wheels, and both bear a resemblance  
18 to the Aston Martin, but are separate and distinct vehicles, with their own specific  
19 trade dress. The design elements of the Aston Martin, the Corvette, the F-Type  
20 and the Force 1 are the cornerstone of front engine sports car design, dating back  
21 to the golden era of the 1960s. Aston Martin does not own the market for luxury  
22 sports cars, or traditional front engine sports car proportions.  
23

24 28. Nevertheless, Aston Martin and Defendants Andy Palmer, Simon  
25 Sproule and Marek Reichman, the three individuals who for all intents and  
26 purposes run the company, are attempting to extort Fisker out of the industry,  
27 threatening to declare to the world that he is infringing on its trademarks and  
28

1 “stealing” the company’s designs – a claim that they know is without merit, as  
2 they admit they have no idea what the car will look like. [Ex. B]. These extortion  
3 tactics threaten to inflict extreme and irreparable damage on the individual who  
4 made car design fashionable. Fisker has built his credibility on his design skills,  
5 being referred to repeatedly in the press as a “world renowned designer.” Such a  
6 baseless claim by Aston Martin would subject him to public humiliation,  
7 embarrassment in the industry and significant financial losses. It would also leave  
8 scores of skilled American workers who are currently slotted to build the Force 1  
9 vehicles unemployed. However, the Defendants are unconcerned with the  
10 consequences of their actions, so long as it silences the famed designer. Saddled  
11 with a company that is teetering on the brink of insolvency, Andy Palmer, Simon  
12 Sproule and Marek Reichman are desperate to stomp out Fisker as a legitimate  
13 competitor, at all costs.  
14

15  
16 29. Aston Martin and Defendants Palmer, Sproule and Reichman are  
17 well-aware of how important the Detroit Auto Show is to the industry and to a  
18 prospective car’s launch. They are also keenly aware that extorting Fisker and  
19 forcing him to pull out of the show would effectively kill the car, as well as his  
20 reputation. The goal of the Defendants is to gain market share for Aston Martin,  
21 and to quell competition from the person who revived the company a decade ago.  
22

23 30. As a result of the Defendants’ improper and tortious attempt to  
24 exclude Henrik Fisker from the luxury sports car industry, Henrik Fisker has been  
25 damaged in excess of \$100 million.  
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**COUNT ONE**  
**CIVIL EXTORTION**  
(By Plaintiff Against all Defendants)

31. Plaintiff repeats every allegation contained in the paragraphs above and incorporates such allegations herein by reference.

32. Defendants Aston Martin Lagonda Limited, Aston Martin Lagonda of North America, Inc., Andy Palmer, Simon Sproule and Marek Reichman are engaged in an active plan to extort Plaintiff Henrik Fisker, and to eliminate him as a competitor in the luxury sports car industry.

33. As reflected in the December 23, 2015 letter [Ex. B], the Defendants are demanding that the Plaintiff not launch the Force 1 vehicle at the 2016 Detroit Auto Show, or make design changes to the vehicle prior to its launch.

34. The Defendants are employing the wrongful use of force or fear to achieve their goals. They are making their demand under the threat of subjecting the Plaintiff to vexatious litigation, public humiliation, embarrassment in the industry and significant financial losses.

35. The Defendants are aware that their demand has no basis in fact or law, as it is based solely on a single top view “teaser” sketch of the vehicle that was given to the media, and they admit that they have no idea what the Force 1 vehicle will look like. [Ex. B].

1 36. The Defendants are making the extortion threats to the Plaintiff in an  
2 effort to eliminate legitimate competition in the luxury sports car market, and to  
3 gain property and market share to which they are not legally entitled. The  
4 Defendants are motivated by the substantial financial losses the company is  
5 experiencing, which threaten its continued viability.

6  
7 37. The Defendants' actions violate California's laws on extortion,  
8 including California Penal Code § 518, et seq.

9  
10 38. As a direct and proximate result of the Defendants' extortion, the  
11 Plaintiff has been damaged in excess of \$100 million.

12  
13 39. The conduct of Defendants is fraudulent, malicious and oppressive,  
14 such that Plaintiff is entitled to an award of punitive damages, in an amount to be  
15 proven at trial.

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17  
18 **COUNT TWO**

19 **DECLARATORY RELIEF**

20 (By Plaintiff Against all Defendants)

21  
22 40. Plaintiff repeats every allegation contained in the paragraphs above  
23 and incorporates such allegations herein by reference.

24  
25 41. There is an actual and present controversy existing between Plaintiff  
26 Henrik Fisker, on the one hand, and Defendants Aston Martin Lagonda Limited,  
27 Aston Martin Lagonda of North America, Inc., Andy Palmer, Simon Sproule and  
28 Marek Reichman, on the other, as to the design of the Force 1.

1  
2 42. The Plaintiff contends that the design of the Force 1 does not violate  
3 any of Aston Martin's trademarks, and that he has the right to manufacture,  
4 market and sell the Force 1 vehicle free of disturbance from any of the  
5 Defendants.

6  
7 43. The Defendants contend that the Force 1 design infringes on  
8 trademarks owned by Defendants Aston Martin Lagonda Limited and Aston  
9 Martin Lagonda of North America, Inc., and that the Plaintiff is not lawfully  
10 permitted to manufacture, market and sell the Force 1.

11  
12 44. Pursuant to the Declaratory Judgment Act, 28 USC § 2201, the  
13 Plaintiff requests that the court declare whether the design of the Force 1 infringes  
14 on any of Aston Martin's trademarks.

15  
16 **WHEREFORE**, Plaintiff prays that the Court award him:

17  
18 Count One

- 19 1. Compensatory damages of not less than \$100 million.  
20 2. Punitive damages.

21  
22 Count Two

- 23 1. Declaratory judgment.

24  
25 All Causes of Action

- 26 1. Costs of suit.  
27 2. All other relief the Court deems necessary and proper.  
28

**MLG AUTOMOTIVE LAW, APLC**

Dated: January 4, 2016

By:           /s/ Jonathan A. Michaels            
Jonathan A. Michaels, Esq.  
Kathryn J. Harvey, Esq.  
Kianna C. Parviz, Esq.  
Attorneys for Plaintiff Henrik Fisker

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**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all triable issues.

**MLG AUTOMOTIVE LAW, APLC**

Dated: January 4, 2016

By:           /s/ Jonathan A. Michaels            
Jonathan A. Michaels, Esq.  
Kathryn J. Harvey, Esq.  
Kianna C. Parviz, Esq.  
Attorneys for Plaintiff Henrik Fisker

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