

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

WICUE USA, INC,
a California Corporation,

Plaintiff,
V.

THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A
a Foreign Entity

Defendants

Case No. 1:24-cv-9029

COMPLAINT

Plaintiff WICUE USA, INC. (“Plaintiff”) hereby brings this patent infringement action against the Partnerships and Unincorporated Associations identified on Schedule A attached hereto (collectively, “Defendants”) and alleges as follows:

INTRODUCTION

1. Plaintiff is the owner by assignment of a United States Patent entitled a Multicolor Liquid Crystal Writing Device (“the Asserted Patent”). The Asserted Patent was duly and legally issued by the United States Patent Office on October 12, 2021 and is valid, subsisting, and in full force and effect. A copy of the Asserted Patent is attached to this Complaint as Exhibit A.

2. Plaintiff has produced and distributed its own multicolor liquid crystal writing device products embodying one or more claims of the Asserted Patent (“Plaintiff’s Products”), and such Plaintiff’s Products have been marked with at least the Asserted Patent number

pursuant to 35 U.S.C. § 287(a).

3. Plaintiff files this action to combat Defendants' acts of infringement of the Asserted Patent by making, using, importing, selling and/or offering for sale unlicensed products, namely the multicolor liquid crystal writing devices shown in Exhibit B ("Accused Products").

4. The Defendants operate several Amazon storefronts ("Defendant Amazon Stores") intended to appear to be selling genuine products, while actually selling Accused Products to unbeknownst consumers. The Defendant Amazon Stores share unique identifiers, such as similar product images and specifications, advertising, design elements, and similarities of the Accused Products themselves, establishing a logical relationship between them and suggesting that Defendants' operation arises out of the same transaction, occurrence, or series of transactions or occurrences. Furthermore, the Accused Products all share identical infringing components, which further establishes a logical relationship between the Defendants. See Exhibit C.

5. Defendants attempt to avoid liability by going to great lengths to conceal both their identities and the full scope and interworking of their operations. Plaintiff has been and continues to be irreparably damaged from the loss of its lawful patent rights as a result of Defendants' actions and seeks injunctive and monetary relief.

JURISDICTION AND VENUE

6. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Patent Act, 35 U.S.C. § 101, *et seq.*, and in particular 25 U.S.C. § 271, as well as 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.

7. This Court may properly exercise personal jurisdiction over Defendants since each of the Defendants directly targets business activities toward consumers in the United States,

including Illinois, through at least the fully interactive, commercial Defendant Amazon Stores. Specifically, Defendants are reaching out to do business with Illinois residents by operating the Defendant Amazon Stores through which Illinois residents can purchase Accused Products. Each of the Defendants has targeted sales from Illinois residents by operating online stores that offer shipping to the United States, including Illinois, accept payment in U.S. dollars and, on information and belief, has sold Accused Products to residents of Illinois. Each of the Defendants is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Illinois.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 as Defendants are Chinese entities.

9. Joinder is proper in this matter pursuant to 28 U.S.C. § 299 as Plaintiff's claim for relief arises out of the same transaction, occurrence, or series of transactions or occurrences related to the making, using, importing, offering for sale, and/or selling of the same accused products. For example, the Accused Products share identical infringing components including using the same components such as first and second conductive layers with a liquid crystal film therebetween, which liquid crystal film has first and second regions of different UV light exposures creating liquid crystals with different pitches. As such, common questions of fact exist in regard to all Defendants in terms of infringement and any likely counterclaims for non-infringement and/or invalidity of the Asserted Patents.

THE PARTIES

10. Plaintiff is a corporation formed and existing under the laws of California. Plaintiff is the owner by assignment of the Asserted Patent.

11. Defendants are unidentifiable individuals and business entities who, upon information and belief, reside in the People's Republic of China. Defendants conduct business throughout the United States, including within the State of Illinois and this Judicial District, through the Defendant Amazon Stores.

BACKGROUND

Plaintiff

12. Plaintiff sells its own multicolor liquid crystal writing devices on Amazon, which embody and practice the Asserted Patent, under the Wicue brand. Plaintiff's Wicue branded writing devices are well established on Amazon and enjoy quality customer reviews and high ratings.

13. Plaintiff has not granted a license or any other form of permission to Defendants to practice the Asserted Patent.

Defendants

14. On information and belief, Defendants are an interrelated group of infringers working in active concert to willfully make, use, offer for sale, sell, and/or import into the United States for subsequent sale or use products that infringe directly and/or indirectly the Asserted Patent in the same transaction, occurrence, or series of transactions or occurrences. For example, Defendants all sell and/or offer for sale one or more of the Accused Products that utilize the same infringing components. *See Exhibit C.*

15. On information and belief, Defendants have engaged in fraudulent conduct when registering seller aliases by providing false, misleading and/or incomplete information to Internet based e-commerce platforms. On information and belief, certain Defendants have anonymously

registered and maintained seller aliases to prevent discovery of their true identities and the scope of their e-commerce operations.

16. On information and belief, Defendants regularly register or acquire new seller aliases for the purpose of offering for sale and selling Accused Products. Such seller alias registration patterns are one of many common tactics used by the Defendants to conceal their identities and the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

17. Defendants go to great lengths to conceal their identities and often use multiple fictitious names and addresses to register and operate their network of online storefronts. On information and belief, Defendants regularly create new online storefronts to allocate potential liability. Such online storefront registration patterns are one of many common tactics used by the Defendants to conceal their identities, the full scope and interworking of their operation, and to avoid being shut down.

18. Tactics used by Defendants to conceal their identities and the full scope of their operation make it virtually impossible for Plaintiff to learn Defendants' true identities and the exact interworking of their network. In the event that Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.

19. Even though Defendants operate under multiple fictitious aliases, the e-commerce stores operating under the Seller Aliases often share unique identifiers, such as templates with common design elements that intentionally omit any contact information or other information for identifying Defendants or other Seller Aliases they operate or use. The Defendants' online storefronts include notable common features beyond selling the exact same

infringing product, including the same product images, accepted payment methods, lack of contact information, check-out methods, illegitimate search engine optimization (SEO), advertising tactics, identically or similarly priced items and volume sales discounts, keywords, the same incorrect grammar and misspellings, and the use of the same text and images.

20. E-commerce stores operating under the Seller Aliases include other notable common features such as use of the same registration patterns, accepted payment methods, check-out methods, keywords, illegitimate search engine optimization (SEO), advertising tactics, similarities in price and quantities, the same incorrect grammar and misspellings, and/or the use of the same text and images.

21. In addition to operating under multiple fictitious names, Defendants in this case and defendants in other similar cases against online infringers use a variety of other common tactics to evade enforcement efforts. For example, infringers like Defendants will often register new online marketplace accounts under new aliases once they receive notice of a lawsuit. Infringers also typically ship products in small quantities via international mail to minimize detection by U.S. Customs and Border Protection.

22. Further, infringers such as Defendants typically operate multiple credit card merchant accounts and other online accounts behind layers of payment gateways so that they can continue operation in spite of Plaintiff's enforcement efforts, such as take down notices. On information and belief, Defendants maintain off-shore bank accounts and regularly move funds from their online accounts or other financial accounts to off-shore bank accounts outside the jurisdiction of this Court. Indeed, analysis of online transaction logs from previous similar cases indicates that offshore infringers regularly move funds from U.S.-based online accounts to China-based bank accounts outside the jurisdiction of this Court.

23. Defendants, without any authorization or license from Plaintiff, have knowingly and willfully offered for sale, sold, and/or imported the Accused Products into the United States for subsequent resale or use, and continue to do so via the Defendants' online storefronts. Each of Defendants' online storefronts offers shipping to the United States, including Illinois, and, on information and belief, each Defendant has sold Accused Products into the United States, including Illinois.

24. Defendants' infringement of the Asserted Patent in the offering to sell, selling, or importing of the Accused Products is willful.

25. Defendants' infringement of the Asserted Patents in connection with the offering to sell, selling, or importing of the Accused Products, including the offering for sale and sale of Accused Products in Illinois, is irreparably harming Plaintiff.

COUNT I

Patent Infringement – 35 U.S.C. § 271

26. Plaintiff hereby re-alleges and incorporates by reference the allegations set forth above in Paragraphs 1 – 25.

27. Defendants offer for sale, sell, and/or import into the United States for subsequent resale or use Accused Products that infringe at least claim 1 of the Asserted Patent as shown in Exhibit C.

28. Defendants have infringed the Asserted Patent through the aforesaid acts and will continue to do so unless enjoined by this Court. Defendants' infringing conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing the patented inventions.

29. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

30. Unless a preliminary and permanent injunction is issued enjoining Defendants and all others acting on in active concert therewith from infringing the Asserted Patents, Plaintiff will continue to be irreparably harmed.

31. Plaintiff is entitled to recover damages adequate to compensate for the infringement, including Plaintiff's lost profits. Plaintiff is entitled to recover any other damages as appropriate pursuant to 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for a judgment against Defendants as follows:

A. That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:

- a. offering for sale, selling, and importing any products not authorized by Plaintiff that embody or practice any claim of the Asserted Patent;
- b. aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon the Asserted Patent; and
- c. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (a) and (b);

B. Entry of an Order that, upon Plaintiff's request, those in privity with Defendants and those with notice of the injunction, including, without limitation, any online marketplace platforms such as iOffer, eBay, AliExpress, Alibaba, Amazon, Wish.com, Walmart.com, and Dhgate, web hosts, sponsored search engine or ad-word providers, credit cards, banks, merchant

account providers, third party processors and other payment processing service providers, Amazon search engines such as Google, Bing and Yahoo (collectively, the “Third Party Providers”) shall:

- a. disable and cease providing services being used by Defendants, currently or in the future, to engage in the sale of goods that infringe the Asserted Patent;
- b. disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of infringing goods using the Asserted Patent; and
- c. take all steps necessary to prevent links to the Defendant Amazon Stores identified on Schedule A from displaying in search results, including, but not limited to, removing links to the Defendant Amazon Stores from any search index;

C. That Plaintiff be awarded such damages as it shall prove at trial against Defendants that are adequate to compensate Plaintiff for infringement of the Asserted Patent, including and not limited to all of the profits realized by Defendants, or others acting in concert or participation with Defendants, from Defendants’ infringement of the Asserted Patent;

D. That the Court increase the damages up to three times the amount found or assessed, after an accounting, pursuant to 35 USC § 284;

E. That Plaintiff be awarded its reasonable attorneys’ fees and costs; and

F. Award any and all other relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b), Federal Rules of Civil Procedure, Plaintiff respectfully demands a trial by jury on all issues so triable by jury.

Respectfully submitted on this 26th day of September, 2024

/s/ Michael A DiNardo

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