

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MILLER MANUFACTURING COMPANY,)	Court File No.
Plaintiff,)	
v.)	<u>COMPLAINT</u>
HARRIS FARMS, LLC,)	(Jury Trial Demanded)
Defendant.)	

NATURE OF THE CASE

This is a case for design patent infringement under the United States Patent Act and for violations of the United States Lanham Act. Miller’s claims arise from Harris Farms’ infringing, deceptive and unlawful conduct in the launch of a knockoff product as depicted in Exhibit C.

THE PARTIES

1. Plaintiff Miller Manufacturing Company (“Miller”) is a Minnesota corporation having its principal place of business at 2910 Waters Road, Suite 150, Eagan, MN 55121. Miller is a manufacturer and international distributor of farm, ranch and pet products. Its products are sold through distributors that serve retailers of farm and ranch products in the USA, Canada and over 35 countries around the world.

2. Defendant Harris Farms, LLC is a Tennessee corporation, having its principal place of business at 7227 Haley Industrial Drive, Suite 200, Nolensville, TN 37135-9618. Harris Farms is a direct competitor in the farm, ranch and pet product industry.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over the Patent Act and Lanham Act claims pursuant to 15 U.S.C. §§ 1121(a), 28 U.S.C. §§ 1331 and 1338(a) and pendent and supplemental

jurisdiction over the state law claims under 28 U.S.C. §§ 1338(b) and 1367 in that such claims are joined with substantial and related claims under the Trademark Laws of the United States, 15 U.S.C. §§ 1050 et seq.

4. Venue is proper in this district under 28 U.S.C. § 1391. Harris Farms has marketed its product, and solicited clients throughout the United States, including the District of Minnesota. For example, Harris Farms attended a Mid-States Distributing Company Farm Show on August 24 - 27, 2013 at the Minneapolis Convention Center, located at 1301 Second Avenue South, Minneapolis, MN 55403 for the purpose of advertising and selling its knockoff products.

FACTS

5. For well over 70 years, Miller Manufacturing has been the leading designer, manufacturer, and marketer of supplies and equipment for farm use.

6. Miller is the owner by assignment of United States Design Patent No, D650,534, as issued on December 13, 2011 (the “’534 Patent”). A true and correct copy is attached to this Complaint as Exhibit A.

7. Miller makes and sells a Nesting Box, through a network of distributors to distribute their products throughout the United States. A true and correct depiction of the Miller Nesting Box product is shown in the attached Exhibit B.

8. The Harris Farms’ confusingly similar, knockoff product was discovered in August 2013, when Miller’s representatives attended the Mid-States Distributing Company Farm Show. The knockoff product appears in a picture taken at the Show, in the attached Exhibit C.

9. By making, using, offering for sale and/or selling the knockoff product, Harris Farms has infringed and continues to infringe the ‘534 Patent.

10. At the Mid-States Distributing Company Farm Show, Miller representatives have fielded questions and comments demonstrating confusion over the source of the Harris Farms’

product. In particular, a Miller representative was asked: When did Miller start supplying Harris Farms with its new nest box? A Miller representative was also asked about any affiliation, as the Harris Farms knockoff product had ripped off the Miller Nest Box design “in every detail.”

CLAIM I
INFRINGEMENT OF ‘534 PATENT – 35 U.S.C. §281 and 35 U.S.C. §271

11. Miller repeats the allegations of paragraphs 1-10 of this Complaint.
12. Harris Farms has infringed and continues to infringe the ‘534 Patent.

CLAIM II
FEDERAL TRADE DRESS INFRINGEMENT – 15 U.S.C. §1125

13. Miller repeats the allegations of paragraphs 1–12 of this Complaint.
14. Miller owns rights to the trade dress associated with its Nesting Box.
15. Harris Farms’ use of Miller’s trade dress has caused and is likely to continue to cause confusion among the relevant public as to source, sponsorship, origin or affiliation.

16. Harris Farms’ use of Miller’s trade dress constitutes infringement of Miller’s rights in violation of 15 U.S.C. 1125.

17. Unless enjoined by this Court, Harris Farms’ infringing conduct will continue to cause irreparable injury and other damage to Miller’s business, reputation and goodwill. Miller has no adequate remedy at law.

18. Pursuant to 15 U.S.C. §1117, Plaintiff is entitled to recover its damages, including lost profits, Miller’s profits, and the costs of this action. This intentional nature of Harris Farms’ unlawful acts render this case “exceptional,” entitling Miller to an award of attorneys’ fees under 15 U.S.C. 1117(a).

CLAIM III
COMMON LAW UNFAIR COMPETITION

19. Miller repeats the allegations of paragraphs 1-18 of this Complaint.

20. Harris Farms' conduct constitutes unfair competition in violation of Miller's rights.

21. Harris Farms' acts were taken in willful, deliberate and/or intentional disregard of Miller's rights.

22. As a direct and proximate result of this unfair competition, Miller has suffered and will continue to suffer irreparable harm if Harris Farms is not enjoined.

JURY DEMAND

Plaintiff respectfully requests a jury trial for this matter.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Court enter an order:

A. Preliminarily and permanently enjoining and restraining Harris Farms, its directors, members, officers, agents, servants, employees, subsidiaries, affiliates, and all persons in active concert or participation with, through, or under it, at first during the pendency of this action and thereafter perpetually from committing any acts of design patent infringement, trademark infringement, unfair competition, deceptive and unlawful trade practices;

B. Ordering seizure of the Harris Farms' knockoff product as depicted in Exhibit C;

C. Making an award of all damages and items recoverable under any applicable provision of law, including but not limited to, 15 U.S.C. §1117, 35 U.S.C. §284, §285 and/or 35 U.S.C. §289 which shall include (1) Harris Farms' profits based on the aforementioned unlawful

conduct and diverted sales; (2) Miller's damages; (3) the costs of this action; and (4) Miller's attorneys' fees.

D. Awarding Miller such other relief as the Court may deem just and proper.

MILLER MANUFACTURING COMPANY

Date: August 26, 2013

By Counsel

s/Kristine M. Boylan

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