

**UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

3FORM, LLC, a Delaware limited liability company; and HUNTER DOUGLAS INDUSTRIES SWITZERLAND GmbH, a Swiss limited liability company,

Plaintiffs,

v.

GLOBAL TRENDS, LLC, a Kansas limited liability company,

Defendant.

Civil Action No. _____

**COMPLAINT FOR PATENT AND
TRADEMARK INFRINGEMENT**

(JURY TRIAL DEMANDED)

Plaintiffs 3form, LLC (“3form”) and Hunter Douglas Industries Switzerland GmbH (“Hunter Douglas”) (collectively “Plaintiffs”) hereby complain against Defendant Global Trends, LLC (“Global Trends” or “Defendant”), and allege as follows:

PARTIES

1. Plaintiff 3form is a Delaware limited liability company with its principal executive offices located at 2300 South 2300 West, Salt Lake City, Utah 84119.
2. Plaintiff Hunter Douglas is a Swiss limited liability company with its principal place of business at Adligenswilerstrasse 37, 6006 Lucerne, Switzerland.
3. Defendant Global Trends is a Kansas limited liability company with its principal place of business located at 545 N. Carriage Parkway, Wichita, Kansas 67208.

JURISDICTION AND VENUE

4. This is a civil action for patent and trademark infringement brought by Plaintiffs for acts committed by Global Trends arising under the patent and trademark laws of the United States, and more specifically under 35 U.S.C. §§ 271, 281, 283, 284, 285, and 289, and 15

U.S.C. §§ 1117 and 1125. Subject matter jurisdiction of this Court is thereby founded on 28 U.S.C. §§ 1331 and 1338(a).

5. This also is a civil action with complete diversity of citizenship between Plaintiffs and Global Trends, with the amount in controversy exceeding \$75,000, exclusive of interest and costs. Subject matter jurisdiction of this Court is thereby founded on 28 U.S.C. § 1332.

6. This Court has personal jurisdiction over Global Trends by virtue of its residence and conduct of infringing activity in this judicial district.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400.

FIRST CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 7,008,700)

8. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

9. U.S. Patent No. 7,008,700 (the “’700 Patent”) issued from the United States Patent and Trademark Office (“PTO”) on March 7, 2006, bearing the title “Architectural Laminate Panel with Embedded Compressible Objects and Methods for Making the Same.” (A true and correct copy of the ’700 Patent is attached hereto as Exhibit A and incorporated herein by this reference.)

10. 3form is the owner of all right, title, and interest in and to the ’700 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the ’700 Patent, and to enjoin acts of infringement of the ’700 Patent.

11. 3form has not licensed or otherwise authorized Global Trends to practice the ’700 Patent.

12. Global Trends, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the ’700 Patent by making, using,

selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '700 Patent, including but not limited to, those products designated or denominated on Global Trends' website as Natural Elements, such as:

- A. "Bamboo Ring, SKU:REP NATUELEM0360"
- B. "Bamboo Ring Dark, SKU:REP NATUELEM0361"
- C. "Black Resin Bamboo, SKU:REP NATUELEM0362"
- D. "Golden Bamboo Ring, SKU:REP NATUELEM0363"
- E. "Golden Wheat, SKU:REP NATUELEM0390"
- F. "Golden Wheat Heavy, SKU:REP NATUELEM0391"

13. Therefore, Global Trends is liable for infringement of the '700 Patent pursuant to 35 U.S.C. § 271.

14. Global Trends' acts of infringement have caused damage to 3form, and 3form is entitled to recover from Global Trends the damages sustained by 3form as a result of Global Trends' wrongful acts in an amount subject to proof at trial.

15. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Global Trends is enjoined by this Court from committing further acts of infringement of the '700 Patent.

16. On information and belief, and given the breadth of Global Trends' infringement based on the number of infringing products and the number of patents infringed, Global Trends' infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

SECOND CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 5,958,539)

17. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

18. U.S. Patent No. 5,958,539 (the “’539 Patent”) issued from the PTO on September 28, 1999, bearing the title “Thermoplastic Article Having Textile Fiber Fabric Embedded Therein.” (A true and correct copy of the ’539 Patent is attached hereto as Exhibit B and incorporated herein by this reference.)

19. Hunter Douglas is the owner of all right, title, and interest in and to the ’539 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the ’539 Patent, and to enjoin acts of infringement of the ’539 Patent.

20. Hunter Douglas has not licensed or otherwise authorized Global Trends to practice the ’539 Patent.

21. Global Trends, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the ’539 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the ’539 Patent, including but not limited to, those products designated or denominated by Global Trends on its website as:

- A. “loose vine, SKU:REPTEXTILES0425”
- B. “Daisy Swirls, SKU:REPTEXTILES0439”
- C. “Feather Gray, SKU:REPTEXTILES0440”
- D. “Jeweled Circles, SKU:REPTEXTILES0441”
- E. “Linen Weaves, SKU:REPTEXTILES0442”
- F. “Natural Linen, SKU:REPTEXTILES0443”

G. “Natural Woven, SKU:REPTEXTILES0444”

H. “Needle Work, SKU:REPTEXTILES0445”

I. “Silk Fiber, SKU:REPTEXTILES0446”

J. “Silver Leaf, SKU:REPTEXTILES0447”

K. “Silver Stripe, SKU:REPTEXTILES0448”

L. “Skinny Ribbon, SKU:REPTEXTILES0449”

M. “Vintage Circles, SKU:REPTEXTILES0450”

N. “Vintage Stripes, SKU:REPTEXTILES0451”

O. “Wheat Linen, SKU:REP NATUELEM0406”

P. The products listed on Global Trends’ website as “Resin Panels: Digital Print” to the extent that such products are printed on “woven canvas” as suggested by the website.

22. Therefore, Global Trends is liable for infringement of the ’539 Patent pursuant to 35 U.S.C. § 271.

23. Global Trends’ acts of infringement have caused damage to Hunter Douglas, and Hunter Douglas is entitled to recover from Global Trends the damages sustained by Hunter Douglas as a result of Global Trends’ wrongful acts in an amount subject to proof at trial.

24. As a consequence of the infringement complained of herein, Hunter Douglas has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Global Trends is enjoined by this Court from committing further acts of infringement of the ’539 Patent.

25. On information and belief, and given the breadth of Global Trends’ infringement based on the number of infringing products and the number of patents infringed, Global Trends’

infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, Hunter Douglas is entitled to an award of its reasonable attorney fees.

THIRD CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 5,998,028)

26. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

27. U.S. Patent No. 5,998,028 (the “’028 Patent”) issued from the PTO on December 7, 1999, bearing the title “Thermoplastic Article Having Metallic Wire, Rod or Bar Embedded Therein.” (A true and correct copy of the ’028 Patent is attached hereto as Exhibit C and incorporated herein by this reference.)

28. Hunter Douglas is the owner of all right, title, and interest in and to the ’028 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the ’028 Patent, and to enjoin acts of infringement of the ’028 Patent.

29. Hunter Douglas has not licensed or otherwise authorized Global Trends to practice the ’028 Patent.

30. Global Trends, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the ’028 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the ’028 Patent, including but not limited to, those products designated or denominated by Global Trends on its website as “Metallic Wave, SKU:REPMETAGLAS0419.” Therefore, Global Trends is liable for infringement of the ’028 Patent pursuant to 35 U.S.C. § 271.

31. Global Trends' acts of infringement have caused damage to Hunter Douglas, and Hunter Douglas is entitled to recover from Global Trends the damages sustained by Hunter Douglas as a result of Global Trends' wrongful acts in an amount subject to proof at trial.

32. As a consequence of the infringement complained of herein, Hunter Douglas has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Global Trends is enjoined by this Court from committing further acts of infringement of the '028 Patent.

33. On information and belief, and given the breadth of Global Trends' infringement based on the number of infringing products and the number of patents infringed, Global Trends' infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, Hunter Douglas is entitled to an award of its reasonable attorney fees.

FOURTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 7,504,159)

34. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

35. U.S. Patent No. 7,504,159 (the "'159 Patent") issued from the PTO on January 12, 2010, bearing the title "Resin-Based Panels Having Thin or Brittle Veneer Layers and Methods of Making Same." (A true and correct copy of the '159 Patent is attached hereto as Exhibit D and incorporated herein by this reference.)

36. 3form is the owner of all right, title, and interest in and to the '159 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '159 Patent, and to enjoin acts of infringement of the '159 Patent.

37. 3form has not licensed or otherwise authorized Global Trends to practice the '159 Patent.

38. Global Trends, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '159 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '159 Patent, including but not limited to, those products designated or denominated by Global Trends on its website as "Bleach Zebra, SKU:REP NATUELEM0410." Therefore, Global Trends is liable for infringement of the '159 Patent pursuant to 35 U.S.C. § 271.

39. Global Trends' acts of infringement have caused damage to 3form, and 3form is entitled to recover from Global Trends the damages sustained by 3form as a result of Global Trends' wrongful acts in an amount subject to proof at trial.

40. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Global Trends is enjoined by this Court from committing further acts of infringement of the '159 Patent.

41. On information and belief, and given the breadth of Global Trends' infringement based on the number of infringing products and the number of patents infringed, Global Trends' infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

FIFTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. 7,691,486)

42. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

43. U.S. Patent No. 7,691,486 (the "'486 Patent") issued from the PTO on January 12, 2010, bearing the title "Resin-Based Panels Having Translucent Veneer Layers." (A true and

correct copy of the '486 Patent is attached hereto as Exhibit E and incorporated herein by this reference.)

44. 3form is the owner of all right, title, and interest in and to the '486 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '486 Patent, and to enjoin acts of infringement of the '486 Patent.

45. 3form has not licensed or otherwise authorized Global Trends to practice the '486 Patent.

46. Global Trends, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '486 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '486 Patent, including but not limited to, those products designated or denominated by Global Trends on its website as "Stripe Light, SKU:REP NATUELEM0354," "Stripe wood, SKU:REP NATUELEM0409," and "Bleach Zebra, SKU:REP NATUELEM0410." Therefore, Global Trends is liable for infringement of the '486 Patent pursuant to 35 U.S.C. § 271.

47. Global Trends' acts of infringement have caused damage to 3form, and 3form is entitled to recover from Global Trends the damages sustained by 3form as a result of Global Trends' wrongful acts in an amount subject to proof at trial.

48. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Global Trends is enjoined by this Court from committing further acts of infringement of the '486 Patent.

49. On information and belief, and given the breadth of Global Trends' infringement based on the number of infringing products and the number of patents infringed, Global Trends' infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

SIXTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D621,068)

50. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

51. U.S. Patent No. D621,068 (the "'068 Patent") issued from the PTO on August 3, 2010, bearing the title "Architectural Panel with Thatch Reed Design." (A true and correct copy of the '068 Patent is attached hereto as Exhibit F and incorporated herein by this reference.)

52. 3form is the owner of all right, title, and interest in and to the '068 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '068 Patent, and to enjoin acts of infringement of the '068 Patent.

53. 3form has not licensed or otherwise authorized Global Trends to practice the '068 Patent.

54. Global Trends, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '068 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '068 Patent, including but not limited to, those products designated or denominated by Global Trends on its website as:

- A. "Bamboo Dark, SKU:REP NATUELEM0358"
- B. "Bamboo Green, SKU:REP NATUELEM0359"
- C. "Golden Thatch, SKU:REP NATUELEM0370"

D. "Mahogany Thatch, SKU:REP NATUELEM0371"

E. "Medium Thatch, SKU:REP NATUELEM0372"

F. "Medium Thatch Heavy, SKU:REP NATUELEM0373"

G. "Thatch, SKU:REP NATUELEM0374"

55. Therefore, Global Trends is liable for infringement of the '068 Patent pursuant to 35 U.S.C. § 271.

56. Global Trends' acts of infringement have caused damage to 3form, and 3form is entitled to recover from Global Trends the damages sustained by 3form as a result of Global Trends' wrongful acts in an amount subject to proof at trial.

57. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Global Trends is enjoined by this Court from committing further acts of infringement of the '068 Patent.

58. On information and belief, and given the breadth of Global Trends' infringement based on the number of infringing products and the number of patents infringed, Global Trends' infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

SEVENTH CLAIM FOR RELIEF
(Infringement of U.S. Patent No. D608,024)

59. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

60. U.S. Patent No. D608,024 (the "'024 Patent") issued from the PTO on January 12, 2010, bearing the title "Architectural Panel with Square and Strip." (A true and correct copy of the '024 Patent is attached hereto as Exhibit G and incorporated herein by this reference.)

61. 3form is the owner of all right, title, and interest in and to the '024 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '024 Patent, and to enjoin acts of infringement of the '024 Patent.

62. 3form has not licensed or otherwise authorized Global Trends to practice the '024 Patent.

63. Global Trends, directly or through its subsidiaries, divisions, or groups, has infringed and continues to infringe one or more claims of the '024 Patent by making, using, selling, and/or offering to sell, or inducing others to make, use, sell, and/or offer for sale, in the United States, products that are covered by the '024 Patent, including but not limited to, those products designated or denominated by Global Trends as and “Metallic Gold, SKU:REPMETAGLAS0568” and “Metallic silver, SKU:REPMETAGLAS0411.” Therefore, Global Trends is liable for infringement of the '024 Patent pursuant to 35 U.S.C. § 271.

64. Global Trends' acts of infringement have caused damage to 3form, and 3form is entitled to recover from Global Trends the damages sustained by 3form as a result of Global Trends' wrongful acts in an amount subject to proof at trial.

65. As a consequence of the infringement complained of herein, 3form has been irreparably damaged to an extent not yet determined and will continue to be irreparably damaged by such acts in the future unless Global Trends is enjoined by this Court from committing further acts of infringement of the '024 Patent.

66. On information and belief, and given the breadth of Global Trends' infringement based on the number of infringing products and the number of patents infringed, Global Trends' infringement is willful and this is an exceptional case under 35 U.S.C. § 285. Accordingly, 3form is entitled to an award of its reasonable attorney fees.

EIGHTH CLAIM FOR RELIEF
(Federal Unfair Competition)

67. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

68. 3form is the owner of the federally registered trademark CHROMA, which is inherently distinctive and/or has acquired distinctiveness, and which is used in interstate commerce. The distinctive three-dimensional appearance of 3form's CHROMA products is inherently distinctive and/or has also obtained recognition, goodwill, and secondary meaning in the relevant marketplace, thereby affording 3form common law trademark protection in a three-dimensional trademark for its CHROMA products (3form's "CHROMA Trade Dress").

69. 3form advertises, markets, and sells decorative architectural panels that include 3form's CHROMA Trade Dress in interstate commerce throughout the United States.

70. As a result of, among other things, 3form's substantial investment in the CHROMA Trade Dress, and the products marketed and sold under that trademark, the consuming public recognizes the CHROMA Trade Dress and associates products and features with that trade dress with a single source, 3form.

71. Without 3form's authorization or permission, Global Trends has willfully and intentionally offered, promoted, and provided goods making unauthorized use of 3form's CHROMA Trade Dress in a manner likely to cause confusion, mistake, or deception of the purchasing public as to the source or origin of such goods, and are likely to cause the purchasing public to believe wrongly that such goods are sponsored by, affiliated with, or otherwise associated with 3form, or that Global Trends is an officially authorized 3form distributor. Those goods include, but are not limited to, those designated or denominated by Global Trends on its website as "Resin Panels: Vivid/Colors."

72. Global Trends' unauthorized use of 3form's CHROMA Trade Dress constitutes trademark infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

73. Global Trends' acts of trademark infringement have caused 3form actual damages in an amount to be proven at trial. Such damages should be trebled as allowed by 15 U.S.C. § 1117(a).

74. 3form is further entitled to recover Global Trends' profits, the amount of which is currently unknown by 3form, and which amount should be trebled as allowed by 15 U.S.C. § 1117(a).

75. This is an exceptional case pursuant to 15 U.S.C. § 1117(a), and 3form is therefore entitled to recover its attorney fees from Global Trends.

76. Pursuant to 15 U.S.C. § 1117(a), 3form is also entitled to recover its costs of suit.

77. 3form is being irreparably harmed by Global Trends' use of its marks, and 3form has no adequate remedy at law. 3form is therefore entitled to preliminary and permanent injunctive relief barring Global Trends from engaging in further acts in violation of 15 U.S.C. § 1125(a).

NINTH CLAIM FOR RELIEF
(Common Law Trademark Infringement)

78. Plaintiffs reallege and incorporate by this reference the preceding paragraphs of the Complaint as if fully set forth herein.

79. 3form owns and enjoys common law rights in the CHROMA Trade Dress, which rights are superior to any rights of Global Trends. The CHROMA Trade Dress is inherently distinctive and/or has acquired distinctiveness prior to the acts of Global Trends complained of herein.

80. Global Trends' use of the CHROMA Trade Dress falsely suggests a connection or association with, or authorization by, 3form, and is a use in commerce that is likely to cause confusion and mistake and to deceive consumers as to the source, origin, approval, sponsorship, and/or affiliation of Global Trends and/or the goods they sell on their website.

81. Global Trends' actions have caused 3form damages in an amount to be proven at trial.

82. Global Trends' actions are willful and as such Global Trends is liable for punitive damages.

83. 3form is being irreparably harmed by Global Trends' unauthorized use of 3form's marks and has no adequate remedy at law. 3form is therefore entitled to preliminary and permanent injunctive relief barring Global Trends from engaging in further acts of infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for entry of a final order and judgment that:

1. Global Trends has infringed the '700 Patent.
2. Global Trends has infringed the '539 Patent.
3. Global Trends has infringed the '028 Patent.
4. Global Trends has infringed the '159 Patent.
5. Global Trends has infringed the '486 Patent.
6. Global Trends has infringed the '068 Patent.
7. Global Trends has infringed the '024 Patent.
8. Global Trends account for and pay to Plaintiffs all damages caused by Global Trends' infringement of the '700 Patent, the '539 Patent, the '028 Patent, the '159 Patent, the '486 Patent, the '068 Patent, and the '024 Patent, which damages should be trebled, in

accordance with 35 U.S.C. § 284, and/or an award of Global Trends' profits from its infringement pursuant to 35 U.S.C. § 289.

9. Plaintiffs be granted preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283 enjoining Global Trends, its officers, agents, servants, employees, and all those persons in active concert or participation with them or any of them from further acts of patent infringement with respect to the patents-in-suit.

10. Global Trends is liable for infringement of the CHROMA Trade Dress, unfair competition, and unfair, deceptive, or misleading practices in violation of the Lanham Act, 15 U.S.C. § 1125.

11. 3form be granted preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116(a) and common law enjoining Global Trends, its officers, agents, servants, employees, and all those persons in active concert or participation with them or any of them from further acts of infringing the CHROMA Trade Dress.

12. 3form be awarded treble the amount of its damages and Global Trends' profits in an amount to be proven at trial for trademark infringement under the Lanham Act, 15 U.S.C. §§ 1117(a), 1125(a).

13. 3form be awarded damages in an amount to be proven at trial for trademark infringement under the common law.

14. 3form be awarded punitive damages in an amount to be proven at trial for trademark infringement under the common law.

15. Plaintiffs be awarded their reasonable attorney fees and costs of suit.

16. Plaintiffs be awarded pre- and post-judgment interest.

17. Plaintiffs be granted such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs demand trial by jury of all claims and issues so triable.

DESIGNATION OF PLACE OF TRIAL

Pursuant to Local rule 40.2(a), Plaintiffs hereby designate Kansas City, Kansas as the place of trial in this action.

DATED: November 25, 2014

By: /s/ Eric D. Barton
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