

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ICI USA, LLC

Plaintiff,

vs.

THE TJX COMPANIES, INC.,  
ARGENTO SC BY SICURA, INC.

Defendants

Case No.:

**COMPLAINT FOR PATENT AND  
TRADE DRESS INFRINGEMENT**

ICI USA, LLC hereby states its complaint against The TJX Companies, and  
Argento SC by Sicura, Inc. as follows:

**I. PARTIES**

1. Plaintiff ICI USA LLC (“ICI”) is a Washington company with its principal place of business in Seattle, Washington. ICI develops unique, innovative products that solve everyday problems. ICI developed Sphere Ice Molds that are the subject of this Complaint.

2. Upon information and belief, Defendant The TJX Companies, Inc. (“TJX”) does business as, owns and/or controls T.J. Maxx. Upon information and belief, TJX is a Delaware corporation with its principal place of business in Farmington, Massachusetts. TJX sells a sphere ice mold at its T.J. Maxx locations in Washington State.

3. Upon information and belief, Defendant Argento SC by Sicura, Inc. (“Argento”) is a New York Domestic Business Corporation with its principal place of business in New York, New York. Upon information and belief, Argento manufactures and/or distributes the sphere ice mold to TJX.

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II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and § 1332.

5. This Court has personal jurisdiction because Defendants commit intentional acts to sell their products in the stream of commerce in the forum state; they have sufficient minimum contacts with the forum state; they specifically sell their infringing product in the forum state.

6. Venue is proper under 28 U.S.C. §§ 1391(b)(2) and 1400(b) because a substantial part of the events giving rise to the claim occurred in this judicial district, and the property that is the subject of this action, namely, the Tovolo sphere ice mold, was created, designed, and sold in this judicial district. In addition, Defendants sold infringing products in this judicial district.

III. FACTUAL ALLEGATIONS

A. **ICI Has Sold Over One Million of Its Innovative and Well-Known Sphere Ice Molds.**

7. ICI designs innovative new products that surprise and delight the user. ICI has built a team of experts dedicated to each phase of product development including marketers, industrial and graphic designers, and packaging experts. ICI's clients include Bed Bath & Beyond, Crate & Barrel, Pier 1 Imports, Sur La Table, Macy's, and Williams Sonoma, among others, all of whom sell the ICI products.

8. One of ICI's well known product lines is the Tovolo product line. ICI uses the Tovolo brand to market utensils, kitchen gadgets, and beverage devices including tea infusers, ice cube trays, wine bottle holders, crock book holders, spreaders, scoops, pizza wheels, and ice sphere molds, among many other successful products.

9. The Tovolo products all have a certain look and feel in terms of design. The Tovolo products incorporate bright colors; high-quality, sturdy-looking plastics; professional quality-looking designs; and unique shapes. The designs among products look similar and help customers identify products that are part of the Tovolo line of products.

10. The Tovolo product line includes a product called Sphere Ice Molds. The innovative and clever design produces an ice sphere, which melts slowly when added to a drink.

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1           11.     ICI sells the Tovolo Sphere Ice Molds through Amazon.com among other places.  
2     The product received 4.6 out of 5 stars on Amazon after being reviewed by over 2100 customers.  
3     The Tovolo Sphere Ice Molds is a best seller on Amazon.com and among the Top 100 products  
4     in Kitchen & Dining. The product is the “#1 Best Seller” out of all the ice cube molds and trays  
5     sold on Amazon.com.

6           12.     In addition, ICI sells the Tovolo Sphere Ice Molds through Bed Bath & Beyond,  
7     Sur La Table, and Williams Sonoma in addition to other fine retailers.

8           13.     In total, ICI has sold over one million Tovolo Sphere Ice Molds through its  
9     various retailers.

10          14.     Since its creation, the Tovolo Sphere Ice Molds has featured a unique design and  
11     combination of design elements. This design and trade dress includes a clear plastic mold base  
12     with two swirled-looking lines with the Tovolo trademark in the middle and a gray plastic mold  
13     top with grooves, lines, ridges, and a wagon wheel design. The colors and design elements help  
14     the mold look ready for professional kitchen use. None of these design elements are functional  
15     or necessary to the mold in any manner; rather, they add a unique touch similar to all of the other  
16     Tovolo products. Because these design elements fit in the family of the other Tovolo products,  
17     they help to signify the source of the products.

18           **B.     Defendants’ “SPHERE ICE MOLDS” Ice Mold Infringes the Tovolo**  
19           **Product.**

20          15.     On November 25, 2015, the infringing “Sphere Ice Molds” was purchased from  
21     T.J. Maxx in Bellevue, Washington. See Attachment A.

22          16.     The infringing “Sphere Ice Mold” is manufactured and/or distributed to TJX by  
23     Argento under its BlkSmith brand. See Attachment B.

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3 17. Upon information and belief, Defendant TJX sells the infringing “Sphere Ice  
4 Molds” at subsidiaries such as Home Goods.

5 Tovolo Product



Defendants' Product



25 18. In addition to infringing the trade dress of Tovolo's product, the packaging  
26 for Defendants' brand product infringes on the trade dress of the Tovolo packaging. Defendants'  
brand packaging uses the same rectangular box, similar black and grey color scheme. Further,  
just like the Tovolo product packaging, the front of the brand packaging displays a cocktail glass  
that is partially filled with a brown liquid and a large ice sphere.

Tovolo Product



Defendants' Product



#### IV. CLAIMS FOR RELIEF

##### CAUSE OF ACTION – PATENT INFRINGEMENT UNDER 35 U.S.C. § 271

19. ICI repeats, re-alleges, and incorporates all of the above allegations.

20. On June 9, 2015, US D731,264 (the “264 Patent”), entitled “Sphere Mold,” attached hereto as Attachment C, was issued to ICI.

21. The ‘264 Patent is presumed valid.

22. Defendants’ Sphere Ice Molds infringes the ‘264 Patent.

23. Defendants manufacture, sell, and distribute the infringing product.

24. Defendants’ actions have damaged ICI.

##### CAUSE OF ACTION – TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1125(a)

25. ICI repeats, re-alleges, and incorporates all of the above allegations.

26. ICI owns a protectable trade dress in the clearly articulated design elements and combination of elements in the Tovolo sphere ice mold, including a clear plastic mold base that features two swirled-looking lines with the Tovolo trademark in the middle and a gray plastic mold top with grooves, lines, ridges, and a wagon wheel design. ICI also owns a protectable

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1 trade dress in the Tovolo Sphere Ice Molds packaging, including the color scheme and layout  
2 elements.

3 27. None of the trade dress in the Tovolo sphere ice mold or packaging is functional.  
4 Rather, the design elements and combination thereof were selected to fit in with the other  
5 products in Tovolo's kitchen and beverage lines and to designate Tovolo and ICI as the source.  
6 Indeed, the Tovolo trademark is incorporated into the trade dress of the product and packaging as  
another way to indicate the product source.

7 28. The trade dress in the Tovolo Sphere Ice Molds and packaging is inherently  
8 distinctive or has acquired secondary meaning through ICI's sales and marketing efforts of the  
9 mold as described above. The product and packaging design and features are well known in all  
10 of the markets in which ICI sells the products.

11 29. Defendants' Sphere Ice Molds design and packaging together create a likelihood  
12 of confusion as to source, sponsorship, affiliation, connection, or association because the  
13 Defendants' product and packaging copies all of the non-functional trade dress elements of the  
14 Tovolo Sphere Ice Mold product and packaging. Customers are likely to be confused or  
15 deceived as to the origination of the Defendants' product or are likely to think that the  
Defendants' product is somehow connected to or associated with ICI and Tovolo.

16 30. The general impression made by the Defendants' product upon the eye of the  
17 ordinary purchaser or user is deceiving given the similarity to the Tovolo trade dress. The  
multiplicity of similarities between the products constitutes trade dress infringement.

18 31. Defendants' conduct violates section 1125(a) and has damaged ICI.  
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V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff ICI prays for relief as follows:

1. For a judgment against Defendants;
2. For an injunction against Defendants that prohibits Defendants from manufacturing, selling, incorporating, or otherwise using ICI's proprietary trade dress.
3. For damages against Defendants in an amount to be determined at trial;
4. For reasonable attorneys' fees and the costs of pursuing ICI's claims as may be allowed by law; and;
5. Such other and further relief as the Court determines is just and proper.

Cloutier Global Intellectual Property  
s/ Priya Sinha Cloutier/  
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Dated this 05 of December, 2015.