

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
Asheville Division

AGIO INTERNATIONAL)	
COMPANY, LTD.,)	
)	
Plaintiff)	Case No. 1:15-cv-192
)	
v.)	
)	
ZHEJIANG LONGDA FORGE CO., LTD.,)	
)	
and)	
)	
JMH TRADING INTERNATIONAL)	
MANAGEMENT, LLC,)	JURY TRIAL DEMANDED
D/B/A WORLD SOURCE)	
)	
Defendants.)	
)	

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Agio International Company, Ltd. (“Agio”) alleges as follows against Defendants Zhejiang Longda Forge Co., Ltd. (“Longda”) and JMH Trading International Management, LLC, d/b/a World Source (“JMH”).

THE PARTIES

1. Plaintiff Agio is a corporation incorporated under the laws of Hong Kong with its principal place of business at Room 819, 8/F, Peninsula Centre, 67 Mody Road Tsimshatsui East, Kowloon, Hong Kong.
2. Agio is an industry leading designer and manufacturer of outdoor furniture items.
3. Agio is the assignee of United States Patent Nos. 6,293,624 (the “624 Patent”) and 6,585,323 (the “323 Patent”).

4. Defendant Longda is a corporation incorporated under the laws of China with its principal place of business at No. 18th, Kaifa Rd, Economy Development Zone, Wuyi, Zhejiang, P.R. China 321200.

5. Longda is in the business of manufacturing and distributing outdoor and garden furniture.

6. Longda states on its website, <http://www.longdaforge.com>, that it “turn[s] out 1 million set [sic] of furniture monthly, exported mainly to the US, Japan, Australia and Europe. In total, we sell our goods to buyers in more than 20 countries and regions worldwide.”

7. Longda exports considerable amounts of furniture to the United States. For example, the trade data company Panjiva indicates that Longda has made over 230 shipments to the United States this year alone, and those shipments exceeded 2 million kilograms (over 4.4 million pounds) of outdoor and garden furniture.

8. Longda also frequently ships outdoor and garden furniture to North Carolina. For example, Panjiva indicates that Longda has made at least 19 shipments to North Carolina for approximately 122,300 kilograms (about 270,000 pounds).

9. Defendant JMH is a limited liability company organized and existing under the laws of the State of Texas, with a principal place of business at 7376 Brays Landing, El Paso, Texas.

10. JMH does business under the fictitious name “World Source,” and may operate under other fictitious names.

11. JMH is in the business of importing, distributing, and selling furniture items in the United States.

12. JMH also has a place of business at 58 Jr Estates Dr. Candler, North Carolina, and has received shipments of furniture in Candler, North Carolina, including shipments from Longda.

13. According to Panjiva, JMH has received at least 26 shipments of over 160,000 kilograms (over 352,000 pounds) of outdoor and garden furniture from Longda.

14. As set forth below, Longda has shipped infringing outdoor and garden furniture to JMH, knowing that the infringing outdoor and garden furniture will enter the U.S. stream of commerce.

JURISDICTION AND VENUE

15. This is a civil action for patent infringement under the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*, and for such other relief as the Court deems just and proper.

16. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

17. This Court has personal jurisdiction over Longda at least due to the substantial business that Longda transacts in North Carolina. For example, Longda repeatedly makes shipments of outdoor and garden furniture to North Carolina, including furniture items that infringe the '624 Patent and the '323 Patent. Longda has purposefully shipped infringing outdoor and garden furniture into North Carolina, and to JMH, knowing that the infringing furniture items will enter the U.S. stream of commerce.

18. This Court has personal jurisdiction over JMH at least due to the substantial business that JMH transacts in North Carolina. Additionally, on information and belief, JMH has imported furniture items into North Carolina, and distributed furniture items from North Carolina to other states, that infringe the '624 and '323 Patents.

19. Venue is proper in this District under 28 U.S.C. § 1391 and 1400(b).

COUNT I:
PATENT INFRINGEMENT

20. Agio incorporates paragraphs 1 through 19 as if fully set forth herein.

21. On September 25, 2001, the United States Patent and Trademark Office duly issued the '624 Patent, titled "Sling chair." Agio is the assignee of the '624 Patent, and owns all rights, title, and interest in and to the '624 Patent, including the right to sue for past infringement. A true and accurate copy of the '624 Patent is attached as Exhibit A.

22. On July 1, 2003, the United States Patent and Trademark Office duly issued the '323 Patent, titled "Sling chair." Agio is the assignee of the '323 Patent, and owns all rights, title, and interest in and to the '323 Patent, including the right to sue for past infringement. A true and accurate copy of the '323 Patent is attached as Exhibit B.

23. Longda has infringed and is still infringing the '624 and '323 Patents, at least through its sales, shipments, and distribution of furniture items that infringe the '624 and '323 Patents, including, for example, the Moreaux Outdoor Sling Dining Chair and the Moreaux Outdoor Swivel Sling Chair.

24. JMH has infringed and is still infringing the '624 and '323 Patents, at least through JMH's importation, distribution, and sales of furniture items that infringe the '624 and '323 Patents, including, for example, the Moreaux Outdoor Sling Dining Chair and the Moreaux Outdoor Swivel Sling Chair.

25. JMH imported infringing sling chairs from Longda into Candler, North Carolina, and sold those infringing sling chairs to retailers throughout the United States.

26. For example, JMH imported and sold, and on information and belief continues to import and sale, sling chairs such as the Moreaux Outdoor Sling Dining Chair made and sold by Longda shown below.



27. As can be seen, the chair is a sling chair having a frame, a fabric seat panel terminating in loops at opposing sides, and rods for attaching the fabric seat panel to the frame. The frame has first and second side rails that form a seat, each side rail with an interior side. The side rails include a slot extending longitudinally that is configured to receive a rod passed through a loop of the fabric seat panel. The side rails also have an extension beyond the slot with a socket opening to the interior of the chair. The chair includes a rigid cross member at least as wide as the fabric seat panel, and each end of the cross member is positioned in each of the sockets. The Moreaux Outdoor Swivel Sling Chair also has these features. Thus, these sling chairs that literally infringe at least claim 1 of the '624 and '323 Patents.

28. Longda and JMH have imported and sold, and on information and belief continue to import and sell, sling chairs, including the Moreaux Outdoor Sling Dining Chair and the

Moreaux Outdoor Swivel Sling Chair, that literally infringe at least claim 1 of the '624 and '323 Patents.

29. Longda has infringed and is still infringing the '624 and '323 Patents at least through its sales, shipments, and distribution of sling chairs that practice the patented invention, and will continue to do so unless enjoined by this Court.

30. JMH has infringed and is still infringing the '624 and '323 Patents by importing, distributing, and selling sling chairs that practice the patented invention, and will continue to do so unless enjoined by this Court.

31. Longda has been aware of the '624 Patent at least as early as May 21, 2003, when counsel for Agio sent a letter to Hanshui Lu, Longda General Manager, forwarding a copy of a Permanent Injunction Order entered in the U.S. District Court for the Northern District of Illinois against Hansen International, Inc. “and those persons in active concert or participation with [Hansen] who receive actual notice of the Permanent Injunction Order.” A copy of the May 21, 2003 letter and Permanent Injunction is attached as Exhibit C.

32. Agio forwarded a copy of the Permanent Injunction to Longda on May 21, 2003, because Longda supplied the infringing furniture items to Hansen International, Inc., that were subject to the Permanent Injunction. Longda had actual notice of the Permanent Injunction Order.

33. The infringing furniture items that Longda has sold and distributed in the United States since May 21, 2003 are identical to or no more than colorably different than the infringing furniture items subject to the Permanent Injunction.

34. In blatant disregard of the Permanent Injunction, as well as Agio's patent rights in the '624 and '323 Patents, Longda has continued to sell and distribute infringing sling chairs throughout the United States, and including in North Carolina.

35. Longda has willfully infringed the '624 and '323 Patents, and will continue to do so unless enjoined by this Court.

36. On information and belief, JMH has been aware of the claims that issued in the '323 Patent at least as early as June 16, 2015, around which time Agio's patent counsel sent a letter to a retailer selling sling chairs imported and sold by JMH.

PRAYER FOR RELIEF

WHEREFORE, Agio prays that this Court:

A. Enter a judgment in favor of Agio that Longda and JMH have infringed the '624 and '323 Patents;

B. Enter an injunction permanently prohibiting Longda and JMH from making, using, selling, offering for sale, or importing infringing products and/or services in the United States, or from importing into the United States infringing products;

C. Award Agio all damages for Longda's and JMH's infringement of the '624 and '323 Patents, including damages under 35 U.S.C. § 154(d)(1), treble damages for Longda's and JMH's willful infringement, pre-judgment and post-judgment interest, costs, and disbursements pursuant to 35 U.S.C. § 284;

D. Declare this case to be exceptional within the meaning of 35 U.S.C. § 285 and award the attorney's fees, costs, and expenses that it incurs in this action;

E. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Agio hereby demands a trial by jury for all the issues so triable.

Dated this 29th day of December, 2015.

Respectfully submitted,

AGIO INTERNATIONAL COMPANY, LTD.

By: /s/Robert C. Van Arnam

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of December, 2015, I electronically filed the foregoing Amended Complaint using the CM/ECF system, which will send notification of such filing to the following counsel of record:

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