

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

DEXAS INTERNATIONAL, LTD.,	§	
	§	Civil Action No.
Plaintiff,	§	
	§	4:16-cv-54
V.	§	
	§	JURY DEMANDED
ART AND COOK INC.,	§	
	§	
Defendant.	§	

**ORIGINAL COMPLAINT WITH REQUEST FOR PERMANENT INJUNCTIVE
RELIEF AND DAMAGES AND JURY DEMAND**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Plaintiff, Dexas International, Ltd., for its complaint against Defendant Art and Cook Inc., would respectfully show the Court as follows:

INTRODUCTION

1. Plaintiff Dexas International, Ltd. (“Dexas”) is a limited partnership with its principal place of business at 585 South Royal Lane, Suite 200, Coppell, TX 75019-3807.
Defendant Art and Cook Inc. is a New York corporation with its principal place of business at 14-C 53rd St., Brooklyn, NY 11232.

JURISDICTION AND VENUE

2. This is an action arising under the Patent Laws of the United States, 35 U.S.C. §§ 101, et seq., with subject matter jurisdiction based on 28 U.S.C. § 1338(a).
3. The Court has personal jurisdiction over Defendant in that it has sufficient contacts within the State of Texas and this Judicial District to subject it to specific and general personal jurisdiction. The contacts with the State of Texas and this Judicial District and Division include placing its infringing products and other products in the stream of commerce through established distribution channels, with sales of the infringing products occurring in this Judicial District, and knowing and reasonably anticipating that Texas and this District were likely destinations of the products.
4. Venue is proper in the Eastern District of Texas under 28 U.S.C. §1400(b) with 28 U.S.C. §1391(c).

COUNT I – DESIGN PATENT INFRINGEMENT

5. On May 18, 2010, inventor Ellis N. Shamon was duly and legally issued United States Letters Patent D615,828 for an ornamental design entitled “Apple Shaped Cutting Board.” A copy of said patent is attached as Exhibit A. At all times relevant herein, Plaintiff has been and still is the assignee of the patent and owns all rights to sue for infringement of said patent. At all times relevant herein, Plaintiff has complied with the marking requirements of 35 U.S.C. §287.
6. On May 18, 2010, inventor Ellis N. Shamon was duly and legally issued United States Letters Patent D615,830 for an ornamental design entitled “Eggplant Shaped Cutting Board.” A copy of said patent is attached as Exhibit B. At all times relevant herein, Plaintiff has been and still is the assignee of the patent and owns all rights to sue for

infringement of said patent. At all times relevant herein, Plaintiff has complied with the marking requirements of 35 U.S.C. §287.

7. Defendant has been and still is infringing the patents by making, selling, offering for sale importing and/or using products embodying the Plaintiff's patented designs. The infringing products are labeled "Cook Works Apple Shaped Cutting Board" and "Cook Works Eggplant Shaped Cutting Boards," and photographs of same are attached as Exhibit C. Defendant will continue to infringe the patents unless enjoined by the Court.
8. Defendant's infringement has caused Plaintiff to suffer damages. On information and belief, said infringement was willful, making this an exceptional case.
9. As an additional remedy Plaintiff is entitled to an award of Defendant's and its wholesale customers' total profits earned from the design patent infringement.

JURY DEMAND

Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for judgment as follows:

- a. That Defendant, its agents, servants and employees and all those in privity, concert or participation with any of them, be enjoined from making, using and selling any product in violation of Plaintiff's patents on the "Apple Shaped Cutting Board" and "Eggplant Shaped Cutting Board" designs;
- b. That Plaintiff be granted a judgment against Defendant for its damages, which damages should be trebled;
- c. That Defendant be required to account for and pay over to Plaintiff all profits which Defendant has derived from the infringement of Plaintiff's patent;

- d. That Defendant be required to pay the Plaintiff its costs incurred herein, as well as reasonable attorney's fees, as provided by the Patent Laws;
- e. That the Defendant be required to pay the Plaintiff pre-judgment interest on the amount awarded and post-judgment interest until paid, all at the lawful rate; and
- f. That Plaintiff have such other and further relief as to this Court seems just and proper.

DATED: January 19, 2016

Respectfully submitted,

/s/ Daniel V. Thompson
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