

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ICON LASER SOLUTIONS, LLC,

Plaintiff,

v.

CITIZENS OF HUMANITY, LLC,

Defendant.

Civil Action No. 3:15-cv-03710-L

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff ICON LASER SOLUTIONS, LLC files this First Amended Complaint against Defendant CITIZENS OF HUMANITY, LLC, alleging as follows:

I. THE PARTIES

1. Plaintiff ICON LASER SOLUTIONS, LLC (“Plaintiff” or “Icon Laser”) is a limited liability company organized and existing under the laws of the State of Texas, with a principal place of business in Dallas, Texas.

2. On information and belief, CITIZENS OF HUMANITY, LLC (“Defendant” or “Citizens”) is a Delaware limited liability company with a principal place of business in Huntington Beach, California. Defendant may be served with process by serving its Registered Agent: National Registered Agents, Inc., 160 Greentree Dr., Suite 101, Dover, DE 19904.

II. JURISDICTION AND VENUE

3. This is an action for infringement of a United States patent. Federal question jurisdiction over such action is conferred on this Court under 28 U.S.C. §§ 1331 and 1338(a).

4. On information and belief, Defendant has had minimum contacts with the Dallas Division of the Northern District of Texas such that this venue is fair and

reasonable. Defendant has committed such purposeful acts or transactions in this district that it reasonably should know and expect that it could be hauled into this Court as a consequence of such activity. Upon information and belief, Defendant has transacted and, at the time of the filing of this Complaint, is transacting business within the Dallas Division of the Northern District of Texas.

5. For these reasons, personal jurisdiction exists and venue is proper in this Court under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b).

III. PATENT INFRINGEMENT

6. On October 22, 1996, United States Patent No. 5,567,207 was duly and legally issued for a “Method for Marking and Fading Textiles with Lasers.” A true and correct copy of the ‘207 Patent is attached hereto as Exhibit “A” and made a part hereof. The ‘207 Patent is referred to as the “Patent-in-Suit.”

7. By way of assignment, Plaintiff owns all substantial rights in and to the Patent-in-Suit, including the exclusive rights to enforce the Patent against infringers and to collect damages for all relevant times, and including the right to prosecute this action.

8. As it pertains to this lawsuit, the ‘207 Patent, generally speaking, relates to the use of a laser to color fade and selectively alter textile materials in an environmentally friendly manner.

9. On information and belief, Defendant, through itself and/or one or more of its entities, subsidiaries, affiliates, business divisions, or business units, directly infringed the ‘207 Patent pursuant to 35 U.S.C. § 271, including at least 35 U.S.C. § 271(a), by making, using, selling, or offering to sell within the United States certain textile products that were made during the term of the ‘207 Patent by a process or processes that fall within the scope of one or more claims of the ‘207 Patent (“the ‘207 Patent Processes”), including at least claims 1, 2, 3, 22, and

23, without authority from Plaintiff, including but not limited to SID Classic Straight Ripley Men's Jeans, as well as all other products made by the '207 Patent Processes (collectively, the "Citizens of Humanity Products").

10. On information and belief, Defendant, through itself and/or one or more of its entities, subsidiaries, affiliates, business divisions, or business units personally performed each step of the '207 Patent Processes. For instance, the exemplar SID Classic Straight Ripley Men's Jeans indicate on the label they were made in the United States of America. In addition, Defendant's website states, "Citizens of Humanity apparel products are manufactured in California, in facilities that are either owned by Citizens of Humanity or are owned by third parties who operate in close proximity to Citizens of Humanity's corporate headquarters. By virtue of Citizens of Humanity's close working relationship with its factories in California, Citizens of Humanity is able to observe and confirm that no forced labor or human trafficking occurs in the manufacture of its products. Citizens of Humanity does purchase trim and other raw materials used in the manufacture of its products from suppliers located abroad, including in China, and seeks to ensure that its supply chain is free of forced labor or human trafficking." *See* <https://www.citizensofhumanity.com/terms-service/>. Therefore, to the extent any of the Citizens of Humanity Products were manufactured in "a facility owned by Citizens of Humanity," Defendant personally performed each step of the '207 Patent Processes.

11. In alternative to the foregoing, to the extent that the Citizens of Humanity Products were manufactured in a facility that was owned by a third party who operates "in close proximity to Citizens of Humanity's corporate headquarters," Defendant is still liable for infringement of the '207 Patent pursuant to 35 U.S.C. § 271(a) because, on information and belief, Defendant exercised direction and/or control over such third party(ies) who practiced the '207

Patent Processes. On information and belief, Defendant had and continues to have a contractual relationship with such third party(ies) and directs and/or controls the processes used by such third party(ies).

12. As a result of Defendant's infringement of the '207 Patent, Plaintiff has suffered damage. Plaintiff is entitled to recover from Defendant damages adequate to compensate for such infringement, which have yet to be determined. Defendant is, thus, liable to Plaintiff in an amount that adequately compensates Plaintiff for Defendant's infringements, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

V. JURY DEMAND

Plaintiff hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court find in its favor and against Defendant, and that the Court grant Plaintiff the following relief:

- a. Judgment that one or more claims of the Patent-in-Suit have been directly infringed, either literally or under the doctrine of equivalents, by Defendant;
- b. Judgment that Defendant account for and compensate Plaintiff for all damages suffered by and costs incurred by Plaintiff because of Defendant's infringing activities and other conduct complained of herein;
- c. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein;
- d. That the Court declare this an exceptional case and award Plaintiff its reasonable attorney's fees and costs in accordance with 35 U.S.C. § 285, to the extent permitted by law and equity; and
- e. That Plaintiff be granted such other and further relief as the Court may deem just and proper under the circumstances.

Dated: March 17, 2016

Respectfully submitted,

/s/ Timothy E. Grochocinski
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served on all counsel of record on March 17, 2016 via the Court's CM/ECF system.

/s/ Timothy E. Grochocinski
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