

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SPECTRUM DIVERSIFIED DESIGNS, LLC,

Plaintiff

v.

ARGENTO SC BY SICURA INC.,

Defendant.

CASE NO. 1:16-cv-1851

Judge Solomon Oliver, Jr.

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Spectrum Diversified Designs, LLC (“Spectrum”), alleges as follows for its Complaint against Defendant, Argento SC By Sicura Inc. (“Argento”):

1. Spectrum Diversified Designs, LLC is a limited liability company organized and existing under the laws of the Delaware, with its principal place of business at 675 Mondial Parkway, Streetsboro, OH 44241.

2. Upon information and belief, Argento SC By Sicura Inc. is a corporation organized and existing under the laws of New York, with its principal place of business at 1407 Broadway Ste 2201, New York, New York, 100.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 et seq., as is more fully set forth below.

4. This Court has original and exclusive jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Upon information and belief, this Court has personal jurisdiction over Argento because Argento has advertised, marketed, distributed or sold infringing merchandise within this

district. This Court also has personal jurisdiction because Argento has engaged in acts or omissions within this district causing injury, has engaged in acts or omissions outside of this district causing injury within this district, has manufactured or distributed products used or consumed within this district in the ordinary course of trade, has entered contracts with residents of this district, or has otherwise made or established contacts with this district sufficient to permit the exercise of personal jurisdiction.

6. This Court also has personal jurisdiction over Argento because Argento has placed infringing goods into the stream of commerce knowing that they would be sold in this district by, for example, HomeGoods at 9565 Mentor Avenue, Mentor, OH 44060 and Burlington Store at 5252 Cobblestone Road, Sheffield Village, OH 44035.

7. Venue in this District is proper pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) because defendant is subject to personal jurisdiction, and because the infringing products have been offered for sale in this judicial district.

FACTUAL BACKGROUND

8. Spectrum is engaged in the business of designing, manufacturing and selling products, many of which are houseware items.

9. Spectrum is the owner by way of assignment of U.S. Patent No. D747,877 (“the ’877 Patent”), entitled “STYLING CADDY.” The ’877 Patent was duly and legally issued by the United States Patent and Trademark Office on January 26, 2016. The ’877 Patent is still in force and effect and is presumed valid under the U.S. patent laws. A copy of the ’877 Patent is attached hereto as Exhibit A.

10. Spectrum sells an Over the Cabinet Tall Styling Center product (Product No. 878) that is covered by the ’877 patent. Prior to issuance of the ’877 patent, Spectrum marked its Product No. 878 with the notice of “patent pending.” Since issuance of the ’877 patent, Spectrum has been marking its product in compliance with 35 U.S.C. § 287.

11. Spectrum is the owner by way of assignment of U.S. Patent No. D700,453 (“the ’453 Patent”), entitled “OVER THE CABINET DOOR STYLING RACK.” The ’453 Patent was duly and legally issued by the United States Patent and Trademark Office on March 4, 2014. The ’453 Patent is still in force and effect and is presumed valid under the U.S. patent laws. A copy of the ’453 Patent is attached hereto as Exhibit B.

12. Spectrum sells a myBella Over the Cabinet Shapes Styling Rack product (Product No. 303) that is covered by the ’453 patent. Prior to issuance of the ’453 patent, Spectrum marked its Product No. 303 with the notice of “patent pending.” Since issuance of the ’453 patent, Spectrum has been marking its product in compliance with 35 U.S.C. § 287.

13. Spectrum is the owner by way of assignment of U.S. Patent No. D764,707 (“the ’707 Patent”), entitled “ADJUSTABLE STYLING ORGANIZER.” The ’707 Patent was duly and legally issued by the United States Patent and Trademark Office on August 23, 2016. The ’707 Patent is still in force and effect and is presumed valid under the U.S. patent laws. A copy of the ’707 Patent is attached hereto as Exhibit C.

14. Spectrum sells a myBella Over the Cabinet Styling Center product (Product No. 20677) that is covered by the ’707 patent.

15. Spectrum is the owner by way of assignment of U.S. Patent No. D764,708 (“the ’708 Patent”), entitled “STYLING RACK.” The ’708 Patent was duly and legally issued by the United States Patent and Trademark Office on August 23, 2016. The ’708 Patent is still in force and effect and is presumed valid under the U.S. patent laws. A copy of the ’708 Patent is attached hereto as Exhibit D.

16. Spectrum sells a myBella Over the Cabinet Tiered Styling Station product (Product No. 956) that is covered by the ’708 patent.

17. Argento sells, among other products, a variety of metal wire home goods to retailers throughout the United States. Such goods include: polish'd Styling Caddy (Product No. ST0068-SFA, shown in Exhibit E), polish'd Cabinet Door Styling Rack (Product No. ST0065-SIA, shown in Exhibit F), polish'd Over the Cabinet Styling Caddy (Product No. ST0067-SFA, shown in Exhibit G) and polish'd Over the Cabinet Styling Station (Product No. ST0069-SIA, shown in Exhibit H) (collectively, the "Argento Products").

18. On information and belief, Argento has offered for sale and sold the Argento Products in this judicial district.

19. Argento has offered for sale and sold, and upon information and belief continues to offer for sale and sell, the Argento Products to retailers with knowledge that the Argento Products would be offered for sale and sold in this judicial district.

20. On Argento's web site, Argento identifies HomeGoods and Burlington as companies Argento works with.

21. The Argento Products have been offered for sale and sold in this district by HomeGoods at 9565 Mentor Avenue, Mentor, OH 44060 and Burlington Store at 5252 Cobblestone Road, Sheffield Village, OH 44035.

22. On March 1, 2016, Spectrum, by way of its counsel, sent Argento a cease and desist letter notifying Argento that it was infringing the '877 Patent by importing and selling its ST0068-SFA product, including to HomeGoods.

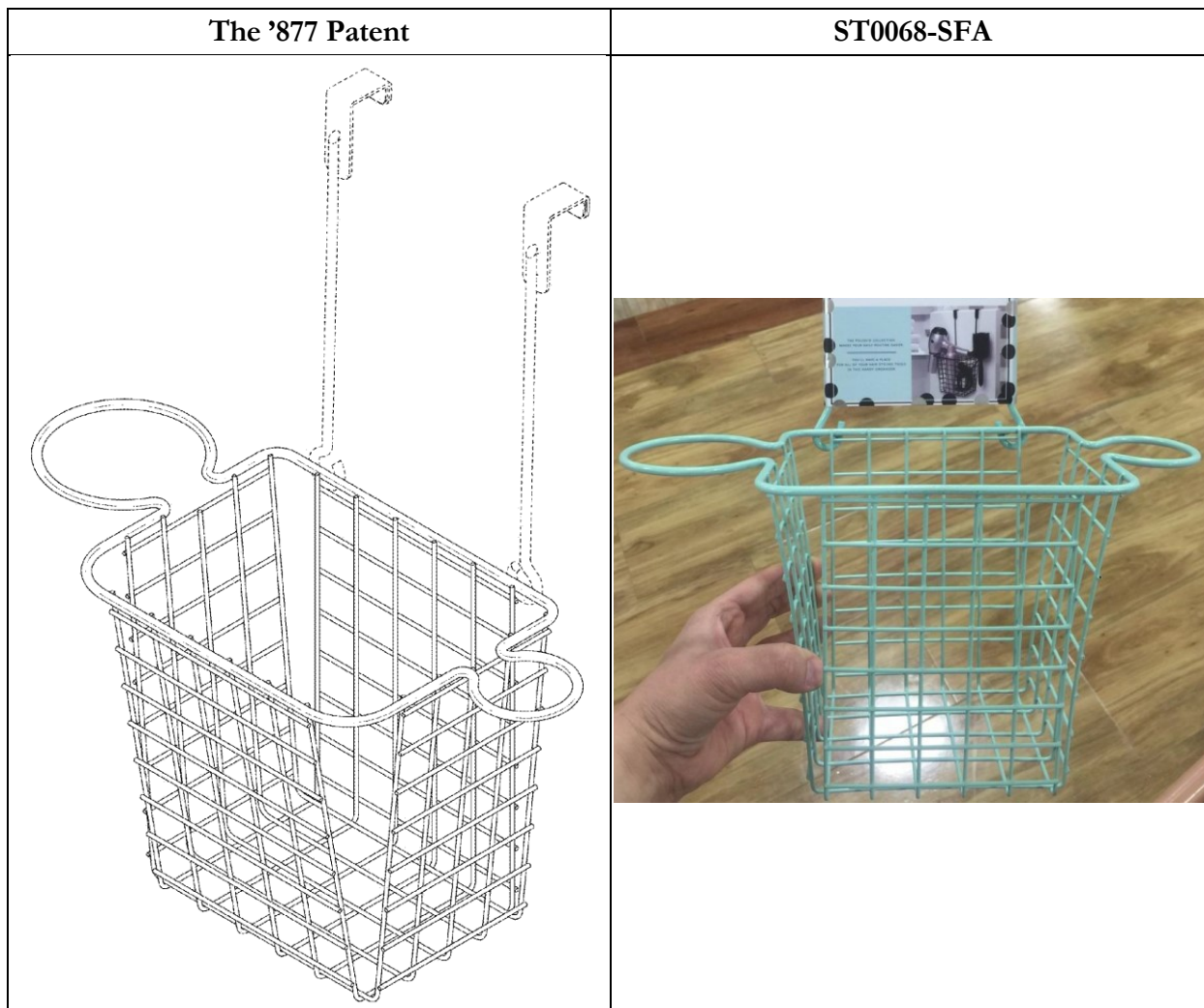
23. Spectrum subsequently learned that Argento has been selling other products that are copies of Spectrum's patented and patent-pending products. One such product is the ST0065-SIA product. Accordingly, on June 23, 2016, Spectrum, by way of its counsel, sent Argento a follow up cease and desist letter discussing, among other issues, Argento's infringement of the '453 patent by importing and selling its ST0065-SIA product.

**COUNT I
INFRINGEMENT OF THE '877 PATENT**

24. Spectrum incorporates the allegations set forth in Paragraphs 1-23 above as if each were separately set forth at length herein.

25. Argento has been and still is directly infringing the '877 Patent under 35 U.S.C. §271(a) by making, using, offering to sell, and/or selling the ST0068-SFA product.

26. A comparison of the ornamental design of the '877 Patent to the infringing ST0068-SFA product is shown below.



27. Argento's infringement of the '877 Patent has been willful.

28. Argento's infringement of the '877 Patent has caused, and continues to cause, Spectrum to suffer injury and economic damages.

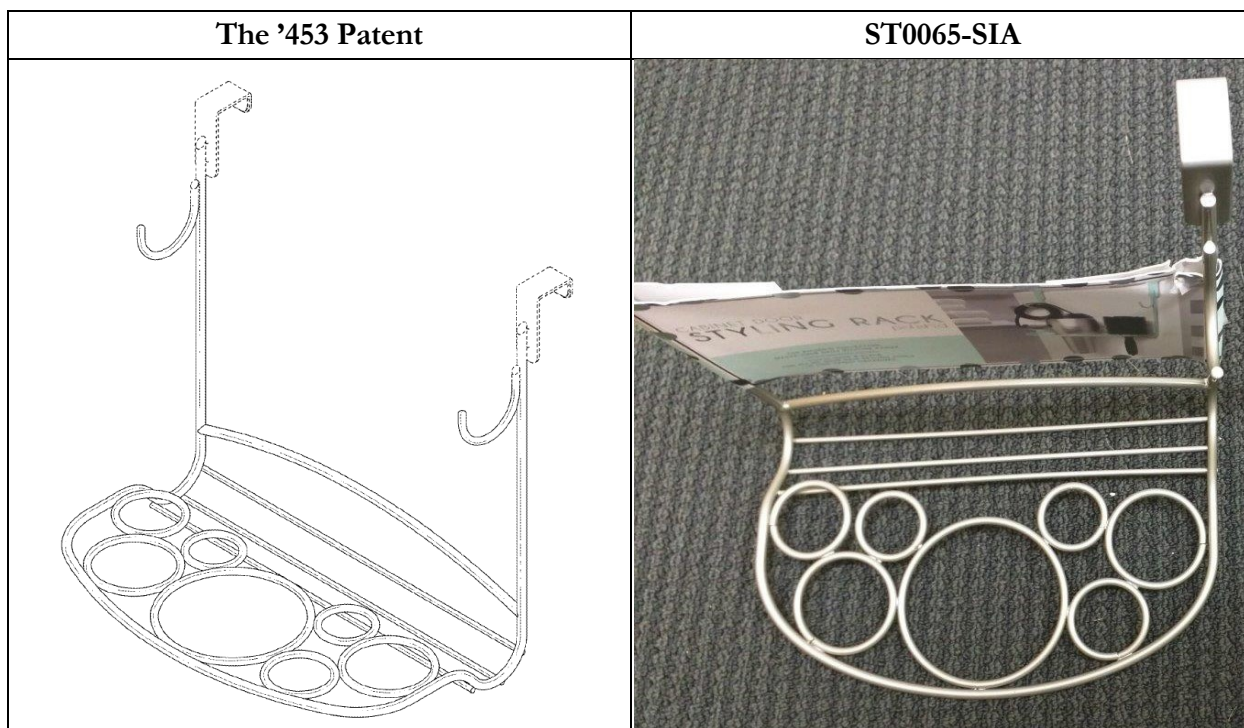
29. The infringement of the '877 Patent by Argento is causing irreparable harm to Spectrum and will continue to cause irreparable harm to Spectrum unless Argento's infringing activities are enjoined by this Court.

**COUNT II
INFRINGEMENT OF THE '453 PATENT**

30. Spectrum incorporates the allegations set forth in Paragraphs 1-29 above as if each were separately set forth at length herein.

31. Argento has been and still is directly infringing the '453 Patent under 35 U.S.C. §271(a) by making, using, offering to sell, and/or selling the ST0065-SIA product.

32. A comparison of the ornamental design of the '453 Patent to the infringing ST0065-SIA product is shown below.



33. Argento's infringement of the '453 Patent has been willful.

34. Argento's infringement of the '453 Patent has caused, and continues to cause, Spectrum to suffer injury and economic damages.

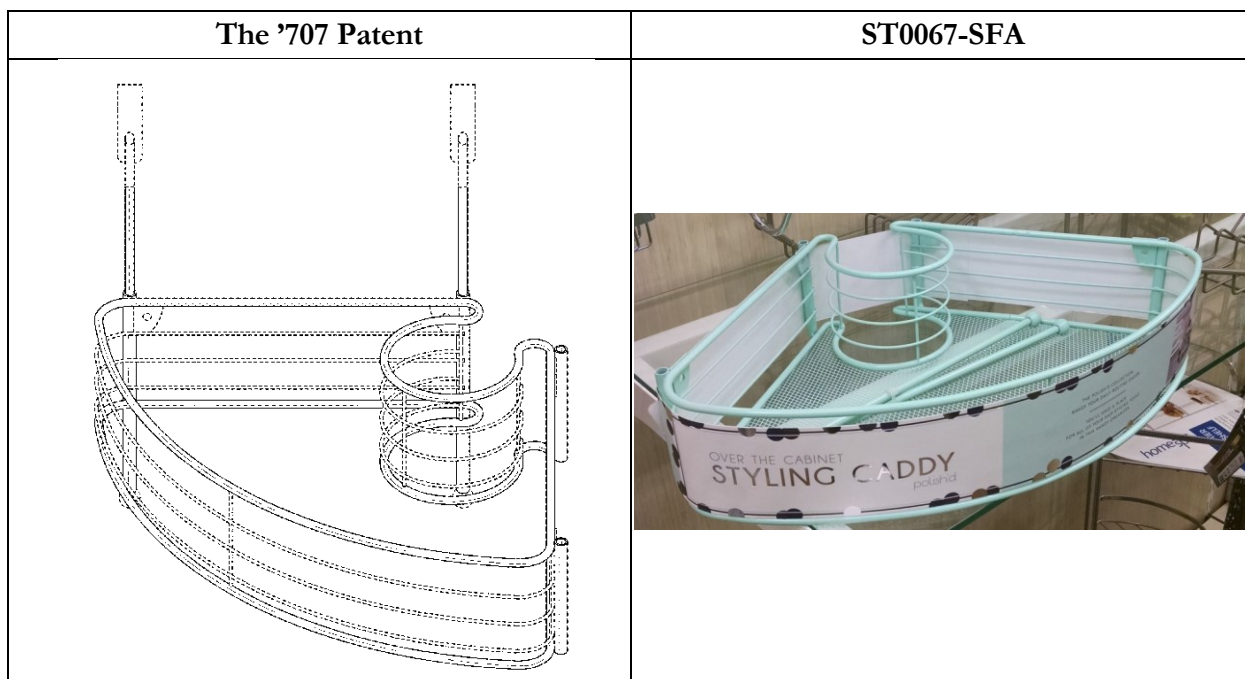
35. The infringement of the '453 Patent by Argento is causing irreparable harm to Spectrum and will continue to cause irreparable harm to Spectrum unless Argento's infringing activities are enjoined by this Court.

**COUNT III
INFRINGEMENT OF THE '707 PATENT**

36. Spectrum incorporates the allegations set forth in Paragraphs 1-35 above as if each were separately set forth at length herein.

37. Argento has been and still is directly infringing the '707 Patent under 35 U.S.C. §271(a) by making, using, offering to sell, and/or selling the ST0067-SFA product.

38. A comparison of the ornamental design of the '707 Patent to the infringing ST0067-SFA product is shown below.



39. Argento's infringement of the '707 Patent has been willful.

40. Argento's infringement of the '707 Patent has caused, and continues to cause, Spectrum to suffer injury and economic damages.

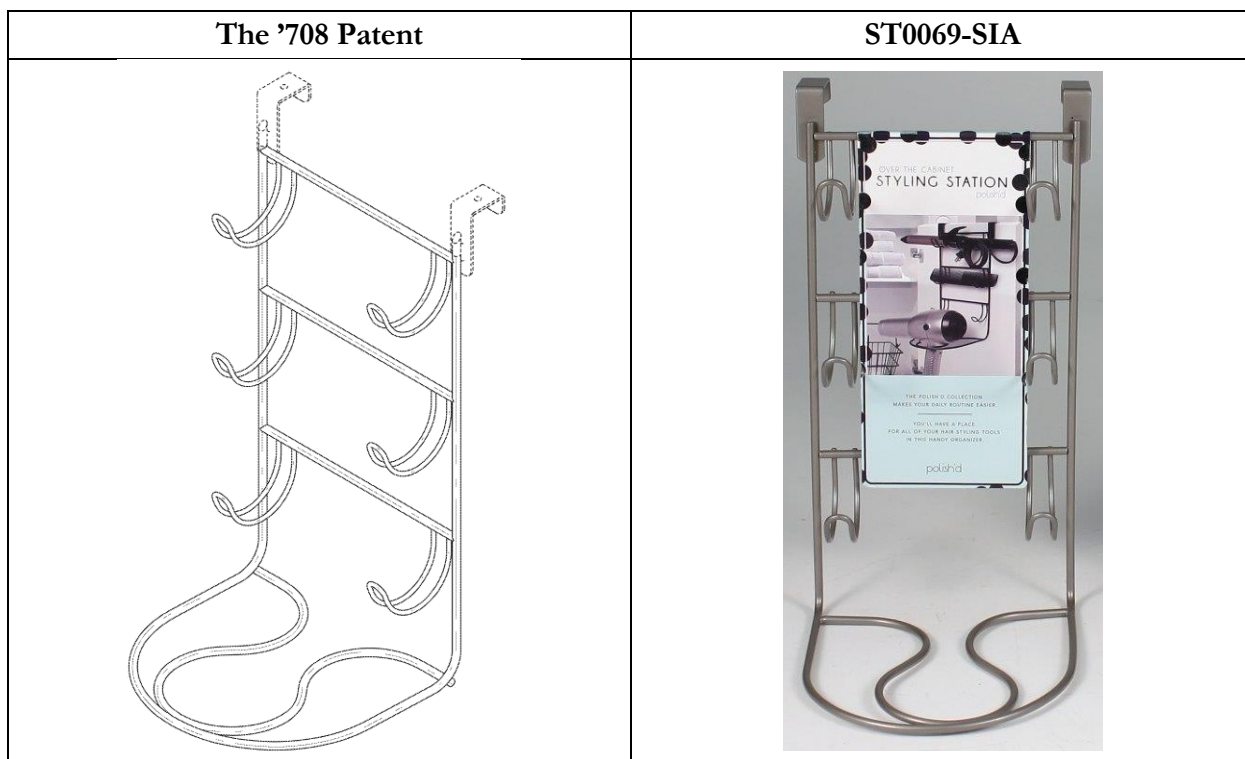
41. The infringement of the '707 Patent by Argento is causing irreparable harm to Spectrum and will continue to cause irreparable harm to Spectrum unless Argento's infringing activities are enjoined by this Court.

**COUNT IV
INFRINGEMENT OF THE '708 PATENT**

42. Spectrum incorporates the allegations set forth in Paragraphs 1-41 above as if each were separately set forth at length herein.

43. Argento has been and still is directly infringing the '708 Patent under 35 U.S.C. §271(a) by making, using, offering to sell, and/or selling the ST0069-SIA product.

44. A comparison of the ornamental design of the '708 Patent to the infringing ST0069-SIA product is shown below.



45. Argento's infringement of the '708 Patent has been willful.

46. Argento's infringement of the '708 Patent has caused, and continues to cause, Spectrum to suffer injury and economic damages.

47. The infringement of the '708 Patent by Argento is causing irreparable harm to Spectrum and will continue to cause irreparable harm to Spectrum unless Argento's infringing activities are enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Spectrum respectfully requests that this Court:

A. Enter judgment that Defendant has infringed the '877 Patent, the '453 Patent, the '707 Patent and the '708 Patent;

B. Enter a preliminary and permanent injunction to enjoin Defendant and its officers, agents, attorneys and employees, and those acting in privity or concert with it, from infringing the '877 Patent, the '453 Patent, the '707 Patent and the '708 Patent for the full terms thereof;

C. Award Spectrum damages adequate to compensate Spectrum for the infringement of the '877 Patent, the '453 Patent, the '707 Patent and the '708 Patent pursuant to 35 U.S.C. § 284 and/or 35 U.S.C. § 289;

D. Order Defendant to pay costs, pre-judgment interest and post-judgment interest to Spectrum;

E. Order Defendant to reimburse Plaintiff for its attorney fees and expenses;

F. Order an accounting for any infringing sales not presented at trial and award additional damages for any such infringing sales; and

G. Grant such other and further relief as the Court deems just and equitable.

Dated: August 24, 2016

/s/ Mark C. Johnson

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CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2016 a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. In addition, a copy of the foregoing is being served on August 24, 2016 upon the following counsel for defendant by email and first class mail:

Aaron J. Solomon, Esq.
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/s/ Mark C. Johnson _____
An Attorney for Plaintiff