

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

PAWABUNGA! LLC,

Plaintiff,

v.

ANIMAGANZA, LLC; HIMALAYAN
CORPORATION; and ALAN J. DEWEY,

Defendants.

Civil Action No. 16-cv-3721

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Pawabunga! LLC (“Pawabunga!”), for its Complaint against Defendants Animaganza, LLC (“Animaganza”), Himalayan Corporation, (“Himalayan”), and Alan J. Dewey (“Dewey”), alleges and states as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, as hereinafter more fully appears. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction over all other claims asserted this action pursuant to 28 U.S.C. § 1367, in that all other claims asserted are so related to claims within this Court’s original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution as hereinafter more fully appears.

2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400 in that each defendant has transacted business in this district and/or committed acts of patent infringement in this district, as hereinafter more fully appears.

PARTIES

3. Pawabunga! is a Minnesota limited liability company with its principle place of business located at 5028 Bruce Pl., Edina, Minnesota, 55424.

4. Upon information and belief, Himalayan is a Washington corporation with its registered agent located at 4480 Chennault Beach Road, Mukilteo, Washington 98275. Upon information and belief, Himalayan's office address is the same as its registered agent's address. Upon information and belief, Himalayan is wholly or partially owned by Himalayan Holdings Group, LLC, and therefore is a related entity to Himalayan Holdings Group, LLC. Himalayan and Himalayan Holdings Group, LLC have the same registered agent and address as listed with the Washington Secretary of State's office.

5. Upon information and belief, Animaganza is a Washington limited liability company with its registered agent located at 2775 Harbor Ave SW #D, Seattle, Washington 98126. Upon information and belief, Animaganza's office address is 1714 Hewitt Avenue, Suite 300, Everett, Washington 98201. Upon information and belief, Animaganza is wholly or partially owned by Himalayan Holdings Group, LLC, and therefore is a related entity to Himalayan Holdings Group, LLC.

6. Animaganza is described as a "sister company" to Himalayan on Animaganza's website.

7. Upon information and belief, Himalayan, Animaganza, and Himalayan Holdings Group, LLC all share the same chief executive officer or president.

8. Upon information and belief, Dewey is an individual who currently resides in Marysville, Washington, and who formerly resided in the State of Minnesota as hereinafter more fully appears.

FACTS

9. Pawabunga! engages in the design and manufacture of pet care and pet playtime products and toys. The company sells its products through licensees, retailers, and distributors nationwide.

10. Dewey was a founding member of Pawabunga! and was a citizen and resident of the State of Minnesota while employed by Pawabunga!. During his employment by Pawabunga!, and while a member of Pawabunga!, Dewey held the positions of vice president and chief design officer and received a salary from Pawabunga!.

11. Dewey has been a member of Pawabunga! from December 20, 2011 to the present.

12. As a member of Pawabunga!, Dewey was and is subject to the terms and conditions of the Operating Agreement of Pawabunga!.

13. Article I, paragraph 14 of the Operating Agreement provides in relevant part: “Nothing in this Agreement shall prohibit any member ... from owning, operating, engaging in or investing either directly or indirectly in any other investments, business or property of any nature or description, provided that such investments, businesses or property do not directly or indirectly compete with the business of the Company and do

not in any way diminish the ability of the member to perform appropriate functions as an officer or employee of the Company.”

14. On or about December 20, 2011, Dewey signed Pawabunga!’s Member Control Agreement. Dewey signed the 2011 Member Control Agreement as a “Member”, and was subject to the terms and conditions of the 2011 Member Control Agreement.

15. Section 2.6 of the 2011 Member Control Agreement provides in relevant part:

Unless otherwise specified by an employment agreement or a resolution of the Board, Directors and Officers (collectively “Management”) shall devote such of their time to the business of the Company as the deem reasonably necessary to accomplish their responsibilities and the purposes of the Company.... Except as provided below, any Member, Director, or Officer may engage in or possess an interest in other business ventures of every nature and description, independently or with others (“Unrelated Businesses”). Neither the Company nor the Members shall have any right by virtue of this Agreement in or to such Unrelated Businesses or to the income or profits derived therefrom and no Member shall have the obligation to bring any business opportunity to the Company or to any other Member regarding such Unrelated Businesses; provided, however, that the foregoing shall be limited as provided in Sections 322B.663, 322B.666 and 322B.69 of the LLC Act with respect to applicable standards of loyalty to the Company, good faith and conduct of any Member who is also a Director or Manager. However, no Member, Director, or Officer may in the context of such Unrelated Businesses, participate in the design, production or distribution of products substantially identical to a product designed, manufactured or distributed by the Company.

16. Pursuant to Section 9.6 of the 2011 Member Control Agreement, each Member was prohibited from disclosing any confidential or trade secret information to any party outside the company. “Each Member ... agrees that except to the extent required by Member’s duties to the Company, each Member shall never, either during his

involvement with the Company, or at any time thereafter, use or disclose any Confidential Information or Trade Secrets of the Company, or otherwise use such information to his own benefit.”

17. On or about July 16, 2013, Dewey signed the First Amendment to the Member Control Agreement of Pawabunga! as a “Member” of Pawabunga!.

18. On or about January 24, 2014, Dewey signed Pawabunga!’s Amended and Restated Member Control Agreement (“Restated Member Control Agreement”) as a “Member”, and was subject to its terms and conditions. Dewey at that time owned 46% of the common units of Pawabunga!

19. Section 2.6 of the Restated Member Control Agreement states in relevant part:

Unless otherwise specified by an employment agreement or a resolution of the Board, Directors and Officers (collectively “Management”) shall devote such of their time to the business of the Company as the deem reasonably necessary to accomplish their responsibilities and the purposes of the Company.... Except as provided below, any Member, Director, or Officer may engage in or possess an interest in other business ventures of every nature and description, independently or with others (“Unrelated Businesses”). Neither the Company nor the Members shall have any right by virtue of this Agreement in or to such Unrelated Businesses or to the income or profits derived therefrom and no Member shall have the obligation to bring any business opportunity to the Company or to any other Member regarding such Unrelated Businesses; provided, however, that the foregoing shall be limited as provided in Sections 322B.663, 322B.666 and 322B.69 of the LLC Act with respect to applicable standards of loyalty to the Company, good faith and conduct of any Member who is also a Director or Manager. However, no Member, Director, or Officer may in the context of such Unrelated Businesses, participate in the design, production or distribution of products substantially identical to a product designed, manufactured or distributed by the Company.

20. Pursuant to Section 8.5 of the Restated Member Control Agreement, each Member was prohibited from disclosing any confidential or trade secret information to any party outside the company. “Each Member ... agrees that except to the extent required by Member’s duties to the Company, each Member shall never, either during his involvement with the Company, or at any time thereafter, use or disclose any Confidential Information or Trade Secrets of the Company, or otherwise use such information to his own benefit.”

21. While a member and officer of Pawabunga!, Dewey co-invented an invention entitled, “Cover and Dispensing Device.” The “Cover and Dispensing Device” is a “cover device that houses, protects and safely and economically dispenses an edible product, such as a rolled rawhide.”

22. Pawabunga! filed an application for a United States Patent on the “Cover and Dispensing Device” on December 19, 2012, after first filing a provisional patent application on December 19, 2011. The application for a United States Patent on the “Cover and Dispensing Device” was prosecuted on behalf of Pawabunga! by its law firm, Briggs and Morgan, P.A.

23. Dewey duly and properly assigned his rights as a co-inventor of the “Cover and Dispensing Device” to Pawabunga! on December 21, 2011.

24. On April 22, 2014, the United States Patent and Trademark Office (“USPTO”) duly and validly issued United States Letters Patent No. 8,701,599 B2 (“the ‘599 Patent”) to Pawabunga! for the “Cover and Dispensing Device.” A true and correct copy of the ‘599 Patent is attached as Exhibit A.

25. On April 22, 2014, Pawabunga! filed a continuation-in-part patent application, also entitled “Cover and Dispensing Device”, based on the previously filed application that issued as the ‘599 Patent. This application also was prosecuted on behalf of Pawabunga! by its law firm, Briggs and Morgan, PA.

26. Dewey’s previously executed assignment relating to the “Cover and Dispensing Device” invention also applied to the later filed continuation-in-part application.

27. On June 21, 2016, the USPTO duly and validly issued United States Letters Patent No. 9,370,168 B2 (“the ‘168 Patent”) to Pawabunga! for the continuation-in-part application. A true and correct copy of the ‘168 Patent is attached as Exhibit B.

28. While a member and officer of Pawabunga!, Dewey also invented an invention entitled, “Pet Collar with Collapsible Bowl.” The “Pet Collar with Collapsible Bowl” “provides a wearable device having an integrated collapsible bowl for containing water, food, treats and the like.” Pawabunga! called the device that embodies this invention the “Bandana Bowl.”

29. On July 22, 2013, Pawabunga! filed a provisional patent application with the USPTO for the “Pet Collar with Collapsible Bowl” invention.

30. On July 22, 2014, Pawabunga! filed a Patent Cooperation Treaty (“PCT”) patent application for the “Pet Collar with Collapsible Bowl” invention.

31. Both the USPTO application and the PCT application for the “Pet Collar with Collapsible Bowl” were prosecuted on behalf of Pawabunga! by its law firm, Briggs and Morgan, P.A.

32. Dewey's development of the invention claimed in the PCT application for the "Pet Collar with Collapsible Bowl" was within the scope of his employment and work as a member of Pawabunga! and closely related to Pawabunga!'s existing business.

33. Pawabunga! reasonably expected Dewey to assign his rights as the inventor of the "Pet Collar with Collapsible Bowl" to Pawabunga!, consistent with his previous assignment relating to the "Cover and Dispensing Device" patent application as well as his obligations under the Operating Agreement, 2011 Member Control Agreement, and Restated Member Control Agreement.

34. In or about November 2014, Dewey ceased coming in to work at Pawabunga!. Dewey never resigned as an officer, director, or member of Pawabunga!, and did not return or transfer the common shares of Pawabunga! that he owned to the company or any other member of Pawabunga!. Dewey was never terminated or released from employment, removed from the board of directors, or removed from being a member of Pawabunga!.

35. Prior to the time he ceased coming in to work at Pawabunga!, Dewey did not assign his rights in and to the "Pet Collar with Collapsible Bowl" invention and application to Pawabunga!.

36. During prosecution of the "Pet Collar with Collapsible Bowl" application, Pawabunga! unintentionally did not timely file a reply in connection with the PCT application.

37. Upon information and belief, Dewey and one or more other individuals formed Animaganza in early 2015. Dewey is listed on Animaganza's website as its "Chief Design Officer."

38. Upon information and belief, and according to its website, Animaganza "aspires to become a supreme pet products company known internationally for its innovative, quality, trend-forward, products, humanity and ethics towards community and intelligence that fuels our reinvention of how we care and play for our pets."

39. Animaganza is a direct competitor to Pawabunga! in the marketplace for pet toys.

40. Without Pawabunga!'s knowledge or consent, on or about February 2, 2016, Dewey and Animaganza filed a petition to revive the PCT application previously filed by Pawabunga! for unintentional delay. In connection with the filing, Dewey and Animaganza used the same application materials previously filed on behalf of Pawabunga!, but were (and are) represented by the law firm of Jensen & Puntigam, PS in connection with the revived PCT application.

41. Upon information and belief, at some time at or prior to filing the petition to revive the PCT application for the "Pet Collar with Collapsible Bowl" invention, Dewey assigned his rights as an inventor to Animaganza without the knowledge or consent of Pawabunga!.

42. On or about February 9, 2016, the USPTO granted the petition to revive the PCT application for the "Pet Collar with Collapsible Bowl" patent application.

43. The PCT application now being prosecuted on behalf of Dewey and Animaganza in the USPTO is identical to the PCT application originally filed on behalf of Pawabunga! in July 2014.

44. On June 30, 2016, the USPTO published US 2016/0183497 A1, entitled “Pet Collar with Collapsible Bowl”.

45. Pawabunga! has never granted either Dewey or Animaganza any permission or rights to take or prosecute the invention disclosed in, or application for, the “Pet Collar with Collapsible Bowl” patent application.

46. In May 2016, Pawabunga! licensed its rights to the Bandana Bowl to a third party, which has begun selling and distributing the device.

47. In August 2016, Dewey, as an officer or employee or member of Animaganza, confronted Pawabunga!’s licensee at an animal toy trade show (“Superzoo”). Pawabunga!’s licensee was displaying the Bandana Bowl product at the trade show.

48. At the trade show, Dewey told Pawabunga!’s licensee that Animaganza owned the rights to the Bandana Bowl and had a patent application pending for the Bandana Bowl product. The patent application is the application for the “Pet Collar with Collapsible Bowl.”

49. As a result of Dewey and Animaganza’s actions, Pawabunga!’s licensee has threatened to terminate its license agreement or otherwise to not market and promote the Bandana Bowl.

50. As a result of the actions of Dewey and Animaganza, Pawabunga has been wrongfully deprived of exclusively marketing and selling its own product, the Bandana Bowl, which is covered by the “Pet Collar with Collapsible Bowl” patent application.

51. Dewey and Animaganza have taken and converted to their own use, without compensation or authorization from Pawabunga!, the rights to, and patent application for, the “Pet Collar with Collapsible Bowl” invention.

52. Beginning in or about February 2014, Himalayan Holdings Group, LLC approached Pawabunga! and offered to purchase all of its intellectual property, which included, *inter alia*, the ‘599 Patent and the ‘168 Patent.

53. Negotiations between Pawabunga! and Himalayan continued through at least March 2016. During the negotiations, Himalayan offered to pay in excess of \$700,000 for Pawabunga!’s intellectual property.

54. Upon information and belief, beginning in 2015, Animaganza began selling and offering for sale a product known as “AnimaTwists”. A true and correct copy of the AnimaTwists product sheet is attached as Exhibit C.

55. The AnimaTwists product sheet claims that the product is “patent pending.”

56. According to the Animaganza product sheet, AnimaTwists are used to promote the sales of, and to sell, Animaganza’s other products, including “AnimaChew”.

57. According to Animaganza’s product sheet, AnimaTwists are used to promote the sales of, and to sell, Himalayan’s product, “Himalayan Dog Chew”.

58. According to the packaging, Animaganza’s AnimaTwists product is “Packaged and Distributed by” Himalayan.

59. Animaganza's AnimaTwists product is promoted and offered for sale by Himalayan on Himalayan's website, which also includes a link to Animaganza's webpage for the AnimaTwists product.

60. Animaganza and Himalayan have offered for sale, and sold, the AnimaTwists product in the State of Minnesota.

61. Animaganza and Himalayan's AnimaTwists product infringes, either literally or under the doctrine of equivalents, at least claim 14 of the '599 Patent.

62. Claim 14 of the '599 Patent states:

A roll product dispensing device comprising:

a resilient non-edible cover body having an elongated hollow cavity positioned between a pair of generally closed ends, with said cover body being deformable and including at least one opening allowing insertion of an elongated edible roll product into the hollow cavity, with the closed ends of the cover body protecting ends of the edible roll product from contact with a pet, and with other portions of the roll product being readily accessible to the pet, and wherein an outer surface of the cover body includes surface elements which are stimulating to the pet mouth.

63. Based upon a review of the AnimaTwists product, the product packaging, the AnimaTwists product sheet, advertising on Animaganza and Himalayan's websites, a video posted on youtube.com entitled "AnimaTwists Product Demo", and other documents, Animaganza and Himalayan's AnimaTwists product includes, either literally or under the doctrine of equivalents, each limitation in at least claim 14 of the '599 Patent in that:

(a) The AnimaTwists product is device used to dispense a roll or chew product such as Animaganza's AnimaChew or Himalayan's Himalayan Dog chew,

which are both elongated in that their length is much greater than their width or depth and each of which are edible;

- (b) The cover of the AnimaTwists product is resilient and non-edible, in that it is made from nylon which is described in various literature as “resilient” and is capable of regaining its original shape if bent, stretched or deformed; Animaganza and Himalayan describe the product as “durable”, “tough”, “strong”, “hardy”, and “flexible” – all commonly used adjectives when describing something as “resilient”;
- (c) The AnimaTwists product has an elongated hollow cavity positioned between two generally closed ends, into which an edible roll product is inserted;
- (d) The AnimaTwists product cover body is deformable because it can be bent slightly by hand through the application of force and the shape of the body may be altered by the application of external force, such as through use by a pet such as a dog chewing on it (“bristle-like projections will form on the surface of toy which helps clean teeth”);
- (e) The AnimaTwists product has at least one opening on one end when the end cap is removed which allows insertion of an edible roll product such as the AnimaChew or Himalayan Dog Chew products;
- (f) When the ends are closed, the AnimaTwists product protects the ends of the edible roll product from contact with a pet, while other portions of the roll product are accessible to the pet through the opening in the body of the AnimaTwists product; and

(g) The outer surface of the AnimaTwists product has bumps and surface elements intended to stimulate a pet's mouth and chewing on the product.

64. Animaganza and Himalayan's AnimaTwists product infringes, either literally or under the doctrine of equivalents, at least claim 6 of the '168 Patent.

65. Claim 6 of the '168 Patent states:

A product dispensing device comprising:

a resilient non-edible cover body having an elongated hollow cavity, with said cover body being deformable and including at least one opening allowing insertion of an elongated product into the hollow cavity, with closed ends of the cover body protecting ends of the elongated product from contact with a pet, and with other portions of the elongated product being positioned adjacent the at least one opening of the cover body and being readily accessible to the pet.

66. Based upon a review of the AnimaTwists product, the product packaging, the AnimaTwists product sheet, advertising on Animaganza and Himalayan's websites, a video posted on youtube.com entitled "AnimaTwists Product Demo", and other documents, Animaganza and Himalayan's AnimaTwists product includes, either literally or under the doctrine of equivalents, each limitation in at least claim 6 of the '168 Patent in that:

(a) The AnimaTwists product is a device used to dispense a product such as

Animaganza's AnimaChew or Himalayan's Himalayan Dog chew, which are both elongated in that their length is much greater than their width or depth;

(b) The cover of the AnimaTwists product is resilient and non-edible, in that it is made from nylon which is described in various literature as "resilient" and is capable of regaining its original shape if bent, stretched or deformed;

Animaganza and Himalayan describe the product as “durable”, “tough”, “strong”, “hardy”, and “flexible” – all commonly used adjectives when describing something as “resilient;

- (c) The AnimaTwists product has an elongated hollow cavity, into which an elongated product may be inserted;
- (d) The AnimaTwists product cover body is deformable because it can be bent slightly by hand through the application of force and the shape of the body may be altered by the application of external force, such as through use by a pet such as a dog chewing on it (“bristle-like projections will form on the surface of toy which helps clean teeth”);
- (e) The AnimaTwists product has at least one opening, for example on one end when the end cap is removed, which allows insertion of an elongated product, such as the AnimaChew or Himalayan Dog Chew products, into the hollow cavity; and
- (f) When the ends are closed, the AnimaTwists product protects the ends of the elongated product from contact with a pet, while other portions of the elongated product are readily accessible to the pet through the opening in the body of the AnimaTwists product, which is next to the end opening.

CAUSES OF ACTION

Count I: Infringement of the ‘599 Patent (against Animaganza and Himalayan)

67. Pawabunga! restates and realleges paragraphs 1 through 66 and incorporates them herein by reference.

68. Pawabunga! is the sole and exclusive owner by assignment of the ‘599 Patent.

69. By making, using, selling, and offering for sale the AnimaTwists product, Animaganza and Himalayan, and each of them, have infringed the ‘599 Patent in violation of 35 U.S.C. § 371.

70. Upon information and belief, Animaganza and Himalayan, and each of them, have had knowledge of the ‘599 Patent.

71. Animaganza and Himalayan’s, and each of them, infringement of the ‘599 Patent has been willful, reckless, and in conscious disregard of Animaganza’s lawful patent rights in the ‘599 Patent. Animaganza and Himalayan, and each of them, acted despite an objectively high likelihood that their actions constituted infringement of a valid patent and this objectively defined risk was either known or so obvious that it should have been known to each of Animaganza and Himalayan.

72. As a result of Animaganza and Himalayan’s infringement of the ‘599 Patent, Pawabunga! is entitled to an award of damages against each of Animaganza and Himalayan in an amount sufficient to compensate for the infringement, but in no event less than a reasonable royalty, the precise amount to be determined at trial.

73. As a result of Animaganza and Himalayan’s infringement of the ‘599 Patent, Pawabunga! is entitled to preliminary and permanent injunctive relief, enjoining Animaganza and Himalayan, and each of them, and all persons in active concert with them, from infringing and continuing to infringe the ‘599 Patent for its term by making,

using, selling, importing into the United States, or offering for sale the AnimaTwists product or any colorable imitations thereof.

74. As a result of Animaganza and Himalayan's infringement of the '599 Patent, Animaganza is entitled to have the damages awarded against each of them increased pursuant to 35 U.S.C. § 284. Pawabunga! further is entitled to an award of its reasonable attorneys' fees and costs incurred in this action pursuant to 35 U.S.C. § 285.

Count II: Infringement of the '168 Patent (against Animaganza and Himalayan)

75. Pawabunga! restates and realleges paragraphs 1 through 74 and incorporates them herein by reference.

76. Pawabunga! is the sole and exclusive owner by assignment of the '168 Patent.

77. By making, using, selling, and offering for sale the AnimaTwists product, Animaganza and Himalayan, and each of them, have infringed the '168 Patent in violation of 35 U.S.C. § 371.

78. Upon information and belief, Animaganza and Himalayan, and each of them, have had knowledge of the '168 Patent.

79. Animaganza and Himalayan's, and each of them, infringement of the '168 Patent has been willful, reckless, and in conscious disregard of Animaganza's lawful patent rights in the '168 Patent. Animaganza and Himalayan, and each of them, acted despite an objectively high likelihood that their actions constituted infringement of a valid patent and this objectively defined risk was either known or so obvious that it should have been known to each of Animaganza and Himalayan.

80. As a result of Animaganza and Himalayan's infringement of the '168 Patent, Pawabunga! is entitled to an award of damages against each of Animaganza and Himalayan in an amount sufficient to compensate for the infringement, but in no event less than a reasonable royalty, the precise amount to be determined at trial.

81. As a result of Animaganza and Himalayan's infringement of the '168 Patent, Pawabunga! is entitled to preliminary and permanent injunctive relief, enjoining Animaganza and Himalayan, and each of them, and all persons in active concert with them, from infringing and continuing to infringe the '168 Patent for its term by making, using, selling, importing into the United States, or offering for sale the AnimaTwists product or any colorable imitations thereof.

82. As a result of Animaganza and Himalayan's infringement of the '168 Patent, Animaganza is entitled to have the damages awarded against each of them increased pursuant to 35 U.S.C. § 284. Pawabunga! further is entitled to an award of its reasonable attorneys' fees and costs incurred in this action pursuant to 35 U.S.C. § 285.

Count III: Breach of Contracts (against Dewey)

83. Pawabunga restates and realleges paragraphs 1 through 82 and incorporates them herein by reference.

84. Dewey has breached Article I, paragraph 14 of the Operating Agreement by competing with Pawabunga! as an officer, employee, or member of Animaganza.

85. Dewey has breached Section 2.6 of the Restated Member Control Agreement by "participat[ing] in the design, production or distribution of products

substantially identical to a product designed, manufactured or distributed by”

Pawabunga!.

86. Dewey has breached Section 8.5 of the Restated Member Control Agreement by disclosing confidential or trade secret information relating to the “Pet Collar with Collapsible Bowl” and Bandana Bowl to Animaganza.

87. Pursuant to Section 10.1 of the Restated Member Control Agreement, Dewey agreed that a breach of any of the provisions of the Member Control Agreement would “cause the other parties irreparable harm that is not fully remedied by monetary damages and, accordingly, ... agree[d] (1) that the other parties shall, in addition to any relief afforded by law, be entitled to injunctive relief and (2) that both damages at law and injunctive relief shall be proper modes of relief and are not to be considered alternative remedies....”

88. As a result of Dewey’s breaches of the Operating Agreement and Restated Member Control Agreement, Pawabunga! has suffered loss and damage in excess of \$75,000, the precise amount to be determined at trial.

89. In addition, Pawabunga! is entitled to preliminary and permanent injunctive relief enjoining Dewey from further and continuing breaches of the Operating Agreement and Restated Member Control Agreement, and ordering Dewey to cease and desist from using any of Pawabunga!’s confidential and proprietary information relating to the Bandana Bowl; preventing Dewey from interfering with the pending patent application for the “Pet Collar with Collapsible Bowl” invention or allowing such application to lapse; ordering Dewey to assign all rights and ownership interest in and to the “Pet Collar

with Collapsible Bowl” invention and pending patent application to Pawabunga!; ordering Dewey to return to Pawabunga! any and all other proprietary information given or disclosed to Animaganza by Dewey; ordering Dewey to assign and transfer to Pawabunga! any and all other inventions or designs related to Pawabunga!’s business has created while at Animaganza or any other company since November 2014; and directing the return to Pawabunga! of any and all proprietary property which Dewey has in his possession.

Count IV: Breach of Fiduciary Duty (against Dewey)

90. Pawabunga! restates and realleges paragraphs 1 through 89 and incorporates them herein by reference.

91. As a member of Pawabunga!, Dewey was in a relationship of trust and confidence with Pawabunga! and owed a fiduciary duty to Pawabunga! Among other aspects of his fiduciary duties, Dewey had the fiduciary duty to act for and on behalf of Pawabunga! and to hold Pawabunga!’s proprietary property in confidence.

92. Dewey has breached his fiduciary duties owed to Pawabunga!.

93. As a result of Dewey’s breaches of his fiduciary duty owed to Pawabunga!, Pawabunga! has suffered loss and damage in excess of \$75,000, the precise amount to be determined at trial.

Count V: Violation of Minn. Stat. 322B, et seq. (against Dewey)

94. Pawabunga! restates and realleges paragraphs 1 through 93 and incorporates them herein by reference.

95. Dewey has violated and breached his obligations and duties owed to Pawabunga! pursuant to Minn. Stat. §§ 322B.663, 322B.666, and 322B.69.

96. As a result of Dewey's violations and breaches of Minn. Stat. §§ 322B.663, 322B.666, and 322B.69, Pawabunga! has suffered loss and damage in excess of \$75,000, the precise amount to be determined at trial.

97. In addition, pursuant to Minn. Stat. § 322.38, Pawabunga! is entitled to preliminary and permanent injunctive relief enjoining Dewey from further and continuing breaches of the Operating Agreement and Restated Member Control Agreement, and ordering Dewey to cease and desist from using any of Pawabunga!'s confidential and proprietary information relating to the Bandana Bowl; preventing Dewey from interfering with the pending patent application for the "Pet Collar with Collapsible Bowl" invention or allowing such application to lapse; ordering Dewey to assign all rights and ownership interest in and to the "Pet Collar with Collapsible Bowl" invention and pending patent application to Pawabunga!; ordering Dewey to return to Pawabunga! any and all other proprietary information given or disclosed to Animaganza by Dewey; ordering Dewey to assign and transfer to Pawabunga! any and all other inventions or designs related to Pawabunga!'s business has created while at Animaganza or any other company since November 2014; and directing the return to Pawabunga! of any and all proprietary property which Dewey has in his possession.

98. Pawabunga! is further entitled, pursuant to Minn. Stat. § 322B.38 to an award of all of its attorneys' fees and expenses incurred in connection with this action.

Count VI: Conversion (against Dewey and Animaganza)

99. Pawabunga! restates and realleges paragraphs 1 through 98 and incorporates them herein by reference.

100. The patent application for the “Pet Collar with Collapsible Bowl” and all commercial embodiments thereof is the sole and exclusive property of Pawabunga!.

101. Dewey and Animaganza have wrongfully converted the patent application for the “Pet Collar with Collapsible Bowl” and commercial embodiments thereof for their own use.

102. As a result of Dewey and Animaganza’s conversion, Pawabunga! has suffered loss and damage in excess of \$75,000, the precise amount to be determined at trial.

103. Pawabunga! also is entitled to preliminary and permanent injunctive relief, ordering Dewey and Animaganza to assign and transfer their claimed rights in and to the “Pet Collar with Collapsible Bowl” patent application and all commercial embodiments thereof to Pawabunga!, and preventing Dewey and Animaganza from interfering with the pending patent application, or allowing such application to lapse.

104. Upon information and belief, Dewey and Animaganza’s conversion of Pawabunga!’s rights and property has been willful, intentional, malicious, and with the intent of depriving Pawabunga! of its valuable property.

Count VII: Unjust Enrichment (against Dewey and Animaganza)

105. Pawabunga! restates and realleges paragraphs 1 through 104 and incorporates them herein by reference.

106. As a result of Dewey's and Animaganza's conversion of Pawabunga!'s rights in and to the "Pet Collar with Collapsible Bowl"; continued use of Pawabunga!'s confidential and proprietary information without permission; Dewey's design or development of other inventions or designs related to Pawabunga!'s business created while at Animaganza; and use and sale of commercial embodiments of the "Pet Collar with Collapsible Bowl", Dewey and Animaganza have been unjustly enriched and have received valuable benefits from Pawabunga! without providing any or adequate compensation to Pawabunga! for such benefits.

107. As a result of Dewey and Animaganza's unjust enrichment, in equity and good conscience, Pawabunga! is entitled to compensation in the amount of the unjust enrichment, which is reasonably believed to be in excess of \$75,000, the precise amount to be determined at trial.

108. As a result of Dewey and Animaganza's unjust enrichment, in equity and good conscience, Pawabunga! also is entitled to preliminary and permanent injunctive relief, ordering Dewey and Animaganza to assign and transfer their claimed rights in and to the "Pet Collar with Collapsible Bowl" patent application and all commercial embodiments thereof to Pawabunga! and preventing Dewey and Animaganza from interfering with the pending patent application, or allowing such application to lapse; and ordering Dewey and Animaganza to assign and transfer to Pawabunga! any and all other inventions or designs related to Pawabunga!'s business Dewey has created while at Animaganza.

DEMAND FOR JURY TRIAL

Pawabunga! demands a trial by jury on all issues triable to a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Pawabunga! prays for entry of judgment against Defendants Animaganza, LLC, Himalayan Corporation, and Alan J. Dewey as follows:

1. On Count I, for an award of damages adequate to compensate for the infringement of the '599 Patent, but in no event less than a reasonable royalty, against Animaganza and Himalayan, and each of them, the precise amount to be determined at trial.

2. On Count I, for a preliminary and permanent injunction, enjoining Animaganza and Himalayan, and each of them, and all persons in active concert with them, from infringing and continuing to infringe the '599 Patent for its term by making, using, selling, or offering for sale the AnimaTwists product or any colorable imitations thereof.

3. On Count II, for an award of damages adequate to compensate for the infringement of the '168 Patent, but in no event less than a reasonable royalty, against Animaganza and Himalayan, and each of them, the precise amount to be determined at trial.

4. On Count II, for a preliminary and permanent injunction, enjoining Animaganza and Himalayan, and each of them, and all persons in active concert with them, from infringing and continuing to infringe the '168 Patent for its term by making,

using, selling, or offering for sale the AnimaTwists product or any colorable imitations thereof.

5. On Count III, for an award of damages in excess of \$75,000.00 against Dewey, the precise amount to be determined at trial.

6. On Count III, for a preliminary and permanent injunction, enjoining Dewey from further and continuing breaches of the Operating Agreement and Restated Member Control Agreement, and ordering Dewey to cease and desist from using any of Pawabunga!'s confidential and proprietary information relating to the Bandana Bowl; preventing Dewey from interfering with the pending patent application for the "Pet Collar with Collapsible Bowl" invention or allowing such application to lapse; ordering Dewey to assign all rights and ownership interest in and to the "Pet Collar with Collapsible Bowl" invention and pending patent application to Pawabunga!; ordering Dewey to return to Pawabunga! any and all other proprietary information given or disclosed to Animaganza by Dewey; ordering Dewey to assign and transfer to Pawabunga! any and all other inventions or designs related to Pawabunga!'s business has created while at Animaganza or any other company since November 2014; and directing the return to Pawabunga! of any and all proprietary property which Dewey has in his possession.

7. On Count IV, for an award of damages in excess of \$75,000.00 against Dewey, the precise amount to be determined at trial.

8. On Count V, for an award of damages in excess of \$75,000.00 against Dewey, the precise amount to be determined at trial.

9. On Count V, for a preliminary and permanent injunction, enjoining Dewey from further and continuing breaches of the Operating Agreement and Restated Member Control Agreement, and ordering Dewey to cease and desist from using any of Pawabunga!'s confidential and proprietary information relating to the Bandana Bowl; preventing Dewey from interfering with the pending patent application for the "Pet Collar with Collapsible Bowl" invention or allowing such application to lapse; ordering Dewey to assign all rights and ownership interest in and to the "Pet Collar with Collapsible Bowl" invention and pending patent application to Pawabunga!; ordering Dewey to return to Pawabunga! any and all other proprietary information given or disclosed to Animaganza by Dewey; ordering Dewey to assign and transfer to Pawabunga! any and all other inventions or designs related to Pawabunga!'s business has created while at Animaganza or any other company since November 2014; and directing the return to Pawabunga! of any and all proprietary property which Dewey has in his possession.

10. On Count VI, for an award of damages against Dewey and Animaganza, jointly and severally, in excess of \$75,000.00, the precise amount to be determined at trial.

11. On Count VI, for a preliminary and permanent injunction, ordering Dewey and Animaganza to assign and transfer their claimed rights in and to the "Pet Collar with Collapsible Bowl" patent application and all commercial embodiments thereof to Pawabunga!; and preventing Dewey and Animaganza from interfering with the pending patent application, or allowing such application to lapse.

12. On Count VII, for an award of damages against Dewey and Animaganza, jointly and severally, in the amount by which they have been unjustly enriched, in excess of \$75,000.00, the precise amount to be determined at trial.

13. On Count VII, for a preliminary and permanent injunction, ordering Dewey and Animaganza to assign and transfer their claimed rights in and to the “Pet Collar with Collapsible Bowl” patent application and all commercial embodiments thereof to Pawabunga!; preventing Dewey and Animaganza from interfering with the pending patent application, or allowing such application to lapse; and ordering Dewey and Animaganza to assign and transfer to Pawabunga! any and all other inventions or designs related to Pawabunga!’s business Dewey has created while at Animaganza..

14. For an award of increased damages, pursuant to 35 U.S.C. § 284, on all sums awarded against Animaganza and Himalayan, and each of them, for infringement of the ‘599 Patent and the ‘168 Patent.

15. For an award of attorneys’ fees and costs pursuant to 35 U.S.C. § 285 against Animaganza and Himalayan, and each of them, for infringement of the ‘599 Patent and the ‘168 Patent.

16. For an award of attorneys’ fees and costs against Dewey pursuant to Minn. Stat. 322B.38, or as allowed by law or the contracts between Dewey and Animaganza.

17. For an award of pre- and post-judgment interest on all sums awarded as allowed by law.

18. For an award of such other and further relief as the Court may deem just and equitable.

Dated: October 28, 2016.

s/Alan M. Anderson
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