

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

| | | |
|------------------------|---|---------------------|
| KAY-LU LLC; |) | |
| FERAYCO, INC.; |) | |
| MEDIHEALTH 1 PTY LTD; |) | CIVIL ACTION NO. |
| VITAL JOURNEY LIMITED; |) | |
| SHOP MONKEE INC.; AND |) | |
| SHENZHEN ZHONGTUOFU |) | |
| TECHNOLOGY CO, LTD |) | |
| |) | |
| Plaintiffs, |) | |
| |) | JURY TRIAL DEMANDED |
| v. |) | |
| |) | |
| ANIGAN INC. AND |) | |
| MR. AI CHEN TEO |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

COMPLAINT

Plaintiffs Kay-lu LLC dba Amazon Storefront Blossom Cup (“Blossom Cup”); Ferayco, Inc. dba Amazon Storefront Ferayco, Inc. (“Ferayco”); Medihealth 1 Pty Ltd dba Amazon Storefront Vida Cup (“Vida Cup”); Vital Journey Limited dba Amazon Storefront Vital Journey (“Vital Journey”); Shop Monkee Inc. dba Amazon Storefront Shop Monkee Inc. (“Shop Monkee”); and ShenZhen ZhongTuoFu Technology Co, LTD (“Shenzhen Tech.”)(collectively, “Plaintiffs”) file this, their Complaint for declaratory judgment of design patent

invalidity and non-infringement against Defendant Anigan Inc. (“Anigan”) and Defendant Ai Chen Teo (“Alleged Inventor”)(collectively, “Defendants”), showing this Honorable Court as follows:

I. NATURE OF THE ACTION

1. This civil action centers on a generic menstrual cup that has been in existence for over seventy years. The Alleged Inventor requested menstrual cup molds that were designed and manufactured in China from Defendants’ Chinese manufacturer. Although making no contribution to the alleged invention, the Alleged Inventor took all credit for inventing its menstrual cup design and applied for and was granted a US design patent.

2. With their design patent, Defendants asserted it against Plaintiffs with Amazon.com Inc. Such complaints lack merit as the Alleged Inventor fraudulently concealed information that would otherwise prevent her from gaining registration, prior art renders the design patent both obvious and anticipated, and even if Anigan owns a valid, enforceable design patent, which it does not, Plaintiff’s Generic Cups do not infringe the design patent.

II. THE PARTIES

3. Kay-lu LLC is a domestic limited liability company organized and existing under the laws of Georgia with its principle place of business at 930 New

Hope Rd, Suite 117; Lawrenceville Georgia 30045. Kay-lu LLC owns and operates an Amazon.com storefront by the name of Blossom Cup.

4. Ferayco, Inc. is a domestic corporation organized and existing under the laws of California with its principle place of business at 123 Crest Ave, Richmond, California 94901. Ferayco, Inc. owns and operates an Amazon.com storefront by the name of Ferayco.

5. Medihealth 1 Pty Ltd is a limited company organized and existing under the laws of Australia with its principle place of business 21 Aranga Crescent, Donvale, Victoria, Australia, 3111. Medihealth 1 Pty Ltd owns and operates an Amazon.com storefront by the name of Vida Cup.

6. Vital Journey Limited is a limited company organized and existing under the laws of New Zealand with its principle place of business at 395 Grays Road, RD1, Pauatahanui, Porirua, 5381 New Zealand. Vital Journey Limited owns and operates an Amazon.com storefront by the name of Vital Journey.

7. Shop Monkee Inc. is a corporation organized and existing under the laws of Canada with its principle place of business at 16 Granite Dr, Quispamsis, NB, E2E 0E4 Canada. Shop Monkee Inc. owns and operates an Amazon.com storefront by the name of Shop Monkee.

8. ShenZhen ZhongTuoFu Technology Co, LTD is a limited company

organized and existing under the laws of China with its principle place of business at 1st Floor, B Building, Guanlan third Community LongQu Industrial Park, BaoAn District, Shenzhen, Guangdong China. Shenzhen Tech is a Chinese manufacturer that originally created Defendants' menstrual cup mold that Defendants applied for and received registration to a US design patent.

9. Upon information and belief, Anigan Inc. is a domestic corporation organized and existing under the laws of California. Upon further information and belief, Anigan's principal place of business is located at 6550 Bennington Way, San Ramon, California 94582. Anigan may be served through its registered agent for service of process, the Alleged Inventor, located at the same address.

10. Upon information and belief, the Alleged Inventor resides at 6550 Bennington Way, San Ramon, California 94582.

III. JURISDICTION AND VENUE

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, in that it involves claims arising under the laws of the United States and specifically involve 28 U.S.C. § 2201 (Declaratory Judgment Act), 35 U.S.C. § 1 et seq. (Patent Act), this Court also has jurisdiction pursuant to 28 U.S.C. § 1331 and 1338(a).

12. This Court has supplemental jurisdiction over Plaintiffs' Georgia

state-law claims pursuant to 28 U.S.C. § 1367, in that the state law claims are integrally-related to the federal claims and arise from a common nucleus of operative facts, such that the resolution of all claims herein is in the interests of judicial economy.

13. This Court has personal jurisdiction over the Defendants because the Defendants regularly conduct business in the district and have committed acts in this judicial district which give rise to this action. On information and belief, the Defendants sell, offer for sale, and have sold products to residents of this jurisdiction. As explained in more detail below, Defendants have purposefully directed actions aimed at harming the Plaintiffs in an attempt to deprive Plaintiff of its interstate activities.

14. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391.

IV. SELLING ON AMAZON.COM

15. Amazon.com Inc. is the world's largest online retailer. The Amazon.com platform offers products worldwide. Amazon is available solely online at <https://www.amazon.com/> (last visited Nov. 25, 2016).

16. "Amazon provides a platform for third-party sellers ("Sellers") and buyers ("Buyers") to negotiate and complete transactions. Amazon is not

involved in the actual transaction between Sellers and Buyers”

<https://www.amazon.com/gp/help/customer/display.html?nodeId=1161302>
(last visited Nov. 23, 2016).

17. To make a purchase, typically, a Buyer searches for a particular item on Amazon.com or via a mobile application and submits an order. Amazon.com then fulfills that order by mailing the items to the Buyer.

18. Amazon.com Inc. allows Sellers to offer for sale and sell products on the Amazon.com platform. Amazon.com Inc. requires that Sellers enter into agreements¹ with it concerning the relationship between it and Sellers, duties and responsibilities of the Sellers, and other policies. *See, e.g.,* Amazon.com’s Participation Agreement *available at* <https://www.amazon.com/gp/help/customer/display.html?ie=UTF8&nodeId=1161302> (last visited Dec. 19, 2016), attached as Declaration of Mr. Jeffrey Breloski (Breloski Decl.) ¶ 10, Exhibit 1; *see also* Amazon.com’s Changes to the Participation Agreement *available at* https://www.amazon.com/gp/help/customer/display.html/ref=hp_rel_topic?ie=UTF8&nodeId=537792 (last visited Dec. 19, 2016), attached as Breloski Decl. ¶

¹ Amazon Policies and Agreements *available at* <https://www.amazon.com/gp/help/customer/display.html?nodeId=1161272> (last visited Dec. 19, 2016).

11, Exhibit 2; Amazon.com's Restricted Products *available at*

<https://www.amazon.com/gp/help/customer/display.html?nodeId=20027704>

0 (last visited Dec. 19, 2016), attached as Breloski Decl. ¶ 12, Exhibit 3.

19. To sell on Amazon.com, a Seller begins with a set of quick start instructions. *See Amazon.com Quick Start available at* <https://www.amazon.com/gp/help/customer/display.html?nodeId=1161234> (last visited Dec. 19, 2016), attached as Breloski Decl. ¶ 13, Exhibit 4.

20. Amazon.com's Quick Start includes the following steps:

1

List your items for sale

Search for the item on Amazon.com and click the **Sell Yours Here** button. Make sure you have the correct product; one title can have several editions or formats.

Search now!

Learn more about fees and pricing.

2

Get orders

Amazon sends you an e-mail notification when an item sells and posts the order in your seller account. In case you don't get the e-mail (or it is filtered as spam), make sure to check for orders in your seller account regularly.

How to check orders.

3

Ship items to your buyers

Get the shipping information from the order details in your seller account. Print the packing slip and address label and then purchase postage to mail your item within 2 days of the order date. Return to your seller account to confirm shipment.

How to ship.

How to confirm shipment.

4

Get paid

Once you have confirmed shipment, Amazon Payments charges the buyer's credit card and, after deducting fees, credits funds to your Payments account. If your bank account information has been on file for at least 14 days, Amazon Payments then transfers money directly into your bank account.

Learn more about getting paid.

21. Amazon.com Inc. allows Sellers to sell generic items under the same Amazon Standard Identification Number ("ASIN").² The only factor that separates Sellers of products on the same ASIN is the Sellers' goodwill. Since goodwill is the life blood of any Amazon seller, the Seller's success or demise can

² Amazon Standard Identification Numbers (ASINs) are unique blocks of 10 letters and/or numbers that identify items. You can find the ASIN on the item's product information page at Amazon.com. For books, the ASIN is the same as the ISBN number, but for all other products a new ASIN is created when the item is uploaded to our catalogue. You will find an item's ASIN on the product detail page alongside further details relating to the item, which may include information such as size, number of pages (if it's a book) or number of discs (if it's a CD).

ASINs can be used to search for items in our catalogue. If you know the ASIN or ISBN of the item you are looking for, simply type it into the search box (which can be found near the top of most pages), hit the "Go" button and, if the item is listed in our catalogue, it will appear in your search results.

<http://www.amazon.com/gp/seller/asin-upc-isbn-info.html> (last visited Dec. 19, 2016).

be made or broken by reviews from Amazon purchasers.

22. Negative reviews damage a Seller's brand name and kill sales because purchasing decisions are largely made after reading reviews left by others.

23. Amazon.com Inc. takes intellectual property infringement cases seriously. As such, it automatically suspends a Seller's offering if a complaint is filed. Amazon does not review all of its automatic suspensions nor does it intervene in alleged disputes between a Seller and a complainant.

24. Rather, an accused Seller must resolve any apparent issue with the complainant. However, complainants often fail to respond to good faith efforts to resolve issues. Or, complainants often ignore evidence and arguments that prove their complaint lacks merit. In either situation, an accused Seller is left in limbo. Hence, accused Seller are left with two options - 1) remain suspended, or 2) seek judicial intervention.

25. In some cases, Amazon not only suspends an accused offering, it also suspends an accused Seller's entire account regardless of whether the intellectual property complaint applies to the other offerings.

26. When compared to a brick and mortar store, such as Wal-Mart, the devastating effects of a wrongful intellectual property complaint can be seen.

27. If an Amazon complainant submits a single-paged intellectual property infringement report, the result is similar to Wal-Mart removing a certain product from all of its shelves.

28. Often, Amazon may suspend all of an accused Seller's offerings. This is akin to Samsung having an intellectual property complaint against one model of one television, then Wal-Mart removes all of Samsung's televisions, stereos, speakers, computers, monitors, printers, cameras, washers, dryers, refrigerators, ovens, dishwashers, microwaves, vacuums, cell phones, tablets, virtual reality devices, wearable smart devices, smart home devices, portable music players, and headphones.³

29. For Samsung, the suspension would only apply at Wal-Mart. However, for many Amazon Sellers, the Amazon.com platform is the only avenue they sell through.

V. THE ALLEGED INVENTOR'S DESIGN PATENT

30. Upon information and belief, the Alleged Inventor owns US Design Patent No. D760,897 ("897 Patent"). Breloski Decl. ¶ 14, Exhibit 5. The '897 Patent, titled "Menstrual Cup," issued on July 5, 2016 based on an application

³ <http://www.samsung.com/us/aboutsamsung/#> (last visited Dec. 19, 2016).

filed on September 25, 2016. *Id.*

31. Upon information and belief, Anigan did not apply for the '897 Patent.

32. Upon information and belief, Anigan does not own the '897 Patent by assignment.

33. Nonetheless, and upon further information and belief, Anigan asserted the '897 Patent, which it does not own, against Plaintiffs.

34. The '897 Patent's claim is shown in the following figures:

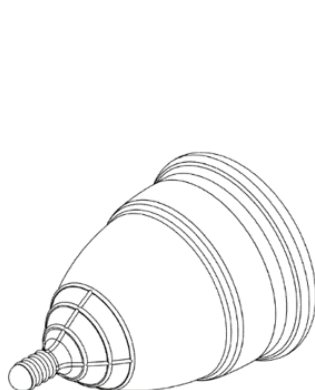


Fig. 1

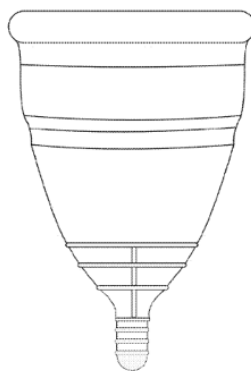


Fig. 2

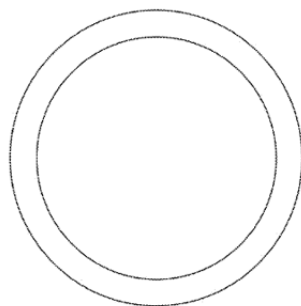


Fig. 4

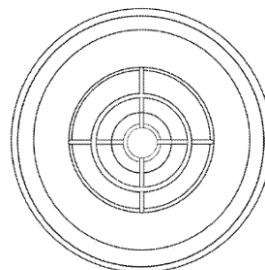
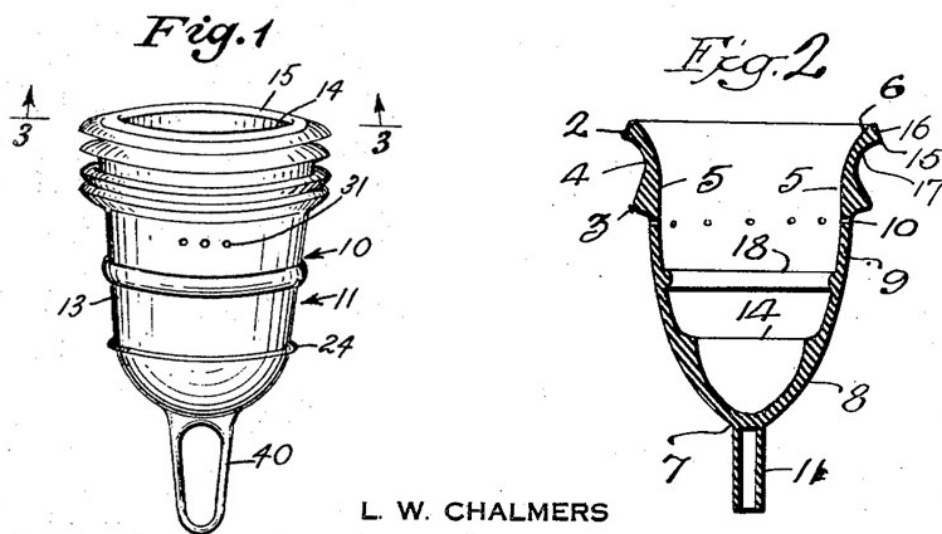


Fig. 5

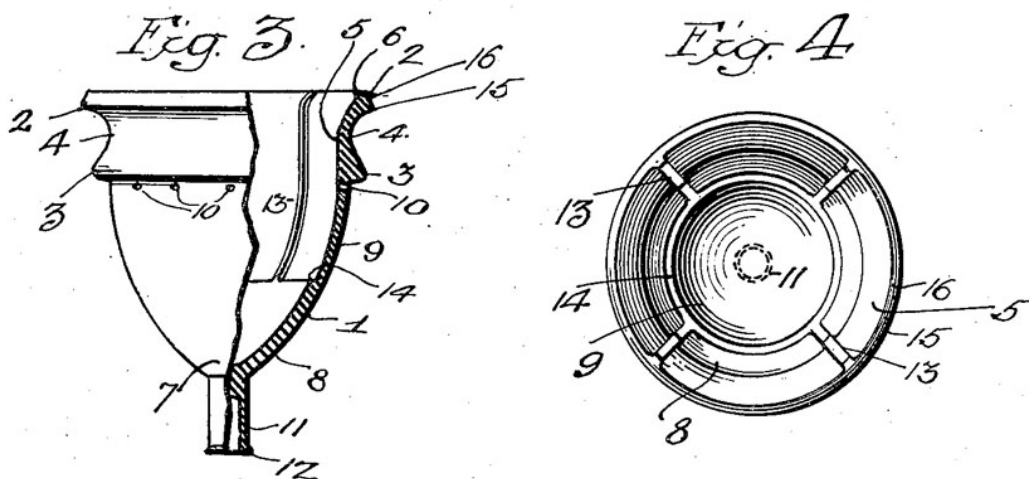
VI. LONG HISTORY OF THE MENSTRUAL CUP

35. “Lenoa Chalmers patented and produced the first reusable menstrual cup.” <http://www.mum.org/CupPat1.htm> (last visited Nov. 19, 2016). The drawings from Leona Chalmers’s patent (U.S. Patent No. 2,089,113) [“’113 Patent”] demonstrate that this design had been disclosed for the past 70 years before the ‘897 Patent’s alleged inventive design. *Id.* “Chalmers suggested in the patent that it be made of vulcanized rubber.” *Id.*

36. Ms. Chalmers’ invention from over seven decades ago are seen in its figures from 1935 below.



L. W. CHALMERS
 CATAMENIAL APPLIANCE
 Filed July 11, 1935



Id.

VII. THE ACCUSED GENERIC CUPS

37. Plaintiffs have offered for sale and sold generic menstrual cups that are strikingly similar to designs that have existed for decades. Sales through Amazon.com are Plaintiffs' most significant source of revenue for their Generic Cups.

38. Blossom Cup offers for sale and sold its generic menstrual cups in various color and size permutations;⁴ however, all have the same basic shape (right).



⁴ A complete list of Blossom Cup's offerings that were suspended due to Defendants' complaints are attached as Breloski Decl. ¶15, Exhibit 6.

39. Blossom Cup's generic cups are manufactured by Dongguan GFChina Electronica Material Co., Ltd, a Chinese manufacturer located in Dongguan City, China.

40. Ferayco offers for sale and sold its Luna Cups in various color and size permutations;⁵ however, all have the same basic shape (right).



41. Ferayco's Luna Cups are manufactured by Shenzhen Zhida Xintai Technology Co., a Chinese manufacturer located in Shenzhen, China.

42. Vida Cup offers for sale and sold its generic menstrual cups in various color and size permutations;⁶ however, all have the same basic shape (right).



⁵ A complete list of Ferayco's offerings that were suspended due to Defendants' complaints are attached as Breloski Decl. ¶16, Exhibit 7.

⁶ A complete list of Vida Cup's offerings that were suspended due to Defendants' complaints are attached as Breloski Decl. ¶17, Exhibit 8.

43. Vida Cup's generic cups are manufactured by Dongguan GFChina Electronica Material Co., Ltd, a Chinese manufacturer located in Dongguan City, China.



44. Vital Journey offers for sale and sold its Dutchess Cups in various color and size permutations;⁷ however, all have the same basic shape (left).

45. Vital Journey's Dutchess Cups are manufactured by Shenzhen Zhida Xintai Technology Co., a Chinese manufacturer located in Shenzhen, China.

46. Shop Monkee offers for sale and sold its Athena Cups in various color and size permutations;⁸ however, all have the same basic shape (right).



47. Shop Monkee's Athena Cups are manufactured by Dongguan Gfchina Limited, manufacturer located in Dongguan City, China.

⁷ A complete list of Vital Journey's offerings that were suspended due to Defendants' complaints are attached as Breloski Decl. ¶18, Exhibit 9.

⁸ A complete list of Shop Monkee's offerings that were suspended due to Defendants' complaints are attached as Breloski Decl. ¶19, Exhibit 10.

48. Blossom Cup, Ferayco, Vida Cup, Vital Journey, and Shop Monkee's generic menstrual cups shall be collectively referred to as "Generic Cups."

VIII. ANIGAN'S BUSINESS

49. Upon information and belief, Anigan is a similarly situated Amazon seller as the Plaintiffs. Upon further information and belief, Anigan offers for sale and sells menstrual cups. https://www.amazon.com/sp?_encoding=UTF8&asin=&isAmazonFulfilled=&isCBA=&marketplaceID=ATVPDKIKX0DER&orderID=&seller=AY1UT6GRQ4RM1&tab=&vasStoreID= (last visited Dec. 20, 2016).

50. Upon information and belief, Anigan is a direct competitor of Plaintiffs on the Amazon.com platform.

51. Upon information and belief, the mold used to create Anigan's menstrual cup, also known as the Eva Cup, ("Anigan's Cup") was designed and manufactured in China.

52. Upon further information and belief, Anigan purportedly owns the '897 Patent. Breloski Decl. ¶ 14, Exhibit 5.

53. Upon further information and belief, Anigan filed intellectual property complaints with Amazon concerning Plaintiffs' Generic Cups. See e-mails from Amazon Seller Performance, titled "Warning: Notice of Intellectual

Property Rights Infringement,” attached as Breloski Decl. ¶ 20, Exhibit 11.

IX. FILING AN INFRINGEMENT COMPLAINT WITH AMAZON

54. The online complaint process at Amazon.com is streamlined and straightforward. <https://www.amazon.com/gp/help/reports/infringement> (last visited Nov. 23, 2016); Breloski Decl. ¶ 21, Exhibit 12. A purported rights owner has to provide very little information to file a complaint and receive an automated suspension of a seller’s listing.

55. In its entirety, the following information is the only information a complainant has to submit to suspend a seller’s listing, and possibly, its account:

Allegation of Infringement

Are you the Rights Owner or an Agent?

Rights Owner Agent

The primary complaint pertains to

The specific concern is

Name of Brand

Additional Information

4000

The ASIN (Amazon Standard Identification Number) or the URL of each product you are reporting. You can report up to 50 products for the same specific concern in 1 form. If you have different concerns to report, please submit 1 form for each concern.

| | | | | |
|--------------|----------------|----------------------|----------------------|-----------------------------------|
| ASIN/ISBN-10 | OR Product URL | <input type="text"/> | <input type="text"/> | <input type="button" value="GO"/> |
|--------------|----------------|----------------------|----------------------|-----------------------------------|

Your Contact Details

This is the contact **Amazon** will use.

Are you a seller on Amazon?

Yes No

First Name

Last Name

Company (Optional)

Address Line 1

Address Line 2 (Optional)

City

State (Optional)

ZIP Code

Country

Phone Number

E-mail Address

Confirm E-mail Address

56. At the end of the form, a complainant makes the following statements:

I have a good faith belief that the content(s) described above violate(s) my rights described above or those held by the rights owner, and that the use of such content(s) is contrary to law.

I declare, under penalty of perjury, that the information contained in this notification is correct and accurate and that I am the owner or

agent of the owner of the rights described above.

Breloski Decl. ¶4.

57. Amazon.com requires the rights owner to withdraw a complaint. That is, a rights owner must send an e-mail from the complainant's e-mail address requesting to withdraw a complaint. Breloski Decl. ¶ 5.

58. Often, should an accused seller provide original invoices, the rights owner will withdraw a complaint. Breloski Decl. ¶ 6.

59. Should a rights owner refuse to withdraw a complaint, the Amazon.com seller's ASIN is locked so a seller cannot sell goods associated with that ASIN. Breloski Decl. ¶ 7.

60. Further, complaints may lead to account suspension. Breloski Decl. ¶ 8.

61. An account suspension is where Amazon locks a seller's account so that it cannot sell any item, even those unrelated to the ASIN complained of. Breloski Decl. ¶ 9.

X. PLAINTIFFS' PAST RESOLUTION EFFORTS

62. In response to Defendants' complaints (Breloski Decl. ¶20, Exhibit 11), Ferayco, through its counsel, drafted a letter and delivered to Anigan an inquiry letter. *See* letter from Mr. Jeffrey Breloski, attorney for Plaintiffs, to

Anigan (Nov. 7, 2016)(“Inquiry Letter”), attached as Breloski Decl. ¶22, Exhibit 13.

63. Specifically, Ferayco wanted to know what intellectual property Anigan was asserting since it was not the named owner of any patent by issuance or assignment. *Id.*

64. Notably, the Inquiry Letter was drafted and sent on November 17, 2016, well before the Thanksgiving Holiday, Black Friday,⁹ and Cyber Monday.¹⁰

65. With the busy holiday shopping season beginning, Ferayco respectfully requested a response no later than November 22, 2016. *Id.*

66. Defendants failed to respond. Breloski Decl. ¶23.

67. Ferayco’s suspensions spanned over the busy holiday shopping season due to Defendants’ lack of good faith. Breloski Decl. ¶24.

⁹ The day After Thanksgiving (Friday) is known as Black Friday. This also is unofficially or officially start of holiday shopping season. Almost all stores come out with Doorbuster Sales with early bird special to attract consumers to their stores. . . . Biggest sales day now include Thanksgiving day, Green Monday and Cyber Monday. <https://www.theblackfriday.com/what-is-black-friday.shtml> (last visited Dec. 20, 2016).

¹⁰ Cyber Monday is a marketing term for the Monday after the Thanksgiving holiday in the United States. https://en.wikipedia.org/wiki/Cyber_Monday (last visited Dec. 20, 2016).

68. Defendants forced Ferayco to approach Amazon.com for assistance since complainant Anigan apparently filed a patent infringement report to Amazon.com, but failed to respond in good faith. *See, e.g.*, letter from Mr. Jeffrey Breloski, counsel for Plaintiffs, to Amazon.com, Inc. Seller Performance and Amazon Legal (Nov. 19, 2016), Breloski Decl. ¶25; Exhibit 14.

69. Specifically, Ferayco respectfully requested that Amazon.com dismiss Anigan's complaints and take no adverse actions against Ferayco based upon the allegedly bogus complaints. *Id.*

70. In response to Ferayco's letter to Amazon, Anigan's attorney and CEO, the Alleged Inventor, drafted response letters. *See* letter from Anigan to Plaintiffs (undated), attached as Breloski Decl. ¶26; Exhibit 15; *see also* letter from Mr. Leon Jew, attorney for Anigan, to Mr. Jeffrey Breloski, attorney for Plaintiffs (Dec. 6, 2016), attached as Breloski Decl. ¶30; Exhibit 17.

71. Significantly, upon information and belief, the Alleged Inventor is not a registered patent attorney. Accordingly, she makes many mistakes of law in her letter. For example, when conducting her alleged infringement analysis, the Alleged Inventor makes a fatal mistake. That is, she compare Anigan's Cup to Plaintiff's Generic Cup. This is in error because the Federal Circuit has made it clear that infringement analysis requires one to compare the patented design to

the accused design. *Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665, 676-77 (Fed. Cir. 2008)(comparing “*the claimed and accused designs*”)(emphasis added).

72. Additionally, the Alleged Inventor downplays the significance of a lack of holes in the ‘897 Patent, but appearing in the Generic Cups. The Alleged Inventor admits that the ‘897 Patent lacks any holes; however, that holes are inherent to the invention’s functionality. See Exhibit 15 (“The existence of the 4 holes are not claimed in the 897 design patent, but are present for the functionality of the product.”). Not only is Defendant wrong, she fails to provide any citation to authority that supports her argument.

73. Significantly, Anigan’s attorney offers a license. See Exhibit 17 (“If your client would make an offer for a patent license, please let me know and I will be happy to help in the matter.”).

74. Plaintiffs’ attorney requested licensing terms. However, Anigan’s attorney failed to respond. Breloski Decl. ¶31.

75. To date, Amazon.com has not withdrawn any complaints. Breloski Decl. ¶27.

76. To date, Anigan refuses to withdraw any complaints. Breloski Decl. ¶28.

77. Upon information and belief Defendants have attempted to

eliminate their competition by utilizing the online Amazon infringement report and cease and desist letters to intimidate competitors and force them to stop competing without any non-judicial recourse.

XI. EXTRAORDINARY CIRCUMSTANCES

A. Anigan's Complaint Timing

78. The bogus complainant's timing relative to Black Friday is no mere coincidence. Upon information and belief, it filed the complaints a week before Black Friday to disrupt Plaintiffs' operations and prevent them from selling on one of the busiest days for Amazon sellers.

79. With less than a week to Black Friday, Plaintiffs require immediate relief.

80. Amazon.com will not withdraw any complaint.

81. Anigan is the only entity that may withdraw the false complaint filed and restore Plaintiffs' privileges.

82. Despite being false complaints, Anigan refuses to withdraw the complaints.

B. DEFENDANTS' DEALINGS WITH ITS MANUFACTURER

83. The ShenZhen ZhongTuoFu Technology Co, LTD ("Shenzhen Tech") supplied Defendants with Eva Cups' mold. Declaration of Ms. Yan Fang

Tuo (“Tuo Decl.”) ¶ 14, Exhibit 3.

84. Defendant Ai Chen Teo, aka Sarah, was always intimidating and very overpowering when dealing with Shenzhen Tech and Ms. Tuo. Tuo Decl. ¶¶ 9, 18.

85. Ms. Tuo made the menstrual cup mold, which is the basis for US Design Patent No. 760,897, and sold it to Anigan. Tuo Decl. ¶ 19.

86. The Alleged Inventor asked that Shenzhen Tech make samples of the menstrual cup according to Shenzhen Tech’s design, so that the Alleged Inventor could take the samples back to the United States and market test them. Tuo Decl. ¶ 14, Exhibit 3.

87. The Alleged Inventor asked Ms. Tuo to refrain from showing Shenzhen Tech’s cup to anyone. Tuo Decl. ¶ 14, Exhibit 3. The Alleged Inventor also asked Shenzhen Tech to not sell the cup to anyone because Anigan intended to purchase the mould. Tuo Decl. ¶ 14, Exhibit 3.

88. The Alleged Inventor then came back and asked to purchase the Shenzhen Tech’s design mold, which Shenzhen Tech agreed.

89. The Alleged Inventor made a deposit of \$1,000 to Shenzhen Tech on or about July 1, 2014. Tuo Decl. ¶¶ 12, 14, Exhibits 1, 2.

90. Shenzhen Tech and the Alleged Inventor reduced their agreement to

writing. *See* Mold Design and Manufacturing Contract attached as Exhibit 1 to the Declaration of Ms. Yi Hui Chang, ¶ 6 (“Chang Decl. ¶”); *see also* Chang Decl. ¶ 7, Exhibit 2 (English Translation); Tuo Decl. ¶ 17, Exhibit 6.

91. The Alleged Inventor added additional terms to the proposed contract between her and Ms. Tuo. Tuo Decl. ¶¶ 15, 16, Exhibits 4, 5.

C. THE ALLEGED INVENTOR’S FRAUD ON THE USPTO

92. In applying for the ‘897 Patent, the Alleged Inventor made a declaration to the USPTO that she invented the design. *See* ‘897 Patent Image File Wrapper, p. 83 (“I believe that I am the original inventor or an original joint inventor of a claimed invention in the application.”), attached as Breloski Decl. ¶ 29; Exhibit 16; *see also* 35 U.S.C. § 25 (Declaration in lieu of oath).

93. The rightful inventor of the ‘897 Patent, Yan Fang Tuo, did not apply for nor received credit as an inventor for the ‘897 Patent. Tuo Decl. ¶ 20 (“Anigan and Ms. Ai Chen Teo did not assist in creating the menstrual cup mold.”).

94. Importantly, a fraudulent statement, such as claiming to be an inventor when not, is punishable as a criminal offense under Title 18 of the US Code –

Statements or entries generally.

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

18 U.S.C. § 1001.

XII. COUNT I: Declaratory Judgment of Non-infringement and Invalidity

95. Plaintiffs re-allege the foregoing relevant paragraphs of this Complaint as if set forth in full herein.

96. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, Plaintiffs are entitled to and hereby move the Court for a judgment declaring that:

- A. the Generic Cups do not and have not infringed on any valid and enforceable claim of '897 Patent, directly or indirectly, by inducement or contributory infringement, literally or under the doctrine of equivalents; and
- B. the sole claim of the '897 Patent is invalid for failure to comply with one or more requirements for patentability under the patent laws of the United States, including, but not limited to, 35 U.S.C. § 101, 102, 103, 112, 113, 115 and/or 116.

97. As a result of Defendants' allegations of infringement against the Plaintiffs, threats of litigation, and representations to Amazon.com that the Generic Cups infringe the '897 Patent, an actual controversy exists as to infringement of the '897 Patent.

98. Plaintiffs are entitled to a declaratory judgment that Plaintiffs are not directly, indirectly, contributorily infringe the '897 Patent; that Plaintiffs have not actively induced others to infringe any claim of the '897 Patent; and that the single claim of the '897 Patent is invalid for failure to comply with one or more requirements for patentability under that patent laws of the United States.

99. Defendants' conduct in this action is exceptional, and Plaintiffs are entitled to their attorneys' fees and costs pursuant to 35 U.S.C. § 285.

XIII. COUNT II: Defendants' Tortious Interference with Business Relationships

100. Plaintiffs re-allege the foregoing relevant paragraphs of this Complaint as if set forth in full herein.

101. In an effort to interfere with the Plaintiffs' economic relations, Defendants contacted Amazon.com to allege that Plaintiffs were infringing the '897 Patent.

102. Upon information and belief, Defendants knew and intended that by making such an allegation, Amazon.com would immediately remove the

Plaintiffs' listings from its website and prohibit Plaintiffs from selling the Generic Cups until the allegation of infringement was resolved.

103. Upon further information and belief, Defendants know that Amazon.com will not withdraw complaints against the Plaintiffs unless Defendants affirmatively withdraw the complaints.

104. Defendants' allegation of patent infringement by Plaintiffs to Amazon.com was knowingly false, was an improper means, and was done with the intent to interfere with the Plaintiffs' current and prospective economic relations.

105. Despite its knowledge, Defendants' failure to act in good faith have caused damages to Plaintiffs' business relationships with Amazon.com and their customers.

106. As a direct and proximate result of Defendants' actions, Plaintiffs have been damaged in an amount to be determined at trial.

107. Defendants have acted in objective and subjective bad faith by having a wrongful complaint filed in their name and refusing to withdraw them.

108. Defendants have intentionally interfered with Plaintiffs' business relationships with Amazon.com and their customers, especially

during a high volume selling season.

XIV. COUNT III: The Alleged Inventor's Fraud

109. Plaintiffs re-allege the foregoing relevant paragraphs of this Complaint as if set forth in full herein.

110. Upon information and belief, the Alleged Inventor made a representation of fact. That is, that she invented the design contained in US Patent Appl'n. No. 29/503,441.

111. Upon information and belief, the Alleged Inventor knew her declaration was false in that Shenzhen Tech actually designed the invention.

112. Upon information and belief, based on the materiality of the Alleged Inventor's statement, the USPTO granted the '897 Patent.

113. Upon information and belief, the Alleged Inventor intended to misrepresent the true inventor's identity because without her misrepresentation, she would not be able to gain registration.

114. Upon information and belief, the Alleged Inventor's misrepresentation extends to her complaints made to Amazon.com concerning Plaintiffs.

115. Upon information and belief, Plaintiffs have suffered exceptional damages due to the Alleged Inventor's deceit.

XV. COUNT IV: Breach of Contract

116. Plaintiffs re-allege the foregoing relevant paragraphs of this Complaint as if set forth in full herein.

117. The Mold Design and Manufacturing Contract executed and entered into by Defendants is a binding and enforceable contract.

118. Plaintiff ShenZhen ZhongTuoFu Technology Co, LTD has fully performed all of its obligations under the Mold Design and Manufacturing Contract, such that it is entitled to pursue relief for Defendants' breaches of the same.

119. Upon information and belief, Defendants failed to pay according to the terms and conditions set forth in the Mold Design and Manufacturing Contract.

120. Plaintiff ShenZhen ZhongTuoFu Technology Co, LTD has suffered as a result of Defendants' breach.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court

A. enter a declaratory judgment that Plaintiffs have not infringed in any way the '897 Patent;

B. enter a declaratory judgment that the '897 Patent is invalid and

unenforceable;

C. find and enter and order that Defendants' conduct amounts to an exceptional case and award Plaintiffs their costs and attorney's fees under 35 U.S.C. § 285 and 28 U.S.C. § 1927;

D. enter judgment in favor of Plaintiffs and against Defendants for all counts;

E. award Plaintiffs damages for injuries they incurred from Defendants' unlawful interference with Amazon.com and their customers;

F. award Plaintiff ShenZhen ZhongTuoFu Technology Co, LTD damages for Defendants' breach of contract;

G. declare that this is an exceptional case in favor of Plaintiffs and awarding them attorneys' fees;

H. award Plaintiffs actual, consequential, and punitive damages caused by the Defendants' intentional and tortious interference with the Plaintiffs' economic relations;

I. award costs and expenses to Plaintiffs;

J. award Plaintiffs prejudgment interest and costs;

K. have this case be tried before a jury; and

L. award Plaintiffs such other and further relief as the Court deems just

and proper, premises considered.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury under Federal Rule of Civil Procedure 39 for all issues triable by jury.

Respectfully submitted, this January 4, 2017.

Respectfully submitted,

By: /s/ Jeffrey T. Breloski
Jeffrey T. Breloski
Georgia Bar No. 858291
E-mail: jbrelowski@ATLawip.com

ATLAWIP LLC
2065 Compton Way
Johns Creek, Georgia 30022
678.667.3491
770.680.2461 (fax)

Attorney for Plaintiffs

CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1D, the undersigned counsel certify that the foregoing has been prepared in Book Antiqua 13 point, one of the four fonts and points approved by the Court in LR 5.1C.

/s/ Jeffrey T. Breloski
Jeffrey T. Breloski
Georgia Bar No. 858291
E-mail: jbrelski@ATLawip.com