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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SPECTRUM DIVERSIFIED DESIGN, LLC,
a Delaware Corporation

Plaintiff,

v.

TARGET CORPORATION, a Minnesota
Corporation,
BUXTON ACQUISITION CO., LLC, a Delaware
Corporation, and
GRAND STAR INDUSTRIAL LIMITED, a
Taiwan Corporation

Defendants.

**COMPLAINT FOR PATENT AND
TRADE DRESS INFRINGEMENT**

Plaintiff SPECTRUM DIVERSIFIED DESIGN, LLC hereby states its complaint against
TARGET CORPORATION, BUXTON ACQUISITION CO., LLC, and GRAND STAR
INDUSTRIAL LIMITED as follows:

I. PARTIES

1. Plaintiff SPECTRUM DIVERSIFIED DESIGN, LLC (“Spectrum”) is a
Delaware corporation with its principal place of business in Streetsboro, Ohio. Spectrum is one of the
leading design and manufacturing firms in the housewares industry. Spectrum has committed itself to
providing consumers innovative storage and organization solutions that solve everyday problems.
Spectrum merged with ICI USA LLC (“ICI”), another leading design and manufacturing firm in the
houseware industry. ICI assigned all of their patents to Spectrum, including ICI’s “Sphere Mold”
design patent. This SPHERE MOLD patent is the subject of this Complaint.

1 2. Upon information and belief, Defendant TARGET CORPORATION
2 (“Target”) is a Minnesota corporation with its principle place of business in Minneapolis, Minnesota.
3 Upon information and belief, Target does business as, owns and/or controls Target retail outlets.
4 Target offers to sell and/or sells a sphere ice mold at its Target locations in Washington State, and
5 throughout the United States.

6 3. Upon information and belief, Defendant BUXTON ACQUISITION CO., LLC
7 (“Buxton”) is a Delaware corporation with its principal place of business in Springfield,
8 Massachusetts. Upon information and belief, Buxton imports into the United States and offers to sell
9 and/or sells the sphere ice mold to Target.

10 4. Upon information and belief, Defendant GRAND STAR INDUSTRIAL
11 LIMITED (“Grand Star”) is a Taiwanese corporation with its principle place of business in Taipei
12 City, Taiwan. Upon information and belief, Grand Star manufactures and/or distributes the sphere ice
13 mold to Buxton and Target.

14
II. JURISDICTION AND VENUE

15
16 5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and § 1332.

17 6. This Court has personal jurisdiction because Defendants commit intentional
18 acts to sell their products in the stream of commerce in the forum state; they have sufficient minimum
19 contacts with the forum state; they specifically sell their infringing product in the forum state.

20 7. Venue is proper under 28 U.S.C. §§ 1391(b)(2) and 1400(b) because a
21 substantial part of the events giving rise to the claim occurred in this judicial district, and the property
22 that is the subject of this action, namely, the Tovolo® sphere ice mold, was created, designed, and
23 sold in this judicial district. In addition, Defendants sold infringing products in this judicial district.

24
III. FACTUAL ALLEGATIONS

25 **A. Spectrum Has Sold Over One Million of Its Innovative and Well-Known**
26

1 **Sphere Ice Molds.**

2 8. Spectrum designs innovative new products that surprise and delight the user.
3 Spectrum has built a team of experts dedicated to each phase of product development including
4 marketers, industrial and graphic designers, and packaging experts. Spectrum’s clients include Bed
5 Bath & Beyond, Crate & Barrel, Pier 1 Imports, Sur La Table, Macy’s, and Williams Sonoma, among
6 others, all of whom sell the Spectrum products.

7 9. One of Spectrum’s well-known product lines is the Tovolo® product line.
8 Spectrum uses the Tovolo® brand to market utensils, kitchen gadgets, and beverage devices including
9 tea infusers, ice cube trays, wine bottle holders, crock book holders, spreaders, scoops, pizza wheels,
10 and ice sphere molds, among many other successful products.

11 10. The Tovolo® products all have a certain look and feel in terms of design. The
12 Tovolo® products incorporate bright colors; high-quality, sturdy-looking plastics; professional
13 quality-looking designs; and unique shapes. The designs among products look similar and help
14 customers identify products that are part of the Tovolo® line of products.

15 11. The Tovolo® product line includes a product called Sphere Ice Molds. The
16 innovative and clever design produces an ice sphere, which melts slowly when added to a drink.

17 12. Spectrum sells the Tovolo® Sphere Ice Molds through Amazon.com among
18 other places. The product received 4.6 out of 5 stars on Amazon after being reviewed by over 3,750
19 customers. The Tovolo® Sphere Ice Molds is a best seller on Amazon.com and among the Top 250
20 products in Kitchen & Dining. The product is the “#2 Best Seller” out of all the ice cube molds and
21 trays sold on Amazon.com.

22 13. In addition, Spectrum sells the Tovolo® Sphere Ice Molds through Bed Bath &
23 Beyond, Sur La Table, and Williams Sonoma in addition to other fine retailers.

24 14. In total, Spectrum has sold over one million Tovolo® Sphere Ice Molds through
25 its various retailers.

1 15. Since its creation, the Tovolo® Sphere Ice Molds has featured a unique design
2 and combination of design elements. This design and trade dress includes a clear plastic mold base
3 with two swirled-looking lines with the Tovolo® trademark in the middle and a gray plastic mold top
4 with grooves, lines, ridges, and a wagon wheel design. The colors and design elements help the mold
5 look ready for professional kitchen use. None of these design elements are functional or necessary to
6 the mold in any manner; rather, they add a unique touch similar to all of the other Tovolo® products.
7 Because these design elements fit in the family of the other Tovolo® products, they help to signify the
8 source of the products.

9
10 **B. Defendants’ “BASEBALL ICE MOLDS” Ice Mold Infringes the Tovolo®**
11 **Product.**

12 16. On November 27, 2017, the infringing “Baseball Ice Molds” was purchased
13 from Target in Kent, Washington. See Attachment A.

14 17. The infringing “Baseball Ice Molds” is manufactured and/or distributed by
15 Grand Star to Buxton and sold to Target by Buxton under its Buxton Baseball Ice Molds brand. See
16 Attachment B.

17 18. Upon information and belief, Defendant Target sells the infringing “Baseball
18 Ice Molds” at its 1,834 retail outlets throughout the United States including 36 retail outlets in
19 Washington State.

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Tovolo® Product



Defendants' Product



19. In addition to infringing the trade dress of Tovolo®'s product, the packaging for Defendants' brand product infringes on the trade dress of the Tovolo® packaging. Defendants' brand packaging uses the same slogan "ICE MOLDS." It uses a similar rectangular box. Further, just like the Tovolo® product packaging, the front of the brand packaging displays two "rocks style" cocktail glasses, arranged with the right cocktail glass in the foreground that is partially filled with a brown liquid and a large ice sphere, and the left cocktail glass with a large ice sphere partially filled with a brown liquid at the same level as the right cocktail glass in the foreground and slightly behind and a portion obscured by the right cocktail glass in the foreground.

Tovolo® Product



Defendants' Product



IV. CLAIMS FOR RELIEF

CAUSE OF ACTION – PATENT INFRINGEMENT UNDER 35 U.S.C. § 271

20. Spectrum repeats, re-alleges, and incorporates all of the above allegations

21. On November 3, 2017 US D731,264 (the “264 Patent”), entitled “Sphere Mold,” attached hereto as Attachment C, was assigned to Spectrum.

22. The ‘264 Patent is presumed valid.

23. Defendants’ Baseball Ice Molds infringes the ‘264 Patent.

24. Defendants manufacture, sell, and distribute the infringing product.

25. Defendants’ actions have damaged Spectrum.

CAUSE OF ACTION – TRADE DRESS INFRINGEMENT UNDER 15 U.S.C. § 1125(a)

26. Spectrum repeats, re-alleges, and incorporates all of the above allegations.

27. Spectrum owns a protectable trade dress in the clearly articulated design elements and combination of elements in the Tovolo® sphere ice mold, including a clear plastic mold base that features two swirled-looking lines with the Tovolo® trademark in the middle and a gray plastic mold top with grooves, lines, ridges, and a wagon wheel design. Spectrum also owns a protectable trade dress in the Tovolo® Sphere Ice Molds packaging, including the layout elements.

28. None of the trade dress in the Tovolo® sphere ice mold or packaging is functional. Rather, the design elements and combination thereof were selected to fit in with the other products in Tovolo®’s kitchen and beverage lines and to designate Tovolo® and Spectrum as the source. Indeed, the Tovolo® trademark is incorporated into the trade dress of the product and packaging as another way to indicate the product source.

29. The trade dress in the Tovolo® Sphere Ice Molds and packaging is inherently distinctive or has acquired secondary meaning through Spectrum’s sales and marketing efforts of the

1 mold as described above. The product and packaging design and features are well known in all of the
2 markets in which Spectrum sells the products.

3 30. Defendants' Baseball Ice Molds design and packaging together create a likelihood of
4 confusion as to source, sponsorship, affiliation, connection, or association because the Defendants'
5 product and packaging copies all of the non-functional trade dress elements of the Tovolo® Sphere
6 Ice Mold product and packaging. Customers are likely to be confused or deceived as to the origination
7 of the Defendants' product or are likely to think that the Defendants' product is somehow connected
8 to or associated with Spectrum and Tovolo®.

9 30. The general impression made by the Defendants' product upon the eye of the ordinary
10 purchaser or user is deceiving given the similarity to the Tovolo® trade dress. The multiplicity of
11 similarities between the products constitutes trade dress infringement.

12 31. Defendants' conduct violates section 1125(a) and has damaged Spectrum.
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V. PRAYER FOR RELIEF

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WHEREFORE, Plaintiff Spectrum prays for relief as follows:

1. For a judgment against Defendants;
2. For an injunction against Defendants that prohibits Defendants from manufacturing, selling, incorporating, or otherwise using Spectrum’s proprietary trade dress.
3. For damages against Defendants in an amount to be determined at trial;
4. For reasonable attorneys’ fees and the costs of pursuing Spectrum’s claims as may be allowed by law; and;
5. Such other and further relief as the Court determines is just and proper.

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1601 Fifth Avenue, Ste. 1100
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Dated this 29 of January 2018.