

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SUNDESA, LLC, a Utah limited liability
company,

Plaintiff,

v.

WOODBOLT DISTRIBUTION, LLC
d/b/a ROYAL SPORT LTD. and
NUTRABOLT, a Delaware limited liability
company,

Defendant.

Civil Action No. 4:18-cv-1670

JURY TRIAL DEMANDED

**PLAINTIFF SUNDESA, LLC’S ORIGINAL COMPLAINT
FOR PATENT INFRINGEMENT**

Plaintiff Sundesa, LLC (“Sundesa”) complains against defendant Woodbolt Distribution, LLC d/b/a Royal Sport Ltd. and Nutrabolt, (“Woodbolt”), for the causes of action alleged as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Design Patent No. D644,065 (the “Asserted Patent”), a true and correct copy of which is filed concurrently herewith as “Exhibit A.”

THE PARTIES

2. Sundesa is a limited liability company duly organized and existing under the laws of the State of Utah, with its principal place of business located at 250 South 850 East, Lehi, Utah 84043.

3. Sundesa alleges Woodbolt Distribution, LLC is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business located at 3891 S. Traditions Dr., Bryan, Texas 77807.

4. Sundesa alleges Woodbolt Distribution, LLC does business as Nutrabolt.

5. Sundesa alleges Woodbolt Distribution, LLC also does business as Royal Sport Ltd.

JURISDICTION AND VENUE

6. This is a civil action for patent infringement arising under the patent laws of the United States 35 U.S.C. §§ 1 et seq., including 35 U.S.C. § 271.

7. This Court has original jurisdiction over the subject matter of this action under at least 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Woodbolt because Woodbolt commits substantial acts of business in this judicial District, including selling its products throughout the District to Texas residents within this District. This Court also has personal jurisdiction over Woodbolt because Woodbolt is a limited liability company registered with the Texas Secretary of State to do business in the state of Texas as a foreign limited liability company and because Woodbolt's principal place of business is located in this judicial District.

9. This Court's exercise of personal jurisdiction over Woodbolt is consistent with the Constitutions of the United States and the State of Texas.

10. Venue is proper in this Court and this Division under at least 28 U.S.C. §§ 1391 and 1400 because Woodbolt's principal place of business is located, and Woodbolt has committed acts of patent infringement, in the Southern District of Texas, particularly in Bryan, Texas, which is a city located within the Houston Division.

FACTUAL BACKGROUND

11. Sundesa is the market leader in the shaker cups industry and its technological innovations are protected by, *inter alia*, a portfolio of utility and design patents.

12. Sundesa is an exclusive licensee of the Asserted Patent and has been granted all rights thereunder, including the right and standing to enforce the Asserted Patent.

13. Woodbolt is in the business of manufacturing and selling dietary supplements, products, and accessories. In particular, Woodbolt sells and offers for sale, *inter alia*, shaker cups, examples of which are pictured below (the "Accused Product"):



14. The design of the Accused Product is substantially the same as the claimed design that is the subject of the Asserted Patent.

15. Furthermore, the design of the Accused Product is so similar to the claimed design of the Asserted Patent that customers are likely to be deceived and persuaded to buy the Accused Products thinking they are actually buying products protected by the Asserted Patent.

CAUSE OF ACTION
(Infringement of the Asserted Patent)

16. By this reference Sundesa realleges and incorporates the foregoing paragraphs as though fully set forth herein.

17. Woodbolt has infringed, and continues to infringe the Asserted Patent by using, offering to sell, selling, and importing Accused Products in this District, and elsewhere in the United States, the design of which is substantially the same as the claimed design of the Asserted Patent.

18. Woodbolt's actions constitute infringement of the Asserted Patent in violation of 35 U.S.C. § 271.

19. Sundesa has sustained damages and will continue to sustain damages as a result of Woodbolt's aforementioned acts of infringement.

20. Sundesa is entitled to recover damages sustained as a result of Woodbolt's wrongful acts in an amount to be proven at trial.

21. Woodbolt's infringement of Sundesa's rights under the Asserted Patent will continue to damage Sundesa's business, causing irreparable harm, for which there is no adequate remedy at law, unless Woodbolt is enjoined by this Court.

22. Alternatively, Sundesa is entitled to recover Woodbolt's total profits from its sales of the Accused Product under 35 U.S.C. § 289.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Sundesa, LLC prays for judgment as follows:

A. A judgment finding Woodbolt liable for infringement of the claim of the Asserted Patent;

B. Orders of this Court directing Woodbolt to make an accounting for the total number of Accused Products that they have made, used, sold, offered for sale, or imported into the United States.

C. Orders of this Court temporarily, preliminarily, and permanently enjoining Woodbolt, its agents, servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner the claim of the Asserted Patent, pursuant to at least 35 U.S.C. § 283;

D. An award of damages adequate to compensate Sundesa for Woodbolt's infringement of the Asserted Patent, in an amount to be proven at trial, or in the alternative, an award of Woodbolt's total profits under 35 U.S.C. § 289;

E. An award of treble Sundesa's damages, pursuant to at least 35 U.S.C. § 284;

F. A declaration that this is an exceptional case and that Sundesa be awarded its attorney fees and expenses, pursuant to at least 35 U.S.C. § 285;

G. An award of Sundesa's costs in bringing this action, pursuant to all applicable state statutory and common law, including at least 35 U.S.C. § 284;

H. An award of Sundesa's attorney fees, pursuant to all applicable state statutory and common law.

I. Prejudgment interest, pursuant to at least 35 U.S.C. § 284;

J. Post-judgment interest, pursuant to at least 28 U.S.C. § 1961(a); and

K. For such other and further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

Sundesa demands trial by jury on all claims and issues so triable.

DATED: May 22, 2018

/s/ Michael J. Howell

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