

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

A&J MANUFACTURING, LLC,)	
a Georgia corporation, and)	
)	
A&J MANUFACTURING, INC.,)	
A Florida corporation,)	Civ. No. 2:13-cv-00115-LGW-RSB
Plaintiffs,)	
)	
v.)	
)	
)	
CHAR-BROIL, LLC,)	
a Georgia limited liability)	
corporation,)	
Defendant.)	

FIRST AMENDED COMPLAINT
FOR INFRINGEMENT OF U.S. DESIGN PATENT

PLAINTIFFS, A&J MANUFACTURING LLC and A&J MANUFACTURING, INC., by and through their attorneys, and for their First Amended Complaint against Defendant CHAR-BROIL, LLC, state and allege as follows:

I. PARTIES AND NATURE OF SUIT

1. This is an action for infringement of United States patents, in violation of 35 U.S.C. §§271, 281, 283-285, and 289. Plaintiffs seek monetary relief against Defendants, and equitable relief in

the form of a permanent injunction against Defendants, barring the manufacture, sale, offer for sale, use or importation of goods that infringe the patent rights asserted.

2. Plaintiff, A&J Manufacturing, LLC is a limited liability company organized and existing under the laws of the state of Georgia, having a place of business at 2465 Demere Road, St. Simons Island, Glynn County, Georgia 31522.

3. Plaintiff, A&J Manufacturing, Inc. is a corporation organized and existing under the laws of the state of Florida, having a place of business at 903 Lake Asbury Drive, Green Cove Springs, Florida 32043.

4. A&J Manufacturing, LLC is further the owner, by assignment, of all right, title and interest in U.S. Patent No. D660,646, entitled "Pair of Lids for a Dual Grill" (the "'D646 patent"). A copy of the 'D646 patent is attached as Exhibit A.

5. A&J Manufacturing, LLC is a leading designer, developer, manufacturer and distributor of outdoor grilling products, including multiple-mode grill products that embody the invention of the 'D646 patent.

6. A&J Manufacturing, LLC, in cooperation with A&J Manufacturing, Inc., (hereafter referred to collectively as "A&J"), sells and distributes, within this district and nationwide, multiple-mode grill products, including those sold under the trademarks CHAR- GRILLER DUO and CHAR-GRILLER TRIO, both of which embody the inventions of the 'D646 patent. Images of the genuine A&J products are reproduced below:



Char-Griller Duo



Char-Griller Trio

7. On information and belief, Defendant Char-Broil, LLC ("Char-Broil") is a corporation organized and existing under the laws of the state of Georgia, having a principal place of business at 1017 Front Avenue, Columbus, Georgia 31902.

II. JURISDICTION, VENUE AND JOINDER

8. This Court has original subject matter jurisdiction over the causes of action for patent infringement asserted herein, pursuant to 28 U.S.C. §§1331 and 1338.

13. On information and belief, Char-Broil offers to sell and sells, within this judicial district, a barbecue grill product that infringes the claim of the 'D646 patent. The accused barbecue grill product is described more fully below. On information and belief, Char-Broil has purposefully directed infringing activities toward residents of this district, and has engaged in acts of infringement within this district. Therefore, this Court has personal jurisdiction over Char-Broil. The acts of infringement alleged herein against Char-Broil arise out of the same transaction, occurrence or series of transactions or occurrences related to the same accused product.

14. Venue is proper within this judicial district pursuant to 28 U.S.C. §§1391(c) and (d), as Char-Broil is a corporation subject to personal jurisdiction within this district. Further, venue is proper pursuant to 28 U.S.C. §1400(b), as Char-Broil's acts of patent infringement have taken place within this district.

III. DEFENDANTS' PRODUCTS

18. Further, Char-Broil offers to sell and sells within this judicial district a simultaneous multiple cooking mode barbecue grill, the "Oklahoma Joe Combination Charcoal/Gas Longhorn Grill" model number 12201767.

19. An image of said product is reproduced below:



21. On information and belief, Defendant Char-Broil imports the Oklahoma Joe Longhorn product into the United States. Alternatively, on information and belief, Defendant Char-Broil and an unknown party jointly import the Oklahoma Joe Longhorn product into the United States for sale in this district and elsewhere in the U.S.

22. Among other features, each of these products comprise a wheeled frame supporting a gas cooking unit having a grilling surface, hinged lid and exhaust, together with a second cooking unit configured to cook with a solid fuel such as charcoal, and having a separate grilling surface, hinged lid and exhaust.

23. The resemblance of the Oklahoma Joe Longhorn product is such as to deceive an ordinary observer that the product is related to the 'D646 patent, giving such attention as a purchaser usually gives, the two designs are substantially the same inducing a purchaser to purchase the Oklahoma Joe Longhorn product supposing it to be a product covered under the 'D646 patent.

IV.FIRST CLAIM FOR RELIEF

(Infringement of U.S. Patent No. D660,646)

28. A&J incorporates the allegations of the foregoing paragraphs as if fully set forth herein.

29. Char-Broil's actions in offering to sell, selling and/or importing within this judicial district the Oklahoma Joe Longhorn product constitute infringement of the claim of A&J's 'D646 patent in violation of 35 U.S.C. §271(a).

30. A&J has been damaged as a direct and proximate result of Char-Broil's conduct in an amount to be proven at trial, but in no event less than a reasonable royalty.

31. By virtue of its infringement of A&J's 'D646 patent, Char-Broil is liable to A&J to the extent of Char-Broil's total profits made from the infringement, pursuant to 35 U.S.C. §289.

32. Furthermore, Char-Broil's infringing acts are of a continual and ongoing nature, resulting in harm to A&J for which A&J has no adequate remedy at law. For that reason, A&J is entitled to equitable relief including injunctive relief pursuant to 35 U.S.C. §283.

33. On information and belief, Char-Broil is aware of A&J's patent rights, and Char-Broil is willfully infringing A&J's 'D646 patent.

36. A&J has been damaged as a direct and proximate result of Char-Broil's conduct in an amount to be proven at trial, but in no event less than a reasonable royalty.

37. By virtue of its infringement of A&J's 'D646 patent, Char-Broil is liable to A&J to the extent of Char-Broil's total profits made from the infringement, pursuant to 35 U.S.C. §289.

38. Furthermore, Char-Broil's infringing acts are of a continual and ongoing nature, resulting in harm to A&J for which A&J has no adequate remedy at law. For that reason, A&J is entitled to equitable relief including injunctive relief pursuant to 35 U.S.C. §283.

39. On information and belief, Char-Broil is aware of A&J's patent rights, and Char-Broil has been and is willfully infringing A&J's 'D646 patent.

PRAYER FOR RELIEF

WHEREFORE, A&J respectfully requests that this Court grant the following relief against Defendants:

A. That pursuant to 35 U.S.C. §283, Defendants, together with their officers, agents and employees, and all persons acting in concert with them, be permanently enjoined from making, using, importing, selling or offering to sell products that infringe the claims of the 'D646 patent, including at least the Oklahoma Joe Longhorn product;

B. That an award of damages enter in favor of A&J and against Defendants adequate to compensate A&J for Defendants' infringement of A&J's patent rights, in no event less than a reasonable royalty, together with prejudgment interest from the date infringement began; that, pursuant to 35 U.S.C. §289, Char-Broil be ordered to disgorge its entire profit realized from sales of products that infringe the 'D646 patent and the profits thus disgorged be awarded to A&J;

C. That the Court assess increased damages by virtue of Defendants' willful infringement, and award said increased damages to A&J along with the award of A&J's reasonable attorney fees pursuant to 35 U.S.C. §285;

D. That A&J be awarded costs, expert witness fees, and such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this 26th day of June, 2018.

/s/ Mark D. Johnson

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing **FIRST AMENDED COMPLAINT FOR INFRINGEMENT OF U.S. DESIGN PATENT** has been served up all counsel of record via the CM/ECF system, this 26th day of June, 2018.

/s/ Mark D. Johnson
Mark D. Johnson