

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

TYGER MANUFACTURING LLC,

Plaintiff,

v.

GREGORY MEADE d/b/a GLUNT,

Defendant.

CASE NO: 1:18-22846-CIV-WILLIAMS

VERIFIED AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Tyger Manufacturing LLC, for its Complaint against the Defendant, Gregory Meade d/b/a Glunt, alleges as follows:

PARTIES

1. Plaintiff, Tyger Manufacturing LLC, is a California limited liability company having a principal place of business at 1528 S. El Camino Real, Suite #108, San Mateo CA 94402 (hereinafter "Plaintiff").
2. On information and belief, defendant Gregory Meade d/b/a Glunt resides and has a regular and established place of business at 1508 Bay Road, Unit 1127, Miami Beach, FL 33139 (hereinafter "Defendant").

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. §1 *et seq.*
5. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§1331 and 1338(a).
6. This Court has personal jurisdiction over the Defendant based upon his contacts with this forum, including, residing and having a regular and established place of

business within the State of Florida.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b) and 1400(b).

ALLEGATIONS PERTAINING TO SERVICE OF PROCESS
PURSUANT TO FLORIDA STATUTE SECTION 48.181

8. Defendant has refused to accept service on multiple occasions.

9. Plaintiff filed this Complaint on July 14, 2018 and received the executed summons back from the clerk on July 17, 2018.

10. Only two days later, Plaintiff attempted to serve Defendant at his residence on July 19, 2018.

11. After this initial attempt at service, Plaintiff's process server, Gotcha Legal Services, Inc., made seven (7) additional attempts to effectuate service and, although the process server did hear noise coming from inside the residence on at least one occasion, no one answered the door.

12. Attached as **Exhibit F** to this Verified Amended Complaint are the emails that counsel for Plaintiff received from the process server with respect to each of these attempts.

13. As is noted within the emails in **Exhibit F**, the address where Plaintiff's process server attempted to effectuate service was at a residential condominium and the Condominium's front office verified that the Defendant resided at that address with 2 other individuals.

14. After the above-referenced eight (8) unsuccessful attempts, Plaintiff retained the process server to stand outside the residence on August 24, 2018 until someone exited or

entered the residence to effectuate service.

15. On this date, the process server was informed by an employee of the condominium that the Defendant moved out of the residence the prior week. See **Exhibit G**.

16. Plaintiff has been unable to locate Defendant as of the date of filing this Verified Amended Complaint and therefore, as set forth in Florida Statute Section 48.181, Defendant is either a person who is “a resident of the state and who subsequently becomes a nonresident of the state or conceals his or her whereabouts.”

17. On September 25, 2018, Plaintiff also sent the Complaint, Civil Cover Sheet and Summons to Defendant via electronic mail to info@gluntofficial.com, which is the email address used by Defendant for the activities described in this Complaint and where Defendant has received and responded to pre-suit emails from Plaintiff prior to the filing of this lawsuit.

18. In the email to Defendant, Plaintiff also asked Defendant to provide an address where Defendant can be formally served. Although Defendant had previously responded to emails from Plaintiff in a prompt manner, Defendant has not responded to this September 25, 2018 email as of the date of filing this Verified Amended Complaint.

19. Pursuant to Florida Statutes 48.161 and 48.181, Plaintiff intends to effectuate service upon Defendant by serving the Florida Secretary of State.

GENERAL FACTS

20. Plaintiff is the sole owner of U.S. Patent No. 9,968,127 entitled “Smoking Device” that issued on May 15, 2018. Attached as Exhibit A is a true copy of U.S. Patent

No. 9,968,127. U.S. Patent No. 9,968,127 is valid and enforceable.

21. Plaintiff is the sole owner of U.S. Patent No. D761,487 entitled “Smoking Device” that issued on July 12, 2016. Attached as Exhibit B is a true copy of U.S. Patent No. D761,487. U.S. Patent No. D761,487 is valid and enforceable.

22. Plaintiff manufactures, markets, and sells a glass blunt pipe covered and protected by the claims of U.S. Patent No. 9,968,127 and U.S. Patent No. D761,487 under the marks 7PIPE and TWISTY that has been highly successful. Attached as Exhibit C are true pictures of Plaintiff’s glass blunt pipe. Plaintiff’s glass blunt pipe has received acclaims by industry professionals for its unique and elegant functional and aesthetic design. Plaintiff’s glass blunt pipe has gone viral on the internet.

23. Upon information and belief, defendant, imports, use, offers to sell, and sells a glass blunt pipe that infringes U.S. Patent No. 9,968,127 and U.S. Patent No. D761,487. Attached as Exhibit D is a true copy of a web page and pictures of the Accused Product (labeled by plaintiff with figure numbers and reference numerals) from defendant’s web site (www.gluntofficial.com) offering for sale a glass blunt pipe (the “Accused Product”). Plaintiff ordered the Accused Product from defendant’s web site and examined the same. The glass blunt pipe as ordered and received by Plaintiff from Defendant is identical to the pictures of the Accused Product as shown by the web pages of Exhibit D.

24. On June 20, 2018, Plaintiff sent Defendant a letter advising Defendant that his import, offer to sell, and/or sale of the Accused Product infringes U.S. Patent No. 9,968,127 and U.S. Patent No. D761,487 (the “Letter”). Attached as Exhibit E is a true copy of the Letter. In the Letter, Plaintiff demanded, *inter alia*, that Defendant immediately cease and desist from any further import, offer to sell, and/or sale of the

Accused Product, and that Defendant reply to Plaintiff or further legal action would be commenced.

25. In Exhibit D of the Letter, Plaintiff also provided Defendant with a lab report showing that the spiral screw or auger of the Accused Product had excessive and unhealthy levels of lead (the “Lab Report”).

26. Plaintiff has not received any reply from Defendant to the Letter. The web site of Defendant continues to offer for sale the Accused Product.

COUNT I - PATENT INFRINGEMENT - U.S. PATENT NO. 9,968,127

27. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1-26 as if fully alleged herein.

28. The Accused Product has each and every limitation of claim 1 of U.S. Patent No. 9,968,127. First, the Accused Product has a “glass housing comprising a lower open end portion, an upper open end portion, and an inner portion” as required by claim 1. Next, the Accused Product has a “mouthpiece comprising a rear body portion centrally disposed within said lower end portion of said glass housing...” The removable mouth stem of the Accused Product when engaged with the rear body portion (by screwing it on) that is rotatably engaged with the lower end of the glass housing of the Accused Product corresponds to the limitation of a “mouthpiece comprising a rear body portion” as required by claim 1. Next, the rear body portion of the Accused Product has a “rear surface and first and second air passage ways extending inward from said rear surface.” In the Accused Product, the air passage ways exit a side of the rear body portion located outside the housing. This difference between the Accused Product and claim 1 is not

relevant as the scope of claim 1 only requires that “first and second air passage ways [extend] inward from said rear surface.” Next, the Accused Product has a “first rubber o-ring removably attached to said rear body portion” as required by claim 1. Further, the Accused Product clearly operates such that “said rear body portion of said mouthpiece being rotatably and sealably engaged with said lower open end portion of said glass housing by said first rubber o-ring...” Next, the Accused Product has “an auger comprising a first end portion engaged with said rear body portion of said mouthpiece and a second end portion extending within said inner portion of said housing to form a bowl area at said upper open end portion of said glass housing...” Next, the “bowl area” of the Accused Product is clearly “bound by said upper open end portion of said glass housing and said second end portion of said auger.” Finally, rotation of the mouthpiece of the Accused Product “causes rotation of said auger causing the smoking material within said glass housing to move toward said bowl area.”

29. Defendant’s import, offer to sell, and/or sale of the Accused Product into and/or within the United States and its territories infringes claim 1 of U.S. Patent No. 9,968,127 in violation of 35 U.S.C. §271(a).

30. Defendant had constructive and then actual knowledge of U.S. Patent No. 9,968,127. Defendant’s import, offer for sale, and/or sale of the Accused Product after receiving actual knowledge of U.S. Patent No. 9,968,127 is and continues to be a willful infringement of U.S. Patent No. 9,968,127.

31. There are no non-infringing substitutes for plaintiff’s pipe as the scope of protection afforded by claim 1 of U.S. Patent No. 9,968,127 is broad.

32. As a result of Defendant’s infringement of U.S. Patent No. 9,968,127, Plaintiff

has and continues to incur irreparable harm.

33. As a result of Defendant's infringement of U.S. Patent No. 9,968,127, Plaintiff has and continues to incur monetary damages.

COUNT II - PATENT INFRINGEMENT - U.S. PATENT NO. D761,487

34. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1-26 as if fully alleged herein.

35. The ornamental design of the Accused Product is highly similar if not identical to the claimed design of U.S. Patent No. D761,487. A consumer would mistake or confuse the design of the Accused Product with the claimed design of U.S. Patent No. D761,487.

36. Defendant's import, use, offer for sale, and/or sale of the Accused Product infringes U.S. Patent No. D761,487 in violation of 35 U.S.C. §271(a).

37. Defendant had constructive and then actual knowledge of U.S. Patent No. D761,487. Defendant's import, offer for sale, and/or sale of the Accused Product after receiving actual knowledge of U.S. Patent No. D761,487 is and continues to be a willful infringement of U.S. Patent No. D761,487.

38. There are no non-infringing substitutes for plaintiff's pipe as the scope of protection afforded by claimed design of U.S. Patent No. D761,487 is broad.

39. As a result of Defendant's infringement of U.S. Patent No. D761,487, Plaintiff has and continues to incur irreparable harm.

40. As a result of Defendant's infringement of U.S. Patent No. D761,487, Plaintiff has and continues to incur monetary damage.

REQUESTED RELIEF

Plaintiff requests this Court to enter judgment in favor of it and against the defendant on the above counts and grant it the following relief:

1. Pursuant to 35 U.S.C. §283, an Order that Defendant be preliminary enjoined from making, importing, using, offering for sale, and/or selling the Accused Product or any other product that infringes U.S. Patent No. 9,968,127 and/or U.S. Patent No. D761,487;

2. Pursuant to 35 U.S.C. §283, an Order that Defendant be permanently enjoined from making, importing, using, offering for sale, and/or selling the Accused Product or any other product that infringes U.S. Patent No. 9,968,127 and/or U.S. Patent No. D761,487;

3. Pursuant to 35 U.S.C. §284, that Defendant pay plaintiff actual damages as may be proved at trial, and in no event less than a reasonable royalty;

4. Pursuant to 35 U.S.C. §289, that Defendant pay plaintiff an amount of damages equal to the profits realized by Defendant from the sale of the Accused Product as may be proved at trial;

5. Pursuant to 35 U.S.C. §284, that Plaintiff be awarded treble damages;

6. Pursuant to 35 U.S.C. §284, that Plaintiff be awarded interest on damages;

7. Pursuant to 35 U.S.C. §285, that Plaintiff be awarded its reasonable attorney fees;

8. Pursuant to 35 U.S.C. §284, that Plaintiff be awarded its costs; and

9. Such other relief as this Court deems equitable and just.

DEMAND FOR A JURY

Pursuant to the provisions of Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues so triable in this matter.

VERIFICATION

I, Jeffrey Han, a corporate officer of Plaintiff, verify under penalties of perjury, that I have personal knowledge of the facts set forth in this Verified Amended Complaint. I have reviewed the allegations set forth in this Verified Amended Complaint and hereby verify that said facts are true, correct and accurate.



Jeffrey Han

DATED: October 4, 2018

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