

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

INNOVATION U.S.A., INC.	:	
D/B/A INNOVATION LIVING, INC.,	:	
	:	Civil Action No. _____
<i>Plaintiff,</i>	:	
	:	
v.	:	
	:	
ANGLE INDUSTRIES, LTD.	:	JURY TRIAL DEMANDED
D/B/A AEON FURNITURE,	:	
	:	
<i>Defendant.</i>	:	
_____	:	

**COMPLAINT**

Plaintiff, Innovation U.S.A., Inc., d/b/a Innovation Living, Inc. (“Plaintiff” or “Innovation”), by and through its undersigned counsel, files this Complaint for Patent Infringement against Defendant, Angle Industries, Ltd., d/b/a Aeon Furniture, and states as follows:

**Nature of the Action**

1. This action is for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271, *et seq.* Plaintiff Innovation is the holder of a United States design patent protecting its innovative and proprietary design for a certain sofa. Defendant has infringed and continues to infringe this design patent. As relief, Plaintiff Innovation seeks monetary damages and injunctive relief.

**Parties**

2. Plaintiff Innovation is a corporation organized and existing under the laws of the State of Maryland, with its principal place of business located at 25910 Acero Street, Suite 240, Mission Viejo, CA 92691. Plaintiff Innovation is in the business of manufacturing and

distributing contemporary furniture, including living room and bedroom furniture, in the United States.

3. Defendant Angle Industries, Ltd. (doing business as Aeon Furniture) (hereinafter “Defendant” or “Aeon”) is a corporation organized and existing under the laws of the State of New Jersey. Defendant’s principal place of business is located at 1200 County Road 523, Flemington, New Jersey 08822. Based upon information and belief, Defendant is in the business of importing, marketing, selling and/or distributing contemporary furniture in the United States, including a sofa that infringes the design patent-in-suit.

### **Jurisdiction and Venue**

4. As this case arises under the United States patent laws, this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a) and/or § 1331.

5. This Court has personal jurisdiction over Defendant Aeon as it is a corporation organized and existing under the laws of the State of New Jersey that resides, transacts business and may be found in this judicial district.

6. Defendant Aeon resides and may be found in this judicial district, and a substantial part of the events giving rise to the claims asserted, including, *inter alia*, acts of patent infringement, have occurred and/or are occurring in this judicial district. Venue in this Court, therefore, is proper under 28 U.S.C. § 1391(b) and/or § 1400.

### **Factual Background**

#### **A. Innovation’s Business and the Patent-In-Suit.**

7. Plaintiff Innovation is a leading supplier of contemporary furniture, including living room and bedroom furniture, in the United States and elsewhere in North America.

8. Inspired by a Scandinavian design tradition, as well as fashion and lifestyle trends, Innovation markets a unique collection of contemporary furniture incorporating the innovative and proprietary designs of internationally renowned designer and company founder, Per Weiss Andersen.

9. Many of the designs invented by Mr. Andersen are patented in the United States and internationally. Among the United States design patents that by virtue of assignment are held by Innovation is the following patent-in-suit: United States Design Patent No. US RE 43,754E (the “‘754 Patent” or “Patent-In-Suit”), titled SOFA, which was reissued on October 23, 2012 to Per Weiss Andersen. A true and correct copy of the ‘754 Patent is attached to this Complaint as **Exhibit 1** and is incorporated by reference herein. The ‘754 Patent is a reissue of the original United States Design Patent No. 583,585 (the “Original Patent”) issued on December 30, 2008 to Per Weiss Andersen, and assigned to Innovation.

10. The ‘754 Patent comprises two embodiments of the sofa. The first ten drawings contained within the Patent-in-Suit (Figures 1 – 10) disclose the first embodiment of the sofa and are the same drawings that comprised the Original Patent, while the subsequent ten drawings (Figures 11 – 20) of the Patent-in-Suit disclose a second embodiment of the sofa.

11. All rights, title and interest in the ‘754 Patent have been assigned to Innovation, which is the sole owner of the ‘754 Patent. Innovation has been the sole owner of the ‘754 Patent since its issuance.

**B. Aeon’s Prior Knowledge of the Patent-In-Suit.**

12. Defendant Aeon, through its employee Bruce Greenberg (“Greenberg”), is and has been well aware of Innovation’s patents, including the Patent-in-Suit. Greenberg has been

and continues to be employed as Aeon's sales manager. On information and belief, Greenberg also serves in the capacity of officer or director of Aeon.

13. Prior to his employment with Aeon, Greenberg was employed as a sales manager for Jaycee, Inc. ("Jaycee Warehouse") from approximately 2004 through 2011. At all relevant times, Jaycee Warehouse was located at 680 Grove Road, West Deptford, New Jersey 08066.

14. Greenberg's wife, Mary Greenberg, was also employed by Jaycee Warehouse, on information and belief, at or during the time of Greenberg's employment. She worked as the customer coordinator from approximately August 2009 through August 2011. During her employment, Mrs. Greenberg was responsible for handling Innovation's account.

15. From August 1, 2009 through August 31, 2011, Jaycee Warehouse served as Innovation's East Coast distribution center, and provided warehousing, packing, shipping, and other distribution services for Innovation products, including Innovation's furniture which commercially embodies the Patent-In-Suit.

16. Greenberg and Mrs. Greenberg, (collectively, "the Greenbergs"), through their employment with the Jaycee Warehouse, obtained an extensive understanding of Innovation's furniture collection, including, but not limited to, the materials used in and the proprietary designs of Innovation's furniture products and collections.

17. Through her employment with Jaycee Warehouse, Mrs. Greenberg processed product delivery documentation, which disclosed indicia of Innovation's patented articles, including those that practiced the '754 Patent.

18. Further, through their employment with the Jaycee Warehouse, the Greenbergs were exposed to and gained a deep understanding of Innovation's domestic distribution network, including, *inter alia*, its sources of supply and its customer base in the United States.

19. Among the products stored at and distributed via Jaycee Warehouse during the Greenbergs' employment was Innovation's "Splitback" line of sofas, which practice and commercially embody the Patent-in-Suit. All of Innovation's Splitback sofas distributed and sold in the U.S., including those stored at and distributed by Jaycee Warehouse, are marked with indicia of the '754 Patent directly on the sofas. The U.S. Patent number is listed on the invoice and delivery documentation as well.

20. Through their frequent exposure to Innovation's inventory and product catalogues, which featured the Splitback line of sofas, among other designs, the Greenbergs knew that many of the proprietary designs for Innovation's furniture products were patented, and they had knowledge of the Patent-In-Suit.

**C. Aeon's Acknowledged and Willful Infringement of the Patent-In-Suit.**

21. In or around 2011, the Greenbergs were each separated from and no longer employed by Jaycee Warehouse.

22. In 2011, following his separation from Jaycee Warehouse, Bruce Greenberg joined the then newly-founded Aeon, as its sales manager. On information and belief, Mrs. Greenberg became employed by or affiliated with Aeon, as well. Aeon publicized itself as an importer of European and Scandinavian-inspired modern classic furniture.

23. Thereafter, and with the assistance of the Greenbergs, Aeon embarked upon a scheme to import, distribute and sell furniture products in the United States that are confusingly similar imitations (or "knock-offs") of Innovation's Splitback sofas, which embody the Patent-in-Suit.

24. One such knock-off is a sofa depicted in the photographs attached hereto as **Exhibit 2**, which, without Innovation's authorization or consent, has been and/or continues to be

imported, sold and offered for sale under the names “Betsy”, “Morsun” and “Hugo” in the United States by Defendant Aeon (the “Infringing Betsy Sofa”).

25. The overall appearance of the design of the Patent-in-Suit and the design of the Infringing Betsy Sofa are substantially same, such that an ordinary observer will perceive the overall appearance of the designs of the Patent-in-Suit and the design of the Infringing Betsy Sofa to be substantially the same. A side-by-side comparison of the ‘754 patented design with exemplary images of the Infringing Betsy Sofa, is attached hereto as **Exhibit 3**.

26. Defendant Aeon has sold an unknown number of units of the Infringing Betsy Sofa to furniture retailers for resale directly and via numerous e-commerce websites and third-party marketplaces to end-user customers in the United States.

27. By letter from its counsel dated August 30, 2018, Innovation asserted its rights in the ‘754 Patent against Aeon through written communication, which, among other items, demanded that Aeon cease and desist any further importation, distribution, marketing and/or sale of the Infringing Betsy Sofa in the United States. Attached to that letter was a copy of the ‘754 Patent, as well as images from online advertisements of the Infringing Betsy Sofa. A true and correct copy of the August 30, 2018 demand letter is attached hereto as **Exhibit 4**.

28. By email dated September 24, 2018, on behalf of Aeon, Greenberg responded to counsel’s letter stating that Aeon had discontinued the Infringing Betsy Sofa from its line. A true and correct copy of Greenberg’s September 24, 2018 email is attached hereto as **Exhibit 5**. In his email, Greenberg acknowledged and agreed that Aeon would cease and desist from marketing or offering the Infringing Betsy Sofa for sale, but failed to provide any further information sought by Innovation. Greenberg further stated that he had telephonically communicated the same

commitment to Innovation's CEO, Kjeld Jensen, whom Greenberg acknowledged to have known for over ten (10) years.

29. In a good faith attempt to resolve the dispute, counsel for Innovation responded to Greenberg's email the same day, on September 24, 2018, and reiterated the request made in Innovation's initial demand letter that Aeon provide written confirmation that Aeon had ceased manufacturing, offering for sale, and/or selling the Infringing Betsy Sofa and any other identical design in the United States. A true and correct copy of counsel's September 24, 2018 email is attached hereto as **Exhibit 6**. Counsel further reiterated the request for information from Aeon regarding the identity of Aeon affiliates involved in the manufacture, marketing, and/or sale of the Infringing Betsy Sofa, the identity of other third-party retailers or distributors to whom Aeon or its affiliates supplied or sold the Infringing Betsy Sofa, and a complete accounting of Aeon's inventory and sale history of the Infringing Betsy Sofa.

30. While awaiting Aeon's response to its further inquiry, Innovation discovered that, despite Aeon's assurances to the contrary, Aeon continued to supply and/or make available for sale the Infringing Betsy Sofa to or through various e-commerce retailers, including BisonOffice, Rakuten, Novi Décor (P3 Ventures), Houzz, Walmart, Homesquare, Amazon, Inmod, and GWG Outlet, among others.

31. Upon discovering Aeon's continuing marketing and sale of the Infringing Betsy Sofa despite Aeon's promise to stop doing so, Innovation, through its counsel, sent a final letter dated January 28, 2019, demanding that Aeon cease and desist any further importation, distribution, marketing and/or sale of, *inter alia*, the Infringing Betsy Sofa. A true and correct copy of the January 28, 2019 letter is attached hereto as **Exhibit 7**.

32. Defendant has failed to comply with Innovation's requests to stop its infringing conduct, and, upon information and belief, continues to import, sell and offer for sale this product in the United States.

33. In light of Defendant's failure to comply with Innovation's repeated demands, Innovation has initiated this suit to recover damages for and permanently enjoin Defendant's infringement of the Patent-In-Suit.

34. On information and belief, Aeon has infringed and continues to infringe the '754 Patent within the meaning of 35 U.S.C. § 271 at least by making, using, selling, offering to sell, and/or importing the Infringing Betsy Sofa into the United States without the authorization of Innovation.

#### **Count I**

#### **(Infringement by Aeon of United States Design Patent No. US RE 43,754E)**

35. Plaintiff Innovation realleges and incorporates herein by reference the allegations set forth in the foregoing paragraphs above.

36. By virtue of assignment, Innovation is the holder of the entire right, title, and interest in and to the '754 Patent. Such right, title, and interest include, without limitation, the right to sue and receive damages for past, present, and future patent infringement.

37. The Infringing Betsy Sofa infringes the '754 Patent. Utilizing a side-by-side comparison, and in the eye of the ordinary observer, the ornamental features of the Infringing Betsy Sofa give the same general visual appearance as the patented designs depicted in the '754 Patent.

38. The striking similarity of the ornamental features in the Infringing Betsy Sofa and the design of the '754 Patent creates an overall visual appearance of the infringing product that is confusingly similar to the ordinary observer such that he or she would be deceived into confusing the design of the Infringing Betsy Sofa with the patented design.



39. Defendant Aeon, without authorization from Innovation, has made, used, offered to sell, sold and/or imported and continues to make, use, sell, offer to sell and/or import the Infringing Betsy Sofa in this judicial district and elsewhere in and into the United States.

40. During the term of the '754 Patent and without a license from Innovation, Defendant Aeon has sold or exposed to sale in the United States articles of manufacture in the form of the Infringing Betsy Sofa to which the patented design, or colorable imitations thereof, have been applied.

41. Innovation has complied with the statutory requirement of placing a notice of the '754 Patent on sofas incorporating the patented designs that it manufactures and sells, and has given Defendant repeated written notice of its infringement.

42. Defendant Aeon has intentionally and willfully infringed, and continues to intentionally and willfully infringe, the '754 Patent.

43. Innovation has suffered and continues to suffer economic harm as the direct and proximate result of Defendant Aeon's infringement of the '754 Patent and is, therefore, entitled to damages as provided by law.

44. By exposing to the market infringing products that are confusingly similar to Innovation's patented design as reflected in the '754 Patent, Defendant Aeon has caused and is continuing to cause irreparable harm to Innovation by its acts of infringement as described above and will continue said acts of infringement unless permanently enjoined by this Court.

**Prayer for Judgment and Relief**

**WHEREFORE**, Plaintiff Innovation prays:

- A. A judgment that Aeon has infringed the '754 Patent, and that such infringement was willful;

- B. A permanent injunction enjoining Aeon, and all persons acting in concert with Aeon (including, without limitation, its officers, agents, servants, employees, parents, subsidiaries, and successors) from infringing the Patent-in-Suit;
- C. A judgment and order requiring Aeon to pay Innovation the total profit made by Aeon from its infringement of the Patent-in-Suit pursuant to 35 U.S.C. § 289, or all damages caused by Aeon's infringement of the Patent-in-Suit (but in no event less than a reasonable royalty) pursuant to 35 U.S.C. § 284;
- D. A judgment ordering Aeon to pay Innovation increased damages up to three times the amount found and assessed pursuant to 35 U.S.C. § 284;
- E. A determination that this action is an exceptional case under 35 U.S.C. § 285 due to the intentional and willful infringement by Aeon, and an award granting Innovation its reasonable attorneys' fees under 35 U.S.C. § 285;
- F. A judgment and order requiring Aeon to pay Innovation supplemental damages or profits for any continuing post-verdict infringement up until entry of the final judgment, with an accounting, as needed;
- G. An award of prejudgment and post-judgment interest and costs of suit to Innovation; and
- H. Such other and further relief as this Court deems proper and just.

**Demand for Jury Trial**

Innovation, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, demands a trial by jury on all issues so triable.

Date: March 19, 2019

Respectfully submitted,

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