

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNICORN GLOBAL, INC.,
HANGZHOU CHIC INTELLIGENT
TECHNOLOGY CO., LTD., AND
SHENZHEN UNI-SUN ELECTRONIC
CO., LTD.,

Plaintiffs,

v.

GOLABS, INC. d/b/a GOTRAX,
AMAZON.COM, INC., AMAZON.COM
LLC, WALMART INC., WAL-MART
STORES TEXAS, LLC, AND
WAL-MART.COM USA LLC,

Defendants.

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Civil Action No. 3:19-cv -00754

Jury Trial Demanded

PLAINTIFFS' FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is a patent infringement action by Unicorn Global, Inc. ("Unicorn"), Hangzhou Chic Intelligent Technology Co., Ltd. ("Chic"), and Shenzhen Uni-Sun Electronic Co., Ltd. ("Uni-Sun") (collectively, "Plaintiffs") against Golabs, Inc. d/b/a GOTRAX ("GOTRAX"), Amazon.com, Inc., Amazon.com, LLC (the Amazon defendants are referred to collectively as "Amazon"), Wal-Mart Inc., Wal-Mart Stores Texas, LLC, and Wal-Mart.com USA LLC (the Walmart defendants are referred to collectively as "Walmart"). The term "Defendants" refers to all the defendants collectively.¹

INTRODUCTION

1. This action is brought pursuant to the patent laws of the United States, 35 U.S.C. § 101 et seq.

¹ This amended complaint is filed as a matter of course under Federal Rule of Civil Procedure 15(a)(1)(B).

2. Chic is the owner by assignment of all rights, title, and interest in and under the following United States patents (collectively, the “Asserted Patents”):

Patent	Title	Issue Date	Exhibit
US 9,376,155 (the “’155 Patent”)	Electric Balance Vehicle	06/28/2016	Ex. 1
US 9,452,802 (the “’802 Patent”)	Electric Balance Vehicle	09/27/2016	Ex. 2
US D737,723 (the “’723 Patent”)	Self-Balancing Vehicle	09/01/2015	Ex. 3

3. The Asserted Patents are currently licensed to Uni-Sun on an exclusive basis with Unicorn as its authorized enforcement agent.

4. Defendants have infringed and continue to infringe the claimed subject matter of the Asserted Patents without permission in connection with electric balance vehicles called hoverboards that GOTRAX makes, uses, offers for sale, sells, and imports into the United States, and which are sold and offered for sale in the United States by Amazon and Wal-Mart.

PARTIES

5. Chic is a company organized and existing under the laws of the People’s Republic of China with a principal place of business located at 2/F, No. 2 Building, Liangzhu University, Science and Technology Park, No. 1 Jingyi Road, Liangzhu, Hangzhou, 311112, People’s Republic of China.

6. Chic is a high-tech company that is supported by Zhejiang University Ministry of Education Computer Aided Product Innovation Design Engineering Center; Zhejiang University International Design; and Zhejiang Key Laboratory of Service Robot. Chic manufactures and licenses hoverboard products for sale in the United States.

Chic has been assigned 70 authorized patents for its hoverboard technology and design in different regions such as China, the United States, the European Union, and Canada.

7. Unicorn is a California corporation with its place of business located at 18333 Gale Ave., City of Industry, California 91748. Unicorn has enforcement rights for the Asserted Patents under a written Patent License Agreement dated October 16, 2018.

8. Uni-Sun is a company organized and existing under the laws of the People's Republic of China with its principal place of business located at No. 43 Lan Second Road, Longxin Area, Longgang District, Shenzhen Guangdong, 518000, People's Republic of China. Uni-Sun holds an exclusive license to Asserted Patents under a written Patent License Agreement dated October 16, 2018. Chic and Uni-Sun have assigned enforcement rights to Unicorn. Together, Plaintiffs have standing to sue for all past, present, and future infringement of the Asserted Patents.

9. GOTRAX is a privately-held Texas corporation with its principal place of business at 2201 Luna Rd., Carrollton, TX 75006. GOTRAX has appointed Law Offices Of William Chu, 4455 LBJ Freeway, Ste 1008, Dallas, TX 75244 USA, as its registered agent for service of process. GOTRAX has already appeared in this action.

10. Upon information and belief, Defendant Amazon.com, Inc. is a corporation organized and existing under the laws of the State of Delaware, headquartered at 410 Terry Avenue North, Seattle, WA 98109-5210.

11. Upon information and belief, Defendant Amazon.com LLC is a corporation organized and existing under the laws of the State of Delaware, headquartered at 410 Terry Avenue North, Seattle, WA 98109-5210.

12. Upon information and belief, Amazon.com, Inc. is the ultimate parent of Amazon.com LLC. Amazon is a leading seller of hoverboard products in the United States.

13. Upon information and belief, Amazon owns and operates distribution centers in this District and throughout Texas, and sells the accused products through the Amazon website (www.amazon.com).

14. Upon information and belief, Defendant Walmart Inc. is a Delaware corporation headquartered at 702 S.W. 8th Street, Bentonville, Arkansas 72716. Upon information and belief, Walmart Inc. may be served with process via its registered agent: CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas, 75201.

15. Upon information and belief, Defendant Wal-Mart Stores Texas, LLC, Inc. is a Delaware corporation and a subsidiary of Walmart Inc. headquartered at 702 S.W. 8th Street, Bentonville, Arkansas 72716. Upon information and belief, Wal-Mart Stores Texas, LLC may be served with process via its registered agent: CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas, 75201.

16. Upon information and belief, Defendant Wal-Mart.com USA LLC is a California corporation and subsidiary of Walmart Inc. headquartered at 702 S.W. 8th Street, Bentonville, Arkansas 72716. Upon information and belief, Wal-Mart.com USA LLC may be served with process via its registered agent: CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas, 75201.

17. Upon information and belief, Walmart owns and operates Walmart stores in this District and throughout Texas, and sells the accused products through the Walmart website (www.walmart.com) and Walmart stores.

JURISDICTION AND VENUE

18. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

19. This Court has personal jurisdiction over GOTRAX because GOTRAX is based in this District, regularly conducts business in this District, and has committed and continues to commit acts of patent infringement in this District.

20. This Court has personal jurisdiction over Amazon because Amazon has a regular and established place of business in this District, including multiple Amazon Fulfillment Centers in this District and throughout Texas, and has purposely transacted business involving the accused products in this District, including sales to one or more customers in Texas, has employees in this District, and certain of the acts complained of herein occurred in this District. Amazon offers its products, including those accused of infringement below, to customers and potential customers located in Texas and in this District. Amazon is subject to this Court's jurisdiction pursuant to due process and the Texas Long Arm Statute due at least to its substantial business in this State and District, including (a) at least part of its past infringing activities, (b) regularly doing or soliciting business in Texas, and (c) engaging in persistent conduct and deriving substantial revenue from goods provided to customers in Texas.

21. This Court has personal jurisdiction over Walmart because Walmart has a regular and established place of business in this District, including multiple Walmart stores in this District and throughout Texas, and has purposely transacted business involving the accused products in this District, including sales to one or more customers in Texas, has employees in this District, and certain of the acts complained of herein occurred in this District. Walmart offers its products, including those accused of infringement below, to customers and potential customers located in Texas and in this District. Walmart is subject to this Court's jurisdiction pursuant to due process and the Texas Long Arm Statute due at least to its substantial business in this State and District, including (a) at least part of its past infringing activities, (b) regularly doing or soliciting business in Texas, and (c) engaging in persistent conduct and deriving substantial revenue from goods provided to customers in Texas.

22. Venue is proper in this District under 28 U.S.C. § 1400(b) because the Defendants have regular and established places of business in this District and have committed acts of infringement in this District.

INFRINGEMENT PRODUCTS

23. The Asserted Patents were validly issued by the United States Patent and Trademark Office, and are presumed valid under 35 U.S.C. § 282.

24. Chic is the owner of all right, title, and interest in and to the Asserted Patents, and collectively, Plaintiffs have the exclusive right to (1) enforce the Asserted Patents, (2) to file actions based on infringement of the Asserted Patents, (3) to recover

damages or other monetary amounts for infringement of the Asserted Patents; and (4) to be awarded injunctive relief pertaining to the Asserted Patents.

25. Chic has owned the Asserted Patents at all times during Defendant's infringement of the Asserted Patents.

26. The Asserted Patents are directed to electric balance vehicles commonly referred to as "hoverboards."

27. Without authorization, GOTRAX makes, uses, imports, sells, or offers for sale self-balancing vehicles that infringe the design and utility patents set forth in paragraph 2 above, namely: (1) at least claim 1 of the '155 Patent; and (2) at least claim 1 of the '802 Patent; and (3) the ornamental design as claimed in the '723 Patent. The infringing products are the GOTRAX Hoverfly Eco, GOTRAX Hoverfly Ion, GOTRAX SRX, GOTRAX SRX Pro, and GOTRAX Hoverfly XL hoverboard products imported, sold, or offered for sale in the United States (collectively, the "Accused Products").

28. Amazon and Walmart have infringed the Asserted Patents by selling and offering to sell the Accused Products in the United States, including in Texas and in this District, without authorization.

29. Pictures of representative Accused Products offered for sale on Amazon.com and Walmart.com are included below:



GOTRAX Hoverfly ION LED Hoverboard - UL Certified Hover Board w/Self Balancing Mode

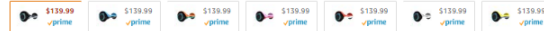
by GOTRAX
 ★★★★★ 360 customer reviews | 160 answered questions
 Amazon's Choice for "gotrax hoverboard"

Best Price

Price: \$139.99 ✓prime

Thank you for being a Prime member. Get \$70 off instantly. Pay \$69.99 upon approval for the Amazon Prime Rewards Visa Card. No annual fee.

Color: Black



- SELF BALANCING MODE - This hoverboard ACTUALLY self balances with or without a rider on it, always staying level with the ground making it easier to ride
- 400 WATTS - Dual Motors boost the ion electric hoverboard up to 7mph
- LED LIGHTING - Features color LED lights in the wheels that pulse blue and two LED headlights
- PERFECT FOR ALL RIDERS - This hoverboard isn't just for kids! It's for riders of all sizes and able to carry up anyone up to 200 lbs
- ELECTRICAL SAFETY CERTIFIED - Electrical, battery, and charger systems tested & certified to UL 2272 safety standards.

New (2) from \$139.99 ✓prime

Report incorrect product information.



GOTRAX SRX Hoverboard - UL2272 Self Balancing Hover Board w/Bluetooth Speakers

by GOTRAX
 ★★★★★ 26 customer reviews | 27 answered questions

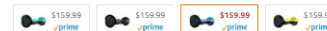
Best Price

Price: \$159.99 ✓prime

Coupon Save an extra \$10.00 when you apply this coupon. Details

Thank you for being a Prime member. Get \$70 off instantly. Pay \$89.99 upon approval for the Amazon Prime Rewards Visa Card. No annual fee.

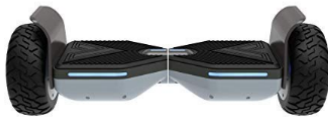
Color: Blue



- 400 WATTS & 36V Battery - power the SRX up to 7mph for a distance of 5 miles
- BLUETOOTH SPEAKERS - Listen to music safely as you ride your self balancing hoverboard
- SELF BALANCING MODE - This hoverboard uses a gyroscope to keep the foot pedals level with or without a rider making it easier to ride, step on/off
- LED LIGHTING - Features color LED lights in the wheels and two LED headlights.
- ELECTRICAL SAFETY CERTIFIED - Electrical, battery, and charger systems tested & certified to UL 2272 safety standards.

New (2) from \$159.99 ✓prime

Report incorrect product information.



GOTRAX SRX PRO Bluetooth Hoverboard - UL 2272 Certified Off Road Hover Board

by GOTRAX
 ★★★★★ 14 customer reviews | 7 answered questions

Best Price

Currently unavailable.

We don't know when or if this item will be back in stock.

- BLUETOOTH SPEAKER - Listen to music safely as you ride your self-balancing hoverboard
- 500 WATTS & 36V Battery - power the SRX PRO up to 7.4mph for a distance of 7.5 miles
- ALL TERRAIN TIRES - This off-road hoverboard features rugged 8.5" tires suitable for the roads, dirt or grass.
- SELF BALANCING MODE - Engage this mode and the hoverboard will self-level to make it easier to ride.
- UL2272 CERTIFIED - Electrical, battery, and charger systems tested & certified to UL 2272 safety standards.

Report incorrect product information.



HUGE SAVINGS
 Spring Sportsman is back!

Shop hunting, fishing, hunting.



GOTRAX Hoverfly XL All Terrain Hover Board 8.5" Solid Rubber Tire - UL2272 Certified Self Balancing Off Road Hoverboard

by GOTRAX
 ★★★★★ 238 customer reviews | 123 answered questions

Best Price

Currently unavailable.

We don't know when or if this item will be back in stock.

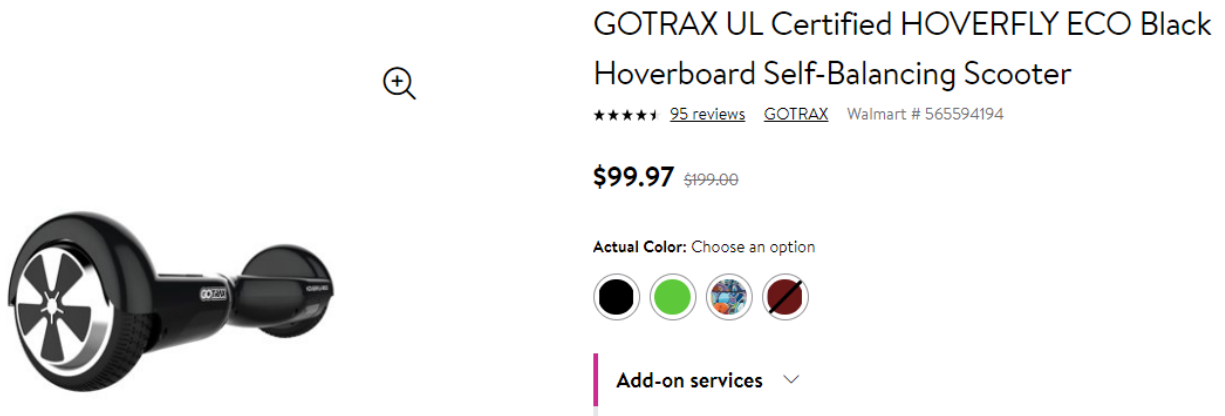
- DESIGNED IN DENVER - Our hoverboards feature LED lights and are made of high-quality UL Certified materials
- ELECTRICAL SAFETY CERTIFIED - Electrical, battery, and charging systems are UL 2272 tested and certified.
- MORE POWER! - Off Road Hoverboard speeds up to 7.4 mph with powerful dual 350W motors.
- MORE FUN! - Ride for up to 12 miles (90 minutes+) on your 2 wheel self-balancing scooter.
- OFF ROAD TIRES - 8.5 inch all terrain hoverboard tires built to last!

Report incorrect product information.



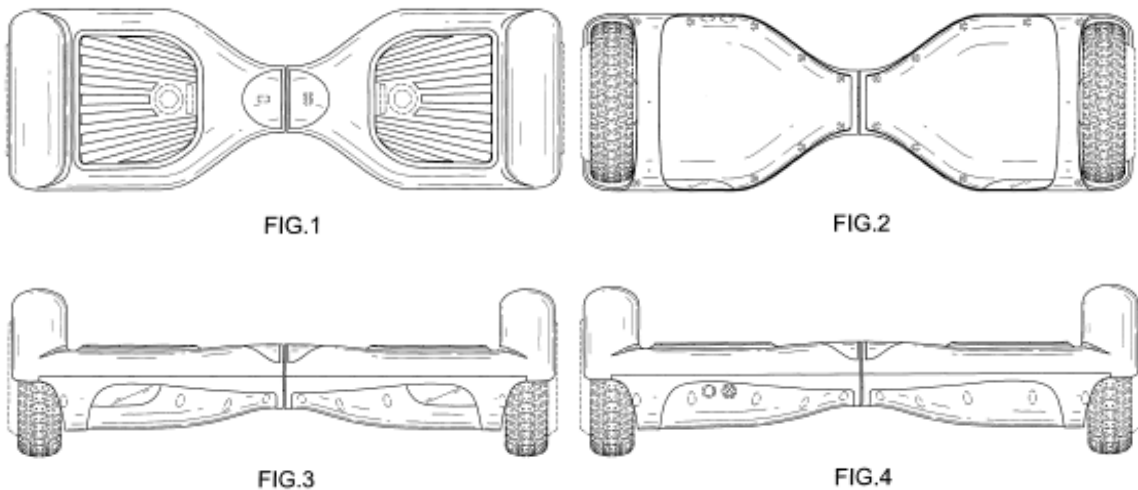
Huge Savings
 Spring Sportsman is back!

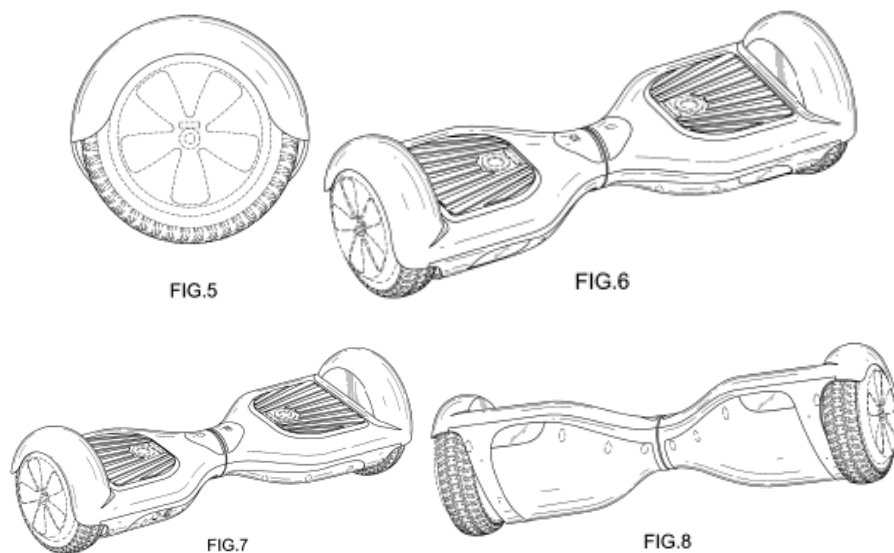
Shop boating, fishing, hunting.



30. Each of the Accused Products meet each and every element of at least claim 1 of the '155 Patent and claim 1 of the '802 Patent, either literally or equivalently. *See Disc Disease Sols. Inc. v. VGH Sols., Inc.*, 888 F.3d 1256, 1260 (Fed. Cir. 2018) (discussing pleading requirements under *Iqbal*). The Accused Products are electric balance vehicles with plastic outer covers fixed on a metal inner cover, a rotating mechanism fixed between the two sides of the vehicle, two wheels with hub motors, a power supply, sensors and a controller to operate the wheels, and all the other required elements of the independent claims of the utility patents.

31. The '723 Patent claims the ornamental design set forth in its drawing figures, reproduced below:





32. The GOTRAX Hoverfly ECO hoverboards shown below infringe the designs ornamental design claimed in the '723 Patent, either literally or equivalently:



33. GOTRAX sells and offers to sell the Accused Products directly to end-user customers through its e-commerce website and through third-party resellers, such as Amazon and Walmart. Defendants sell and offer to sell the Accused Products directly to end-user customers in the United States, including Texas.

KNOWLEDGE AND WILLFULNESS

34. GOTRAX had pre-suit actual knowledge of the Asserted Patents and that the Accused Products infringe the Asserted Patents because GOTRAX's manufacturer, Zhejiang Taotao Automotive Corp., previously licensed the asserted utility patents from Chic for use in connection with the manufacture, importation, distribution, use, offer for

sale, and sale of hoverboard products, including the accused products at issue. Under the now-expired license agreement, GOTRAX sold hoverboard products that were marked with the asserted utility patents, representing to the public that the marked products were covered by the asserted utility patents. Moreover, in a separate lawsuit styled *Golabs, Inc. d/b/a/ GOTRAX v. Hangzhou Chic Intelligent Technology Co., Ltd., et al.*, no. 3:19-cv-1019 (N.D. Tex.), GOTRAX alleges that Chic, Unicorn, and agents of Unicorn provided notice of infringement to GOTRAX through Amazon, and demanded that GOTRAX take a license to sell the Accused Products.

35. Amazon and Walmart had pre-suit actual knowledge of the Asserted Patents and that the Accused Products infringe the Asserted Patents because Plaintiff's counsel sent them written infringement notices on April 2, 2019—which included a copy of this lawsuit, a copy of the asserted utility patents, and printouts of the Accused Products that they are selling—and requested that they stop selling the Accused Products. However, Amazon and Walmart have refused the request to stop selling the Accused Products, and thus are willfully infringing Plaintiffs' patent rights.

36. Defendants also have actual knowledge of the Asserted Patents and that the Accused Products infringe the Asserted Patents due to service of this action. *In re Bill of Lading Transmission & Processing Sys. Patent Litig.*, 681 F.3d 1323, 1345 (Fed. Cir. 2012) (allowing notice of indirect infringement upon service); *Uniloc USA, Inc. v. Motorola Mobility LLC*, No. 2:16-CV-989-JRG, 2017 WL 3721064, at *3 (E.D. Tex. May 15, 2017) (same for direct infringement).

37. Defendants have constructive knowledge of the Asserted Patents because Plaintiffs have complied with the marking statute, 35 U.S.C. § 287.

COUNT ONE
PATENT INFRINGEMENT
The '155 Patent

38. Plaintiffs repeat and re-allege the allegations in the foregoing paragraphs.

39. Defendants directly infringe, literally or under the doctrine of equivalents, and have infringed at least claim 1 of the '155 Patent by, without authority, making, using, importing, offering to sell, or selling the Accused Products that practice the claimed invention of the '155 Patent within the United States.

40. The Accused Products meet each and every one of the elements of at least claim 1 of the '155 Patent, either literally or equivalently.

41. Defendants' infringement has harmed Plaintiffs and will continue to cause severe and irreparable damage to Plaintiffs as long as Defendants' infringing activities continue.

42. Defendants' infringement of the Asserted Patents was willful and supports an award of increased damages and an exceptional case finding.

43. Plaintiffs are entitled to recover damages adequate to compensate Plaintiffs for the injuries complained of herein, including possible lost profits, but in no event less than a reasonable royalty.

44. Plaintiffs are further entitled to have Defendants enjoined from committing future acts of infringement that would subject Plaintiffs to irreparable harm.

**COUNT TWO
PATENT INFRINGEMENT
The '802 Patent**

45. Plaintiffs repeat and re-allege the allegations in the foregoing paragraphs.

46. Defendants directly infringe, literally or under the doctrine of equivalents, and have infringed at least claim 1 of the '802 Patent by, without authority, making, using, importing, offering to sell, or selling the Accused Products that practice the claimed invention of the '802 Patent within the United States.

47. The Accused Products meet each and every one of the elements of at least claim 1 the '802 Patent, either literally or equivalently.

48. Defendants' infringement has harmed Plaintiffs and will continue to cause severe and irreparable damage to Plaintiffs as long as Defendants' infringing activities continue.

49. Defendants' infringement of the Asserted Patents was willful and supports an award of increased damages and an exceptional case finding.

50. Plaintiffs are entitled to recover damages adequate to compensate Plaintiffs for the injuries complained of herein, including possible lost profits, but in no event less than a reasonable royalty.

51. Plaintiffs are further entitled to have Defendants enjoined from committing future acts of infringement that would subject Plaintiffs to irreparable harm.

**COUNT THREE
PATENT INFRINGEMENT
The '723 Patent**

52. Plaintiffs repeat and re-allege the allegations in the foregoing paragraphs.

53. Defendants directly infringe, literally or under the doctrine of equivalents, and have infringed the '723 Patent by, without authority, making, using, importing, offering to sell, or selling Accused Products that practice the claimed invention of the '723 Patent, within the United States.

54. The overall appearance of the ornamental design claimed in the '723 Patent and the corresponding designs of the Hoverfly Eco Accused Products are substantially the same. An ordinary observer familiar with the prior art in the hoverboard marketplace would perceive the overall appearance of the ornamental design of the '723 Patent and the corresponding designs of the Hoverfly Eco Accused Products to be substantially the same. Such an ordinary observer would be deceived into believing the designs of the Hoverfly Eco Accused Products are, in fact, the same as the ornamental design as claimed in the '723 Patent.

55. The ordinary observer, informed by the relevant prior art, would be misled by the Hoverfly Eco Accused Products in believing that Defendants were authorized to distribute products that exhibit the claimed ornamental design of the '723 Patent.

56. The Hoverfly Eco Accused Products prominently feature the claimed ornamental design of the '723 patent, as shown and described in Figures 1 – 8 of the '723 Patent.

57. The Hoverfly Eco Accused Products are intentional copies of the ornamental design as claimed in the '723 Patent.

58. Defendants' infringement of the '723 Patent is willful.

59. The overall appearance of the Hoverfly Eco Accused Products so closely resembles the ornamental design of the '723 Patent that an ordinary observer, informed of the relevant prior art, would be deceived into purchasing the Accused Products in the mistaken belief that they were products authorized to have the ornamental design as claimed in the '723 patent.

60. The Hoverfly Eco Accused Products infringe the '723 Patent in violation of 35 U.S.C. §§ 271 and 289.

61. Due to Defendants' infringement of the '723 Patent, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable injury for which Plaintiffs have no adequate remedy at law, including loss of customers, loss of market-share, price erosion, and loss of customer goodwill. Plaintiffs are therefore entitled to a preliminary and permanent injunction against Defendants' further infringing conduct.

62. Defendants have profited and are profiting from their infringement of the '723 Patent and Plaintiffs have been and are being damaged and losing profits by such infringement. Plaintiffs are therefore entitled to recover damages from Defendants and the total profit derived from such infringement, in an amount to be proven at trial.

JURY DEMAND

63. Plaintiffs request a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

A. A judgment that Defendants have infringed the Asserted Patents;

B. A judgment awarding Plaintiffs damages adequate to compensate for Defendants' infringement;

C. A judgement and order requiring Defendants to pay Plaintiffs increased damages up to three times the amount found or assessed under 35 U.S.C. § 284;

D. A determination that this is an exceptional case under 35 U.S.C. § 285;

E. An award of attorneys' fees for bringing and prosecuting this action;

F. A permanent injunction enjoining Defendants, their officers, agents, servants, employees, representatives, licensees, successors, assigns, and all those in privity, active concert, or participation with any of them from further infringement of the Asserted Patents;

G. Pre-judgment and post-judgment interest to the full extent allowed under the law, as well as costs; and

H. Such other and further relief as the Court deems just and equitable.

Dated: May 9, 2019

Respectfully submitted,

/s/ S. Wallace Dunwoody

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**ATTORNEYS FOR PLAINTIFFS
UNICORN GLOBAL, INC.,
HANGZHOU CHIC INTELLIGENT
TECHNOLOGY CO., LTD., AND
SHENZHEN UNI-SUN ELECTRONIC
CO., LTD.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on the below counsel of record via the Court's electronic filing system on May 9, 2019.

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/s/ S. Wallace Dunwoody

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