

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

INTERLINK PRODUCTS
INTERNATIONAL, INC.,

Plaintiff,

v.

LDR GLOBAL INDUSTRIES LLC,

Defendant.

Case No: 1:19-cv-2940

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Interlink Products International, Inc. (“Interlink”) (hereinafter “Interlink” or “Plaintiff”), by and through its undersigned attorney, hereby complains of Defendant, LDR Global Industries, LLC (“Defendant”), as follows:

THE PARTIES

1. Interlink is a New Jersey corporation with its principal place of business at 1315 East Elizabeth Avenue, Linden, New Jersey 07036.
2. On information and belief, Defendant is an Illinois Corporation with its principal place of business at 960 Alabama Avenue, Brooklyn, New York 11207.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the claims alleged pursuant to 28 U.S.C. §§ 1331 and 1338.

4. This Court has personal jurisdiction over Defendant in that it does business regularly in this district and the claims at issue in this case arise out of or are related to Defendant's business activities with respect to this district. Defendant represents in its corporate filings and on its website that it maintains its "corporate headquarters" in this district. On information and belief Defendant regularly imports (or causes to be imported), offers for sale, ships and sells, to customers located in this district, products that are the subject of the infringement allegations in this Complaint.

5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1400(b) and 1391(b) and (c). On information and belief, Defendant has committed acts of infringement in this district and Defendant has a regular and established place of business in this district.

SUMMARY OF THE CLAIM

6. This is an action for infringement of U.S. Patent Nos. 7,299,510 ("the '510 Patent"), which is owned by Interlink. The '510 Patent concerns, in its preferred embodiments, configurations of devices that are used in showerhead products known as "combo" or "dual" showerheads. In 2018, Interlink informed Defendant that it had been infringing the '510 Patent. Despite Interlink's efforts to convince Defendant to cease its infringement voluntarily, Defendant has continued to willfully infringe the '510 Patent.

CLAIM FOR INFRINGEMENT OF U.S. PATENT NO. 7,299,510

7. Interlink, is a New Jersey based company specializing in the development, production and marketing of innovative shower and bath products. The company was founded in 1996.

8. Interlink's products include several lines of showerheads that can be purchased from various retailers both in stores and online.

9. Defendant operates a plumbing supply business that sells showerhead products through wholesale and retail channels. In that regard, Defendant competes directly with Interlink in the retail and wholesale showerhead markets, including the market for combo showerhead products.

10. Defendant sells combo showerhead products directly under the LDR brand and through wholesale channels to retailers like Ace Hardware, Menards and Amazon.com.

11. The combo showerheads sold by Defendant that are the subject of this Complaint consist of two separate showerheads (one a fixed showerhead and the other a handheld sprayer showerhead) packaged with a plumbing device that serves as a combined water diverter and handheld shower holder. The diverter/holder has, among other features, an inlet for water to flow into the diverter, two outlets for water to flow out, a valve for controlling water flow to the diverter outlets, and a holder for the handheld sprayer. The fixed showerhead attaches to one of the diverter/holder outputs and a hose connects the handheld sprayer to the other output. The user can direct the flow of water between the showerheads using a knob on the diverter/holder. As sold to customers, Defendant's combo showerhead products are packaged such that the diverter/holder must be connected to the fixed showerhead and handheld sprayer at the time of installation. Images showing examples of Defendant's combo showerhead products are attached as Exhibit A.

12. Defendant also sells a stand-alone diverter/holder in various finishes that is also the subject of this complaint. Images reflecting Defendant's infringing diverter/holder are attached as Exhibit B.

13. On November 27, 2007, United States Letters Patent No. 7,299,510 were issued to Pi Kuang Tsai ("Tsai"). In general terms, the '510 Patent describes an invention centering on a specific internal configuration of a water diverter combined with a showerhead holder.

14. On November 17, 2015, Interlink acquired, by assignment from Tsai, all right, title and interest in and to the '510 Patent, including the right to sue for past infringement of the '510 Patent and collect damages associated with such infringement. The assignment has been recorded with the United States Patent & Trademark Office and Interlink remains the owner of all right title and interest in and to the '510 Patent. A copy of the '510 Patent is attached as Exhibit C.

15. In 2018, Interlink discovered that Defendant had been selling infringing combo showerheads to Ace Hardware ("Ace") which Ace was selling and continues to sell under its OAKBROOK brand. Interlink initially served a cease and desist letter on Ace on November 28, 2018. On December 7, 2018, LDR represented that it had received the cease and desist letter and acknowledged the products addressed in the letter were LDR products.

16. On information and belief, the configuration of the diverter/holder used in the OAKBROOK combo showerheads Defendant supplies to Ace is the same as the configuration used in all of Defendant's combo showerheads.

17. Despite notice of the '510 Patent and Interlink's claims of infringement, LDR continued to sell its infringing products without regard to Interlink's rights.

18. Defendant's combo showerheads depicted in Exhibit A, LDR item numbers 520 30503CP-WS, 520 50423CCP-WS, 520 A50373CCPWR Ace OAKBROOK brand item numbers 4705422, 4705448, 44360954 and 560380, the holder/diverter sold with the foregoing models, Defendant's stand-alone holder/diverter depicted in Exhibit B, LDR item number 520 2469 (all finishes), and Defendant's other combo showerhead products, such as those sold to Menards, that consist of or employ holder/diverters that are identical or equivalent in configuration to the holder/diverters used in the products depicted in Exhibits A and B embody the elements of at least claims 1, 2, 3, 4, 9, 10 and 11 of the '510 Patent. On information and belief, Defendant has sold

numerous other models of combo showerhead products employing such diverter/holders. (All of the showerhead products accused of infringement in this paragraph are hereinafter referred to as “the Accused Products.”)

19. Defendant has directly infringed the aforementioned claims of the ’510 Patent by making, importing, using, selling and offering for sale the Accused Products.

20. Defendant also contributorily infringes the ’510 Patent as to claims 1, 2, 4, and 9 by importing and selling the Holder/Diverter used in its combo Showerheads. The Holder/Diverter embody a material component of at least claims 1, 2, 4 and 9 of the ’510 Patent. The Holder/Diverter embody all elements of claims 1, 2, 4 and 9 except that, considered alone, they do not include a sprayer nozzle attached to the second outlet (as referenced in claims 1, 2, 4 and 9) or a showerhead attached to the first outlet (as referenced in claim 4).

21. LDR’s Holder/Diverter are not a staple article or commodity of commerce suitable for substantial non-infringing use. The Holder/Diverter are especially made, Defendant sells the Holder/Diverter and the Holder/Diverter are used by purchasers solely as a component of devices that embody claims 1, 2, 4 and 9 of the ’510 Patent. There are no usual, non-far-fetched, non-illusory, practical, non-occasional, non-aberrant or non-experimental uses for the Holder/Diverter that do not infringe claims 1, 2, 4 and 9 of the ’510 Patent. The Holder/Diverter are tailored specifically to attach to a shower water supply spout, a fixed showerhead and a handheld sprayer, and to provide a device for holding the attached handheld sprayer. They do not have ordinary non-infringing uses.

22. Defendant has further infringed and infringes the claims of the ’510 Patent by inducing others, including purchasers to make, assemble, install and use the infringing products.

23. By selling the Accused Products, and through its advertising and promotional materials and the instructions included with the Accused Products, Defendant instructs and encourages purchasers to assemble, install and use on an ongoing basis the infringing shower products. Defendant's product listings and promotional materials encourage assembly, installation and use of the infringing products by, among other things, depicting the products fully assembled and installed, and promoting their functionality. Defendant's instructions included with the Accused Products induce infringement by instructing purchasers to assemble, install and use the products. By their nature, the Accused Products do not have substantial non-infringing uses. The components thereof cannot be assembled or combined into any ordinary or practical device that does not infringe the '510 Patent. Defendant sells the Accused Products for the sole purpose of assembly, installation and use by purchasers and with the knowledge and intent that purchasers will thereby infringe the '510 Patent.

24. On information and belief, Defendant imports and sells or has imported and sold other combo showerhead products that embody one or more of the claims of the '510 Patent.

25. Through this Complaint, and through prior notice provided to Defendant, Interlink has notified Defendant of the '510 Patent and of the infringing nature of the Accused Products.

26. Defendant's sale and continued sale of the Accused Products is in willful, knowing disregard of the '510 Patent and intentionally induces infringement of the '510 Patent by purchasers.

27. Defendant has engaged in the foregoing acts of infringement despite an objectively high likelihood that its actions constitute infringement of a valid patent, and such likelihood was known or so obvious that it should have been known by Defendant.

28. At all relevant times, Interlink sells and has sold products that compete directly with Defendant's infringing combo showerhead products. As a result of Defendant's infringement Interlink has suffered direct competitive harm, loss of goodwill, and lost sales.

29. Defendant's infringement is ongoing and has injured and will continue to injure Interlink unless and until this Court enters an injunction prohibiting further direct, contributory and induced infringement, including enjoining further sale of Defendant's infringing products.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment in their favor and against Defendant and its subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with Defendant, granting the following relief:

- A. An award of damages sufficient to compensate Interlink for Defendant's direct and indirect infringement of the '510 Patent, including Interlink's lost profits and/or reasonable royalties for the infringement, and any other relief provided for under 35 U.S.C. § 284, together with prejudgment and post-judgment interest from the date that Defendant's respective infringement of the '510 Patent began;
- B. An award of post-judgment royalties;
- C. Increased damages as permitted under 35 U.S.C. § 284;
- D. A finding that this case is exceptional and an award to Interlink of its attorneys' fees and costs as provided by 35 U.S.C. § 285;
- E. A preliminary and permanent injunction prohibiting further infringement, inducement of infringement and contributory infringement of the '510 Patent; and
- F. Such other and further relief as this Court or a jury may deem proper and just.

Dated: May 17, 2019

Respectfully submitted,

The Law Office Of
JASON B. LATTIMORE, ESQ. LLC

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DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury on all issues triable by jury.

Dated: May 17, 2018

Respectfully submitted,

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