

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

Electronically Filed

**ULTIMATE HOME PROTECTOR
PANS, INC. d/b/a DRIPTITE**

Plaintiff,

v.

**HAIER US APPLIANCE
OPERATION, LLC d/b/a GE
APPLIANCES**

**Serve: CT Corporation System
306 W. Main Street, Suite 512
Frankfort, KY 40601
*Registered Agent***

and

**HAIER US APPLIANCE
SOLUTIONS, INC. d/b/a GE
APPLIANCES**

**Serve: CT Corporation System
306 W. Main Street, Suite 512
Frankfort, KY 40601
*Registered Agent***

Defendants

CIVIL ACTION NO. 3:19-cv-190-GNS

VERIFIED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Ultimate Home Protector Pans, Inc., d/b/a/ Driptide (“Plaintiff” or “Driptide”),
for its Verified Complaint against Defendants Haier US Appliance Operation, LLC and Haier US
Appliance Solutions, Inc., one or both of which does business as GE Appliances (collectively,
“Haier” or the “Defendants”), hereby states as follows:

Nature Of The Action

1. This is a civil action for patent infringement arising under the United States Patent Act, 35 U.S.C. §§ 1, et seq., to enjoin infringement and obtain damages resulting from the Defendants' unauthorized manufacture, use, sale, offer to sell, and/or importation into the United States for subsequent use or sale of products, methods, processes, services and/or systems that infringe one of more claims of United States Patent No. 8,393,351, entitled "Dual Automatic Dryer and Washing Machine Protective Basin" (the "Driptite Patent"). Driptite seeks injunctive relief to prevent the Defendants from continuing to infringe the Driptite Patent, along with a recovery of monetary damages and all other appropriate relief, arising from Defendants' past and ongoing infringement of the Driptite Patent.

The Parties

2. Plaintiff, Ultimate Home Protector Pans, Inc. ("UHPP"), is a Nevada corporation which has its principal place of business located in Conneaut, Ohio. UHPP operates under the business name "Driptite."

3. Defendant Haier US Appliance Operation, LLC is a Delaware limited liability company which has its principal office located at Appliance Park, AP2-225, Louisville, Kentucky 40225. On information and belief, Haier US Appliance Operation, LLC has a regular and established place of business in the Western District of Kentucky from which it has committed acts of infringement as alleged herein.

4. Defendant Haier US Appliance Solutions, Inc. is a Delaware corporation which has its principal office located at Appliance Park, AP2-225, Louisville, Kentucky 40225. On information and belief, Haier US Appliance Solutions, Inc. has a regular and established place of business in the Western District of Kentucky from which it has committed acts of infringement

as alleged herein. Haier US Appliance Solutions, Inc. is, on information and belief, the sole member and parent company of Haier US Appliance Operation, LLC.

Jurisdiction and Venue

5. This Court has jurisdiction over the subject matter of this patent infringement action pursuant to the United States Patent Act, 35 U.S.C. §§ 1 *et seq.*, including particularly § 271 *et seq.*, and pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. The Defendants are each subject to personal jurisdiction in Kentucky by virtue of the facts that they each maintain their principal offices in Louisville, Jefferson County, Kentucky, and regularly transacts business in Kentucky by, among other things, offering infringing products, including a “Low Profile Universal Washing Machine Floor Tray,” to customers, resellers, and business affiliates located in this judicial district and division. In addition, on information and belief, Defendants have committed acts of direct infringement, contributory infringement, and/or inducement of infringement, of one or more of the claims of the Driptide Patent in this judicial district and division.

7. Venue is proper in the Western District of Kentucky pursuant to 28 U.S.C. §§ 1391(b)-(d) and 1400(b) because the Defendants are subject to personal jurisdiction in this district and have committed, and are continuing to commit, acts of infringement of the Driptide Patent from their regular and established place of business located in this judicial district.

Statements of Facts

8. The Driptide Patent was duly and validly issued on March 12, 2013 to Frank L. Carter (“Carter”) and Paul Rahmes (“Rahmes”). Carter is the President and sole shareholder of Driptide. (A true and correct copy of the Driptide Patent is attached hereto as Exhibit A.)

9. Driptide is the lawful assignee of all rights, title, and interest in and to the Driptide Patent, which is valid and subsisting.

10. From 1998 through the present, Carter, through Driptide, has been actively involved in designing, developing, and selling products in the home water damage prevention industry. Products designed and developed by Carter include washer and dryer pans, water heater pans, dishwasher pans, and cabinet base protectors. Driptide has arranged to distribute these types of products throughout the United States from its initial base of operations in California and more recently from its offices in Ohio. Inventions born from Carter's design and development efforts are the subject of the Driptide Patent, as well as additional patents issued to Carter and validly assigned to Plaintiff.

11. The Driptide Patent is directed to contain leakage from front loading washers and/or dryers, with or without pedestal drawers, to protect the appliances as well as the underlying surface on which they are supported. The patented improvement is easily placed beneath a washer and/or dryer appliance and allows the position of the washer and/or dryer to be readily swapped and/or stacked upon one another (i.e., single and/or stackable front loading washers and dryers with pedestal drawers). Furthermore, the front wall of the basin can be sized to clear a door or pedestal drawer. The basin can also have raised spots supporting the feet of the appliance or pedestal, so as to lift doors or drawers above the front wall if needed. Lastly, the pan can be fitted with an opening directly over a floor drain such that the drain need not be located under the washing machine.

12. Driptide developed, manufactures (through contracted third parties), and distributes a commercial product, known as the "Unbreakable Single/Stackable Washer & Dryer Pan," which embodies the inventions of the Driptide Patent (the "Driptide Washer & Dryer Pan"). All of Driptide's products, including the Driptide Washer & Dryer Pan, are manufactured in the United States. Driptide expended considerable time, effort, and resources developing, promoting,

and distributing the Driptide Washer & Dryer Pan embodying the inventions of the Driptide Patent.

13. Since no later than 2013, Driptide has marked the Driptide Washer & Dryer Pan and provided the public with notice that the Driptide Washer & Dryer Pan is covered by the claims of the Driptide Patent.

14. From 2013 to the present, Driptide has marketed and sold the Driptide Washer & Dryer Pan embodying the Driptide Patent to national homebuilders, plumbing supply vendors, and directly to consumers as well as other third parties. (True and correct photographic copies of the Driptide Washer & Dryer Pan are attached hereto as Exhibit B.)

Haier's Product Infringes the Driptide Patent

15. On information and belief, Haier manufactures, markets, distributes, and/or sells washing machines, dryers, and/or related accessories throughout the United States under the trade name "GE Appliances."

16. On information and belief, Haier makes, uses, imports, exports, distributes, sells and/or offers for sale a product that directly infringes, contributorily infringes, and/or induces others to infringe at least claim 6 of the Driptide Patent in the Western District of Kentucky and throughout the United States. The infringing Haier product is known as the "Low Profile Universal Washing Machine Floor Tray." (True and correct photographic copies of Haier's "Low Profile Universal Washing Machine Floor Tray" are attached hereto as Exhibit C.)

17. Haier's "Low Profile Universal Washing Machine Floor Tray" depicted in Exhibit C embodies all the elements of, and therefor infringes, at least claim 6 of the Driptide Patent.

18. On information and belief, Haier has a manufacturing and distribution organization that distributes its "Low Profile Universal Washing Machine Floor Tray" from its plants and facilities located in the Western District of Kentucky and elsewhere. Haier sells its

“Low Profile Universal Washing Machine Floor Tray” throughout the United States, including in Kentucky, to national chain home supply retailers and wholesalers, such as Home Depot and eBay.com, in both physical and online retail settings, as well as directly to customers and homeowners via its website.

19. Haier is not and never has been authorized or permitted to make, use, import, export, distribute, sell, and/or offer a product that copies critical features of the Driptide Patent. No payments have been made to Plaintiff for Haier’s unauthorized conduct.

20. Haier has had actual notice, or at least constructive notice, of its infringement of the Driptide Patent since no later than 2013.

Driptide Has Been Irreparably Harmed By Haier’s Continued Infringement

21. Driptide has been irreparably harmed by Haier’s infringement of its valuable patent rights. Moreover, Haier’s unauthorized, infringing use and misappropriation of the Driptide Patent has threatened the value of Driptide’s intellectual property because Haier’s conduct results in Driptide’s loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and/or importing products embodying the patented invention.

22. Haier’s disregard for Driptide’s property rights similarly threatens Driptide’s business and its relationships with potential licensees of its intellectual property. Haier has derived a competitive advantage over Plaintiff’s business and will continue to derive a competitive advantage over Plaintiff’s business and/or its future licensees from using Plaintiff’s patented technology without paying compensation for such use. Accordingly, unless and until Haier’s continued acts of infringement are enjoined, Plaintiff will suffer irreparable harm for which there is no adequate remedy at law.

COUNT I

(Infringement of United States Patent No. 8,393,351)

23. Plaintiff incorporates by reference, as if set forth fully herein, paragraphs 1 through 22 of this Verified Complaint.

24. Driptide, by valid assignment, is the lawful owner of and continues to maintain all rights, title, and interest in and to the Driptide Patent which exist, including the right to sue thereon and the right to recover damages for infringement thereof for periods prior to the expiration thereof.

25. On information and belief, Haier has infringed, and continues to infringe, directly and/or indirectly, literally and/or under the doctrine of equivalents, at least claim 6 of the Driptide Patent in violation of 35 U.S.C. § 271, by its activities in making, using, selling, offering for sale, and distributing the “Low Profile Universal Washing Machine Floor Tray.”

26. Haier’s wrongful conduct has, *inter alia*, caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented invention. Unless restrained and enjoined, Defendants’ infringement of the Driptide Patent will continue to cause irreparable harm to Plaintiff that cannot be adequately quantified or compensated by monetary damages alone and for which there is no adequate remedy at law.

27. Haier has had actual knowledge, or at least constructive knowledge, of its infringement of the Driptide Patent since no later than 2013, at which time the commercially available Driptide Washer & Dryer Pan product covered by the Driptide Patent was properly marked pursuant to 35 U.S.C. § 287(a).

28. As a direct and proximate result of Haier's patent infringement, Plaintiff is entitled to recover damages adequate to compensate Driptite for Defendants' infringing activities, as well as preliminary and permanent injunctive relief preventing Defendants from continuing to engage in patent infringement.

COUNT II

(Willful Infringement of the Driptite Patent)

29. Plaintiff incorporates by reference, as if set forth fully herein, paragraphs 1 through 28 of the Verified Complaint.

30. Haier has had actual knowledge, or at least constructive knowledge, of its infringement of the Driptite Patent.

31. Haier's infringement has been and continues to be willful, making this an exceptional case under 35 U.S.C. § 285.

32. Driptite is entitled to enhanced damages and reasonable attorney fees adequate to compensate for Defendants' infringement and other conduct.

Prayer For Relief

WHEREFORE, Plaintiff respectfully requests the following relief from the Court:

- (A) That this Court adjudge and decree that the Driptite Patent is valid and enforceable against the Defendants;
- (B) That the Defendants be determined to have infringed the Driptite Patent;
- (C) That the Defendants, their subsidiaries, affiliates, parents, successors, assigns, officers, agents, servants, employees, attorneys, and all persons acting in concert or in participation with them, be temporarily and preliminarily enjoined during the pendency of this action, and permanently enjoined thereafter, from infringing, contributing to the infringement of,

and inducing infringement of the Driptite Patent, and specifically from directly and/or indirectly making, using, selling, importing or offering for sale, any products or services embodying the inventions of the Driptite Patent during the life of the claims of the Driptite Patent, without the express written authority of Plaintiff;

(D) That the Defendants be directed to give a full accounting, including a post verdict accounting, to determine an award to fully compensate Driptite for all damages attributable to the Defendants' infringement of the Driptite Patent in an amount consistent with proof at trial and in no event less than a reasonable royalty;

(E) That this case be deemed exceptional and that Plaintiff be awarded its reasonable attorney fees in accordance with 35 U.S.C. § 285;

(F) That the Defendants' infringement be found to be willful and that all damages awarded be trebled in accordance with 35 U.S.C. § 284;

(G) That the Defendants be ordered to deliver to Plaintiff, for destruction at Plaintiff's option, all products that infringe the Driptite Patent;

(H) That the Defendants be required to account for all gains, profits, advantages, and unjust enrichment derived from their violations of law;

(I) That this Court assess pre-judgment and post-judgment interest and costs against the Defendants, together with an award of such interest and costs, in accordance with 35 U.S.C. §284;

(J) That the Court enter a judgment in favor of Plaintiff and against the Defendants under Counts I and II for a monetary amount consistent with the relief requested herein and the proof at trial; and

(K) That Plaintiff have such other legal or equitable relief to which it may be entitled.

DEMAND FOR JURY TRIAL

Driptite demands a trial by jury of all matters to which it is entitled to trial by jury pursuant to Fed. R. Civ. P. 38.

Respectfully submitted,

/s/Michael A. Valenti

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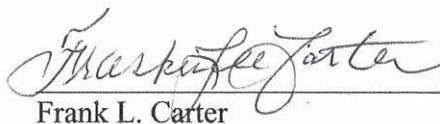
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VERIFICATION

I, Frank Carter, President of Ultimate Home Protector Pans, Inc. d/b/a Driptite, Plaintiff in the above-referenced Action, declare under penalty of perjury under the laws of the United States of America, that the facts alleged in the foregoing Verified Complaint are true and correct to the best of my information, knowledge, and belief as of the date hereof.


Frank L. Carter