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11 Attorneys for Plaintiff, SHANDONG HONGHUI FOOD MACHINERY CO.,
12 LTD dba SEVEN STYLE

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 SHANDONG HONGHUI FOOD
16 MACHINERY CO., LTD dba SEVEN
17 STYLE, a China Limited Company,
18 Plaintiff,

19 vs.

20 WOULDN'T IT BE NICE LLC, a
21 Michigan Limited Liability Company;
22 and DOES 1 through 10;
23 Defendants.

Case No.:

**COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-
INFRINGEMENT OF A PATENT**

24 Plaintiff SHANDONG HONGHUI FOOD MACHINERY CO., LTD dba SEVEN
25 STYLE, a China Limited Company, by and through its counsel of record, hereby
26 complains against Defendant WOULDN'T IT BE NICE LLC, a Michigan Limited
27 Liability Company, as follows:

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1 **THE PARTIES**

2 1. Plaintiff SHANDONG HONGHUI FOOD MACHINERY CO., LTD dba
3 SEVEN STYLE (“SEVEN STYLE” or “PLAINTIFF”) is a China Limited Company with
4 its principal place of business at Xingfu Town, Boxing County No. 188, Cungao Village
5 Binzhou, Shandong China 256600.

6 2. Defendant WOULDN’T IT BE NICE LLC (“WIBN LLC” or
7 “DEFENDANT”) is a Michigan Limited Liability Company with its principal place of
8 business in Plymouth, Michigan.

9 **NATURE OF THE ACTION**

10 3. PLAINTIFF is a seller of velvet hair scrunchies and retails these products
11 through e-commerce websites such as www.amazon.com. DEFENDANT holds a design
12 patent for a similar hair product (i.e. a hair scrunchie) but with a distinct petal-like shape
13 for the style and design of its product.

14 4. PLAINTIFF brings this action for declaratory judgment of non-infringement
15 of United States Design Patent No. D851,833 (“833 Patent”) owned by DEFENDANT
16 and issued on June 18, 2019. A true and correct copy of the ‘833 Patent is attached hereto
17 as Exhibit A.

18 **JURISDICTION**

19 5. This action arises under the laws of the Patent Act under Title 35 of the
20 United States Code.

21 6. This Court has subject matter jurisdiction over this action pursuant to 28
22 U.S.C. §§ 1331 and 1338, because the action arises under the Federal Declaratory
23 Judgment Act, 28 U.S.C. § 2201, *et seq.* and the Patent Act of the United States 35 U.S.C.
24 § 171 *et seq.*

25 7. An actual controversy exists between the parties through DEFENDANT’s
26 assertion of its design patent right against PLAINTIFF’s products. Specifically,
27 DEFENDANT asserts that PLAINTIFF’s Scrunchies Velvet Elastic Hair Bands (“Alleged
28 Product”) infringed upon their ‘833 Patent. However, PLAINTIFF contends that the

1 Alleged Product did not infringe DEFENDANT’s ‘833 Patent and has the right to make,
2 use, sell, and/or offer to sell the Alleged Product in the United States and elsewhere.

3 8. The Court has personal jurisdiction of the parties because the parties have
4 established minimum contacts with the forum such that the exercise of jurisdiction over
5 either party will not offend traditional notions of fair play and substantial justice. Upon
6 information and belief, PLAINTIFF and DEFENDANT conducts business throughout the
7 United States and actively transacts businesses in this judicial district, including the sale
8 of its products through the internet to California Residents.

9 **VENUE**

10 9. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391 because
11 a substantial part of the events giving rise to the claim occurred in this district and the
12 DEFENDANT is subject to the Court’s personal jurisdiction with respect to this action.

13 **GENERAL ALLEGATIONS**

14 **DEFENDANT Accuses PLAINTIFF of Design Patent Infringement**

15 10. PLAINTIFF manufactures and sells the Alleged Product on e-commerce
16 retailers such as Amazon.com. A true and correct copy of one PLAINTIFF’s listing on
17 www.amazon.com is attached hereto as Exhibit B. On or around June 25, 2019,
18 PLAINTIFF received an email from Amazon.com stating that their listing for the Alleged
19 Product was removed based on a third-party complaint for the potential intellectual
20 property infringement of United States Design Patent No. D851,833 (‘833 Patent).

21 11. DEFENDANT owns the intellectual property rights to the ‘833 patent, a
22 design patent for an ornamental design of a hair scrunchie with a distinct petal-like shape.
23 (See Exhibit A.) Upon information and belief, DEFENDANT made the complaint to
24 Amazon.com in order to prevent PLAINTIFF from making, using, selling, and/or offering
25 to sell the Alleged Product in the United States and through Amazon.com.

26 12. At all relevant times and contrary to DEFENDANTS’ assertion,
27 PLAINTIFF’s Alleged Product does not infringe the ‘833 Patent. First, similar to a regular
28 hair scrunchie, the Alleged Product has an unfixed shape and is hard to form into a petal-

1 like shape whereas DEFENDANT's '833 Patent retains its petal-like shape at all times.
2 Attached hereto as Exhibit C is a comparison of the '833 Patent's petal-like shape with
3 the shape of a regular scrunchie.

4 13. Second, the connection line of '833 Patent is in the middle between the top
5 portion and bottom portion of the scrunchie whereas the connection lines of the Alleged
6 Product are located randomly. Moreover, the connection lines of the Alleged Product have
7 a higher likelihood of being biased to the top portion or bottom portion as opposed to the
8 middle portion.

9 14. The differences between the Alleged Product and the '833 Patent establishes
10 that PLAINTIFF did not infringe, either directly or indirectly, the '833 Patent. By virtue
11 of the foregoing, there now exists an actual, justiciable, and substantial controversy
12 between the parties with respect to the validity, enforceability, and infringement of the
13 '833 Patent. Accordingly, PLAINTIFF is entitled to have a declaration of its rights and
14 further relief as requested herein.

15 **FIRST CLAIM FOR RELIEF**

16 **(Declaratory Judgment of Non-Infringement of the '833 Patent)**

17 15. PLAINTIFF hereby incorporates allegations asserted in paragraphs 1-14.

18 16. PLAINTIFF's Alleged Product does not infringe the '833 Patent, directly or
19 indirectly, either literally or under the doctrine of equivalents.

20 17. PLAINTIFF seeks a declaration that it has not infringed and does not
21 infringe, directly or indirectly, any valid and enforceable claim of the '833 patent.

22 18. A judicial declaration is necessary and appropriate so that PLAINTIFF may
23 ascertain its rights and duties with respect to the '833 Patent.

24 **DEMAND FOR JURY TRIAL**

25 19. PLAINTIFF hereby demands a jury trial on all claims, damages, and any
26 other issues presented herein that are triable to a jury.

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PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against **DEFENDANT** as follows:

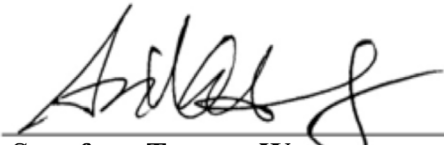
1. For the Court to declare that the velvet hair scrunchies manufactured, sold or distributed by **PLAINTIFF** do not and would not infringe the United States Design Patent No. D851,833, directly or indirectly, literally or under the doctrine of equivalents, if made, used, offered for sale, or sold in the United States or imported into the United States;

2. For the Court to deem this case to be “exceptional” within the meaning of 35 U.S.C. §285 entitling **PLAINTIFF** to an award of its reasonable attorneys’ fees and expenses in this action; and

3. For such other and further relief as the Court deems just and proper.

Dated: August 23, 2019

Respectfully submitted,



Songfong Tommy Wang
Wang IP Law Group, P.C.

Attorney for Plaintiff SHANDONG
HONGHUI FOOD MACHINERY
CO., LTD dba SEVEN STYLE