

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

PAWS ABOARD, LLC, A FLORIDA
LIMITED LIABILITY COMPANY.

Plaintiff,

vs.

PIETRO (“Pete”) DIDONATO, AN
INDIVIDUAL, AND DOES 1 THROUGH 20,
INCLUSIVE.

Defendants.

Case No.: _____

COMPLAINT FOR:

1. DECLARATORY JUDGMENT;
2. INTENTIONAL INTERFERENCE
WITH PROSPECTIVE ECONOMIC
ADVANTAGE;
3. DEFAMATION.

COMPLAINT AND DEMAND FOR JURY TRIAL

The Plaintiff, by and through its attorney, hereby alleges and claims against the Defendant as follows:

Introduction

This is a complaint for declaratory and monetary relief brought against the Defendant for his illegal actions in asserting false and non-existent patent infringement claims relating to his alleged dog leash patent.

Jurisdiction

1. Plaintiff brings this civil action under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and under the patent laws of the United States, 35 U.S.C. §§ 1 et seq.

Plaintiff seeks to obtain declaratory judgments of non-infringement and invalidity with respect to Defendant's patents and for causes of action under the common law that are related to the foregoing claims and within the Court's original jurisdiction such that they form part of the same case or controversy. This court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1338 and 1367. This Court has personal jurisdiction over Defendant under the appropriate provisions of Federal and Florida Law.

Venue

2. Venue is proper in this jurisdiction under 28 U.S.C. Section 1391(a)(3) as all of the events giving rise to this complaint occurred within this judicial district.

The Parties

3. Plaintiff Paws Aboard, LLC (hereinafter "Paws Aboard") is a Florida Limited Liability Company organized under and existing pursuant to the laws of the state of Florida.

4. Plaintiff is informed and believes and thereon alleges that Defendant Pietro "Pete" DiDonato is an individual whose primary residence is 212 Bement Avenue Staten Island, New York 10310-1506.

5. Plaintiff is unaware of the names and capacities of the Defendants listed as Does 1 through 20, inclusive and will seek leave to amend this Complaint when such names and capacities are ascertained.

Facts Common To All Causes Of Action

6. Plaintiff is in the business of selling pet products, especially relating to dogs. Plaintiff distributes, markets and sells a non-tangling, dual dog leash known as the “Freedom Leash.”

7. Plaintiff is informed and believes and thereon alleges that Defendant DiDonato holds a patent for a non-tangling, dual dog leash.

8. On or about May 17th, 2011 Defendant DiDonato, by and through his attorney, James A. Finder, of the Law Firm of Ostrolenk Faber, LLP, transmitted to Richard W. Tinberg, whom Plaintiff is informed and believes and thereon alleges is the President and Chief Executive Officer of Hammacher Schlemmer & Company, Inc, an independent dealer of the Freedom Leash, and Ms. Christine A. Aguilera, whom Plaintiff is informed and believes and thereon alleges is the President of SkyMall, Inc, another independent dealer of the Freedom Leash, demand letters alleging, *inter alia*, patent infringement relating to said Freedom Leash. True and correct copies of those letters are attached hereto as Exhibits “A” and “B” and fully incorporated herein by this reference.

9. Plaintiff’s Freedom Leash does not infringe on the rights of any patent held by Defendant DiDonato.

10. As a result of receiving this letter from Defendant’s counsel, at least two of Plaintiff’s independent dealers are now, understandably, scared to continue distribution, sales and marketing of the Freedom Leash, despite the fact that Plaintiff is not infringing on any patent rights of Defendant DiDonato.

11. As a further result of Defendant’s letter Plaintiff is now suffering immediate and irreparable harm financially, to its reputation and to the reputation of its products.

**COUNT 1
FOR DECLARATORY JUDGMENT**

12. Plaintiff incorporates by reference the allegations made in Paragraphs 1 through 11 of this complaint as though set forth in full herein.

13. An actual and present controversy has arisen with respect to Defendant's claim of patent infringement which requires a declaration of the respective rights and duties of the parties to resolve.

14. For the reasons stated herein and because of the requirements of federal and common law, Defendant cannot establish that a patent infringement has occurred with respect to any patent held by the Defendant.

15. Plaintiff seeks a declaratory judgment of this Court declaring that Plaintiff's Freedom Leash does not infringe on any patent rights of the Defendant.

16. Plaintiff also seeks a declaratory judgment of this Court declaring that Defendant's patents, Numbers 7,207,296 and 7455,034 regarding a dual dog lease are invalid pursuant to 35 U.S.C. 102 and/or 35 U.S.C. 103.

**COUNT 2
FOR INTENTIONAL INTERFERENCE WITH
PROSPECTIVE ECONOMIC ADVANTAGE**

17. Plaintiff incorporates by reference the allegations made in Paragraphs 1 through 16 of this complaint as though set forth in full herein.

18. There exists between and among Plaintiff and its independent dealers an economic relationship wherein Plaintiff manufactures, markets, distributes and sells its Freedom

Leash, among other things, to its independent dealers for pecuniary gain and prospective economic advantage.

19. Plaintiff's relationships with its independent dealers are the result of the trust built up over years of hard work and the supply to them of successful, quality products. These relationships are not created overnight and are difficult to replace or repair if diminished or destroyed.

20. Plaintiff is informed and believes and thereon alleges that the actions undertaken by Defendant are intentional and done with the wrongful intent to disrupt the valuable relationships Plaintiff holds with its independent dealers and to intentionally interfere with Plaintiff's prospective economic advantage.

21. Plaintiff has suffered and continues to suffer damages as a result of Defendant's conduct in an amount to be proven at trial.

22. Plaintiff is informed and believes and thereon alleges that Defendant's conduct was and is fraudulent, malicious and oppressive and, as such, an award of punitive damages is both necessary and proper to prevent this Defendant and those similarly situated from engaging in the same or similar conduct in the future.

COUNT 3 FOR DEFAMATION

23. Plaintiff incorporates by reference the allegations made in Paragraphs 1 through 22 of this complaint as though set forth in full herein.

24. The letters published and/or republished by Defendant falsely states, among other things, that Plaintiff is infringing upon patent rights of the Defendant.

25. Defendant's statements and the publication and/or republication thereof are false.

26. Defendant's statements and their publication and/or republication are defamatory on their face without resort to inducement, innuendo or extrinsic fact and falsely suggest that Plaintiff is infringing on patent rights of the Defendant.

27. Plaintiff is informed and believes and thereon alleges that Defendant knew of the false and defamatory nature of its patent infringement allegations and other statements at the time they were made and, despite said knowledge, intentionally published and/or republished those allegations and statements without regard to the falsity thereof.

28. Defendant has published and/or republished its false statements to third parties, including at least one independent dealer of Plaintiff's Freedom Leash.

29. As a result of Defendant's actions Plaintiff has suffered irreparable injury to its reputation, the reputation of its Members and the reputation of its products, especially its Freedom Leash, along with other general and special damages in an amount to be proven at trial.

30. Plaintiff is informed and believes and thereon alleges that Defendant's conduct was and is fraudulent, malicious and oppressive and, as such, an award of punitive damages is both necessary and proper to prevent this Defendant and those similarly situated from engaging in the same or similar conduct in the future.

Prayer for Relief

Wherefore, Plaintiff does hereby respectfully pray for and request the following relief against the Defendant as follows:

On the First Cause of Action, for Declaratory Judgment:

1. For a declaratory judgment that Plaintiff's Freedom Leash does not infringe on any patent rights of the Defendant;
2. For full costs of suit, including reasonable attorneys' fees, and;
3. For any other such relief that this Court should deem proper and just.

On the Second Cause of Action, for Intentional Interference with Prospective Economic Advantage:

1. For damages according to proof at trial;
2. For an award of punitive damages;
3. For full costs of suit, including reasonable attorneys' fees, and;
4. For any other such relief that this Court should deem proper and just.

On the Third Cause of Action, for Defamation:

1. For damages according to proof at trial;
2. For an award of punitive damages;
5. For full costs of suit, including reasonable attorneys' fees, and;
4. For any other such relief that this Court should deem proper and just.

Respectfully Submitted,



Date: August 31, 2011

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ATTORNEYS FOR PLAINTIFF,
PAWS ABOARD, LLC.

VERIFICATION


I, Amber McCrocklin, on behalf of Paws Aboard, LLC, state the following to be true under the penalties of perjury:

1. I am the Managing Member of Paws Aboard, LLC, the plaintiff in this matter.

2. I am familiar with the facts and proceedings in this lawsuit as they pertain to this Complaint.

3. I have read the foregoing Complaint and know or believe its contents to be true, except as to matters alleged upon information and belief, which matters I believe to be true upon information and belief as stated.

Date: 8/19/11


Amber McCrocklin, Managing Member
Paws Aboard, LLC.