

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
SOUTHERN DIVISION**

**LANE SHARK USA, LLC, a Florida
company,**

Plaintiff,

vs.

**TITAN IMPLEMENT, LLC, a Tennessee
company, and TRAILBLAZER
ATTACHMENTS, LLC, a Tennessee
company,**

Defendants.

CASE NO: 1:19-CV-00326

District Judge: J. Ronnie Greer

Magistrate Judge: Christopher H. Steger

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Lane Shark USA, LLC (“Plaintiff” or “Lane Shark”), by and through its attorneys, for its First Amended Complaint against Defendants Titan Implement, LLC and Trailblazer Attachments, LLC (collectively “Defendants” or “Trailblazer”), alleges the following:

NATURE OF THE ACTION AND SUMMARY OF RELIEF SOUGHT

1. Lane Shark developed a removable multi-position brush cutter attachment for small and mid-sized tractors. This impactful technology has been called a game changer by Lane Shark’s customers due to the savings in time and money the Lane Shark brush cutter provides. Lane Shark has invested significant resources to develop and market its revolutionary brush cutter products, called the Lane Shark LS-2 and the Lane Shark LS-3. Lane Shark has been awarded patent protection from the United States Patent and Trademark Office (“USPTO”) in recognition of its multi-position brush cutter invention.

2. On information and belief, Titan Implement LLC formed Trailblazer Attachments LLC for the sole purpose of copying Lane Shark’s proprietary brush cutter design to directly and unfairly compete with Lane Shark. Trailblazer currently manufactures and sells the Trailblazer

TB-ONE, which, as will be discussed more fully below, is a direct copy of Lane Shark's patented design and infringes Lane Shark's patent rights, thus denying Lane Shark the exclusivity to which it is entitled under the Patent Act.

3. Lane Shark files this Complaint to immediately and permanently enjoin Trailblazer's blatant and willful patent infringement pursuant to the Patent Act, 35 U.S.C. §§ 271, 283-285, and to recover all damages and monetary relief warranted by Trailblazer's acts of infringement.

PARTIES

4. Lane Shark is a Florida limited liability company with its principle place of business in Pensacola, Florida. Lane Shark manufactures and sells multi-position brush cutter attachments for tractors under the Lane Shark brand.

5. Titan Implement LLC is a Tennessee limited liability company with a principal place of business at 232 Industrial Ln., Decatur, Tennessee 37322.

6. Trailblazer Attachments LLC is a Tennessee limited liability company with a principal place of business at 232 Industrial Ln., Decatur, Tennessee 37322.

7. Titan Implement LLC and Trailblazer Attachment LLC together make, advertise, offer for sale, and sell a multi-position brush cutter attachment called the TB-ONE based on Lane Shark's patented design in direct competition with Lane Shark.

JURISDICTION AND VENUE

8. This is an action for patent infringement under the United States Patent Act, specifically 35 U.S.C. § 271. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Trailblazer because Trailblazer is incorporated and resides in this Judicial District and, on information and belief, has committed acts of infringement within this Judicial District.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

FACTUAL BACKGROUND

11. Travis Odom founded Lane Shark in February 2017 after inventing the revolutionary Lane Shark multi-position brush cutter. The Lane Shark brush cutter provides an easily-attachable brush cutter accessory for tractors that can take a variety of cutting positions for unprecedented flexibility and utility. Images of the Lane Shark brush cutter are depicted below.



12. The Lane Shark brush cutters have been met with substantial commercial success and acclaim in the industry.

13. Lane Shark filed a patent application to protect Mr. Odom’s invention on January 30, 2018.

14. Given the commercial success and industry acclaim for the Lane Shark brush cutters, Mr. Baily Turner, Vice President of Titan Implement LLC, approached Mr. Odom on November 16, 2018 and offered to acquire Lane Shark’s assets or manufacture Lane Shark’s brush cutter for Lane Shark.

15. Prior to and during the November 2018 meeting, Mr. Odom informed Mr. Turner that Lane Shark had a pending patent application for the Lane Shark brush cutter.

16. Lane Shark immediately declined Mr. Turner's offer to acquire Lane Shark. Ultimately, Lane Shark declined Mr. Turner's offer to manufacture for Lane Shark.

17. Having failed to acquire Lane Shark's technology through proper means, and with knowledge that Lane Shark was in the process of acquiring patent protection, Mr. Turner, his father Michael Turner, and/or Titan Implement LLC formed Trailblazer Attachment LLC on December 14, 2018 and thereafter began making and selling a blatant copy of the Lane Shark proprietary brush cutter, which it calls the Trailblazer TB-ONE. Images of Trailblazer's knock-off brush cutter product are depicted below.



18. Trailblazer has acknowledged that it took the Lane Shark design to create the TB-ONE. Yet in its online marketing, it deceptively suggests that Trailblazer pioneered the multi-position brush cutter (which it stole from Lane Shark) by stating, "The industry was in need of a manufacturer willing to push the envelope of design and execution. Trailblazer Attachments was created to fill the void." See <http://trailblazerattachments.com>.

19. In February 2019, Lane Shark reminded Trailblazer that it had filed a patent application to protect Mr. Odom’s brush cutter invention, and notified Trailblazer that Lane Shark was pursuing expedited examination of its application given Trailblazer’s actions of copying the Lane Shark brush cutter.




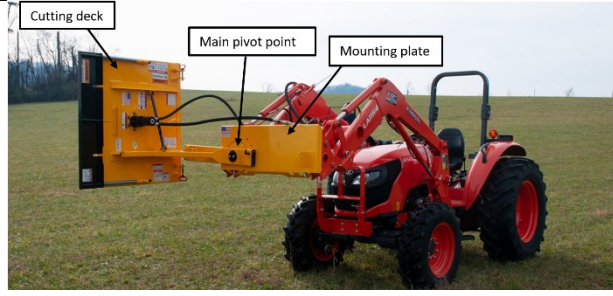
20. On November 12, 2019, the USPTO granted U.S. Patent No. 10,470,364 (the “’364 patent”) entitled “Removably Attachable Adjustable Cutting Apparatus And Method.” Lane Shark is the owner of the ’364 patent. A copy of the ’364 patent is attached as Exhibit A.

21. The ’364 patent claims a novel and non-obvious invention that provides unprecedented brush cutting utility.

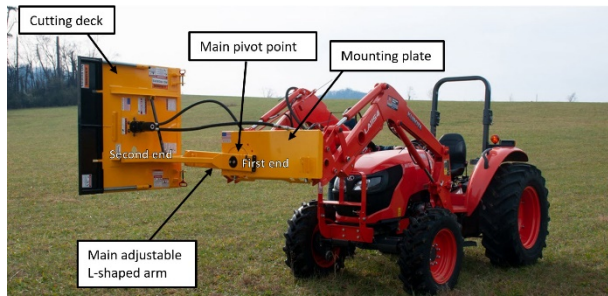
22. Lane Shark’s brush cutters practice one or more of the claims in the ’364 patent.

23. The Trailblazer TB-ONE satisfies every limitation of at least claim 1 of the ’364 patent and, therefore, infringes the ’364 patent, as demonstrated in the following chart.

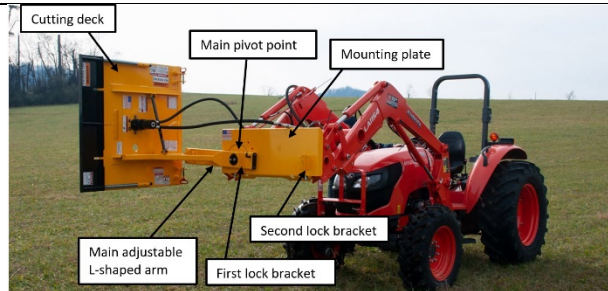
’364 patent (Ex. A)	Trailblazer TB-One http://titanimplement.com/ http://trailblazerattachments.com/tb-one.html https://www.youtube.com/watch?v=-XuHihZKXxE https://www.youtube.com/watch?v=xDEfYuczGlo https://www.youtube.com/watch?v=ocAN2HuvgeU
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<p>Claim 1</p> <p>A removably attachable adjustable cutting apparatus comprising:</p>	 <div data-bbox="990 241 1307 378" style="border: 1px solid black; padding: 5px;"> <p>Four Mounting options available</p> <ul style="list-style-type: none"> Universal Skid Steer John Deere 400 & 500 Euro/Quickie Universal Pin On </div> <div data-bbox="682 546 1396 619" style="border: 1px solid black; padding: 5px;"> <p>The Titan Attachments TrailBlazer TB-One is a new concept in tractor mowing. With 11 different positions, this mower allows you to reach into places previously too very difficult to maintain.</p> </div>
<p>a. a cutting deck;</p>	
<p>b. a mounting plate, with a front and back, connected with said cutting deck;</p>	
<p>c. a main pivot point in said mounting plate;</p>	

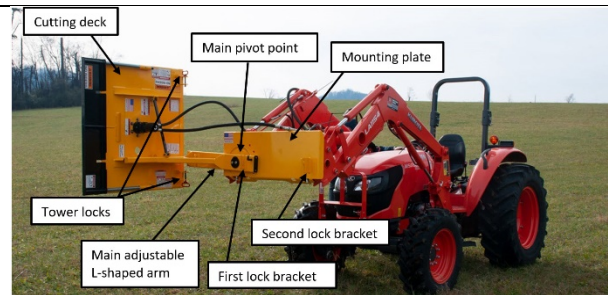
d. an L-shaped main adjustable arm with a first end connected with said mounting plate at said main pivot point such that said first end of said L-shaped main adjustable arm rotates around the main pivot point and parallel to the front of said mounting plate and with a second end wherein the second end of the L-shaped main adjustable arm extends away from said first end perpendicular to the first end and to the front of the mounting plate and wherein the second end is connected with said cutting deck such that said cutting deck is held perpendicular to said front of the mounting plate and is adjustable from a horizontal to a vertical position and positions in between; and



e. a first lock bracket on said L-shaped main adjustable arm and a second lock bracket on said mounting plate

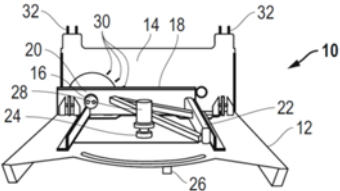
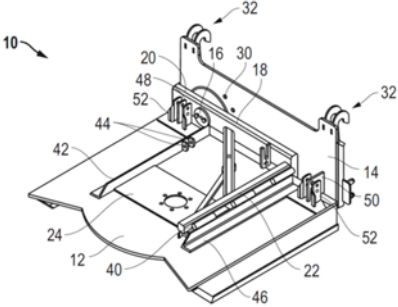

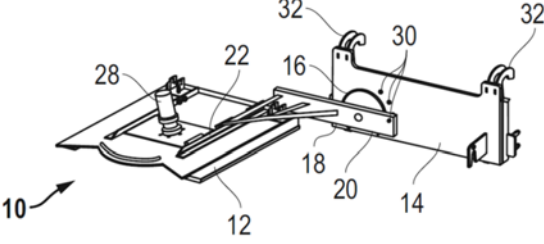

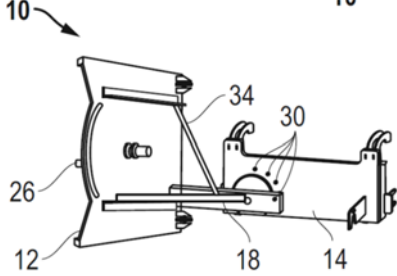

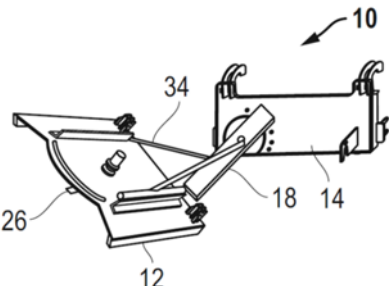



and a spaced apart pair of tower locks on said cutting deck wherein said first lock bracket and said second lock bracket are both configured to fit within and connect with said pair of tower locks.



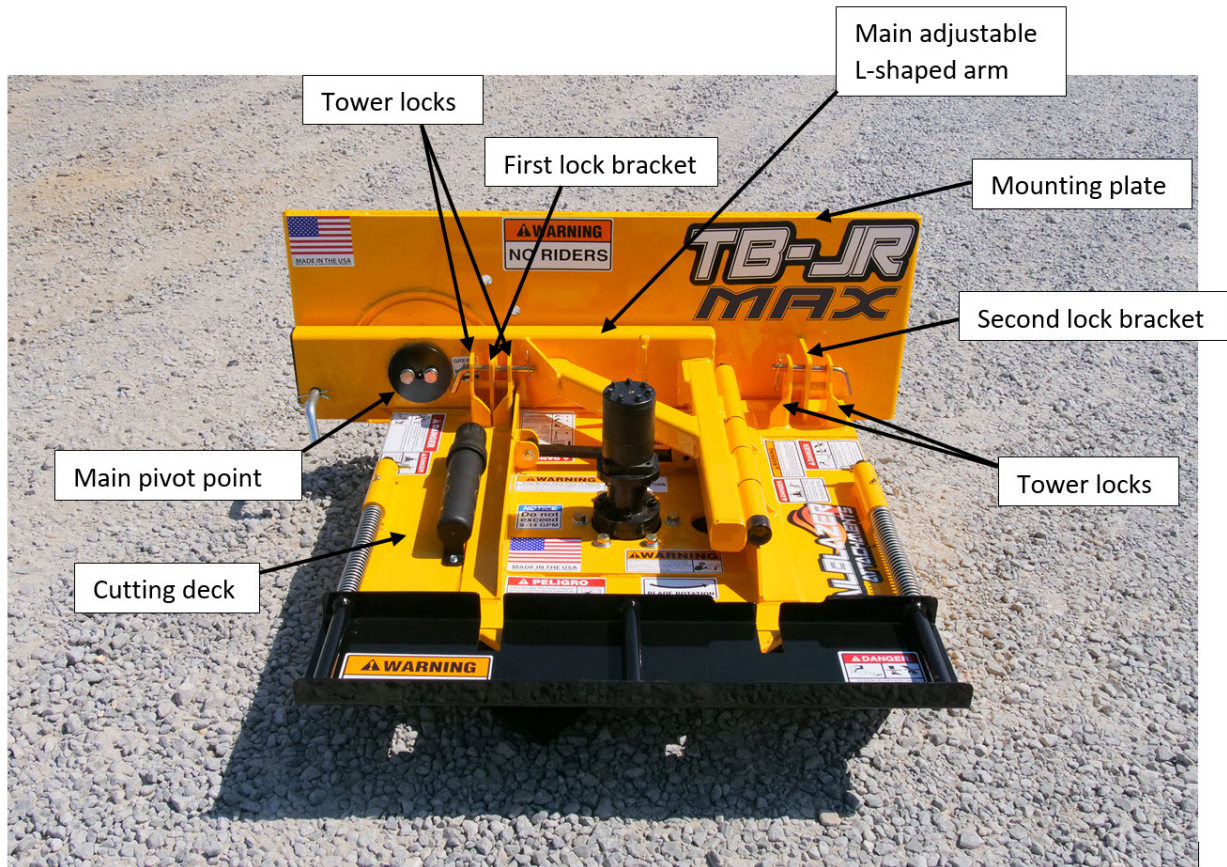
24. The Trailblazer TB-ONE not only infringes the '364 patent, it is a direct copy of the preferred embodiment depicted in the '364 patent, and shown below.

Copying Chart

 <p>FIG. 1</p>  <p>FIG. 6</p>	
 <p>FIG. 2</p>	
 <p>FIG. 3</p>	
 <p>FIG. 4</p>	

25. In addition to the Trailblazer TB-ONE, Trailblazer also makes and sells the TB-JR MAX (*see* <http://trailblazerattachments.com/tb-jr-max.html>), which is a smaller version of the TB-ONE (collectively “the infringing TB products”).

26. Like the TB-ONE, the Trailblazer TB-JR MAX also satisfies every limitation of at least claim 1 of the '364 patent, as illustrated below.



27. Contemporaneous with the filing of this Complaint, Lane Shark sent Trailblazer a cease and desist letter demanding that Trailblazer immediately stop making and selling the infringing TB Products.

28. Despite its knowledge of Lane Shark’s patent rights, and the fact that it copied Lane Shark’s patented design, to the extent Trailblazer refuses to cease and desist, any continued infringing activities including making, using, offering for sale and selling the infringing TB products will be in reckless and blatant disregard of Lane Shark’s patent rights.

29. Trailblazer's actions as described above, and specifically Trailblazer's manufacture, use, marketing, sale and offers to sell the infringing TB products constitute patent infringement under 35 U.S.C. § 271.

30. Trailblazer's continued actions of making, using, selling, and offering for sale the infringing TB products have injured, are injuring, and will cause irreparable injury to Lane Shark if not preliminarily and permanently enjoined.

31. Trailblazer's continued actions of making, using, selling, and offering for sale the infringing TB products after having knowledge of the '364 patent and its infringement thereof demonstrate a deliberate and conscious decision to infringe the '364 patent, or at the very least a reckless disregard of Lane Shark's patent rights and therefore constitute willful infringement.

32. Lane Shark is entitled to an injunction under 35 U.S.C. § 283 prohibiting Trailblazer from further making, using or selling the infringing TB products and any other infringing bush cutter without permission or license from Lane Shark.

33. Lane Shark is entitled to recover all monetary damages caused by Trailblazer's infringing conduct under 35 U.S.C. § 284.

34. To the extent Trailblazer continues to infringe, that constitutes willful infringement and Lane Shark is entitled to enhanced damages and attorneys' fees and costs along with prejudgment interest under 35 U.S.C. §§ 284, 285.

Trade Dress Infringement

35. The foregoing paragraphs are incorporated by reference as if set forth here in full.

36. To distinguish its brush cutter products from other products, Lane Shark's brush cutter products have consistently been and are uniquely configured. Lane Shark's brush cutter products include in combination, *inter alia*, a main pivot point on the lower-left side of the mounting plate, an L-shaped adjustable arm, red-handled adjustable locking pins, "hockey-stick" contours on the

outermost faces of the cutting deck, two parallel channels aside the hydraulic motor, placement of an American Flag with “made in the USA” declaration in the upper-left corner of the mounting plate, and the brush cutters’ overall dimensions and shape.

37. The Lane Shark brush cutters, including the elements listed above, are more than an assemblage of functional parts. They are combined in a manner that, individually and as a whole, constitute non-functional trade dress. The combination of these elements in this manner is not *de jure* functional and is entitled to trade dress protection under the Lanham Act.

38. Defendants have recently started marketing the “TB-Flex” product, which is advertised by Defendants as “the new best thing in front-mounted cutters” with a “simplified process for changing cutting positions.” See <http://trailblazerattachments.com/tb-flex.html>. Defendants presently offer the TB-Flex for \$3,199 (See <https://www.youtube.com/watch?v=4RLrxMSZdEU>), which is hundreds of dollars less than the similarly-sized TB-One Cutter and Lane Shark’s LS-2 brush cutter products. This product lacks one or more of the trade dress features described above and represents an equivalent design not employing all aspects of Lane Shark’s ornamental trade dress.

39. Lane Shark has enjoyed considerable success in marketing its brush cutter products cloaked with this distinctive trade dress.

40. Through considerable investment, advertising, marketing, and sales, the public has come to know and associate products cloaked in Lane Shark’s trade dress as originating from a single source—Lane Shark.

41. Defendants copied the design of Lane Shark’s brush cutter products and presently market, advertise, offer for sale, and sell the TB products. These products copy and infringe Lane Shark’s proprietary trade dress and design.

42. Defendants' TB products infringe on Lane Shark's trade dress and design rights by, *inter alia*, misappropriating the main pivot point on the lower-left side of the mounting plate, an L-shaped adjustable arm, red-handled adjustable locking pins, "hockey-stick" contours on the outermost faces of the cutting deck, two parallel channels aside the hydraulic motor, placement of an American Flag with "made in the USA" declaration in the upper-left corner of the mounting plate, and the brush cutters' overall dimensions and shape.

43. Defendants' copying of Lane Shark's trade dress and design is an attempt to trade off the goodwill that Plaintiff has established manufacturing, marketing, and selling its distinctive trade dress.

44. By offering the TB products for sale and selling the TB products, Defendants infringe Lane Shark's trade dress rights. The trade dress of Defendants' knockoff TB products—the total product and overall impression of the product, its size, shape, configuration, and design—has caused confusion and is likely to continue to cause confusion in the marketplace regarding whether Lane Shark is the source of the TB products, or whether Lane Shark sponsors, endorses or is otherwise affiliated with the TB products.

45. Such confusion has already occurred. Attached as Exhibit B to this Amended Complaint is a true and correct copy of a forum discussion on www.tractorbynet.com which is entitled "Lane Shark bought by Trail Blazer under Titan ??". The initial April 23, 2019 post in this discussion—mere months after Defendants started marketing their TB products—describes the confusion created by Defendants' adoption of Lane Shark's trade dress and design:

Last year I bought a "**Lane Shark**" FEL mounted 44" brush cutter, hydraulically driven, runs at many angles, nice for clearing fence rows, overhanging limbs, etc. Great tool. Readily driven by a utility farm tractor and NOT requiring the high flow hydraulics of a skid steer. OK, fine.

NOW, I stumble into my friendly tractor dealer and find a very new brochure on **Trailblazer Attachments**. The TB-ONE model Trail Blazer FEL mounted cutter is obviously the same thing as my Lane Shark from last

year with new paint and a few mechanical changes (mainly the blade carrier and blade mounting.) The new brochure is totally devoid of any phone numbers, manufacturing locations, etc. except for the website (which has none either.)

After considerable web chasing I find that Trail Blazer is “exclusively distributed” by titan and that both are in Decatur Tenn, unlike the origin of Lane Shark which was in McDavid Florida.

BOTH websites are up and appear to still be active , Lane Shark and Trail Blazer Attachments. Oddly, they have very similar website design and Dealer locator features which show a totally different set of dealers for each of the two products.

Any of you industrial sleuths out there have an idea what happened? Did Titan buy out Lane Shark and form a new company called Trail Blazer Attachments ? That's my #1 theory. [The company has not had time to reply to my inquiry but I'm curious what people on the street know of all this and especially any comments from other Lane Shark owners.]

Exhibit B, page 1 (emphases and typos in original).

46. On information and belief, Defendants knowingly and intentionally copied the trade dress and design of Lane Shark’s brush cutter in an attempt to take unfair advantage of and trade off the reputation and goodwill of Lane Shark, which has been established since introduction of the Lane Shark brush cutter products to the market.

47. Lane Shark has not approved Defendants’ use or misappropriation of Lane Shark’s trade dress or design.

FIRST CLAIM FOR RELIEF
Patent Infringement Under 35 U.S.C. § 271(a)(b)

48. The foregoing paragraphs are incorporated by reference as if set forth here in full.

49. On November 12, 2019, the United States Patent and Trademark Office issued the ’364 patent for inventions generally directed to removably attachable adjustable cutting apparatuses and methods.

50. As demonstrated above, and as will be shown in greater detail in this case, the TB products satisfy every limitation of at least one claim of the '364 patent, including claim 1. Since at least November 12, 2019, Defendants have manufactured, used, offered for sale, and sold the TB products, and thereby have infringed and are directly infringing one or more claims of the '364 patent, including but not limited to claim 1, in this District and elsewhere in the United States.

51. Since at least receipt of the aforementioned cease and desist letter, Defendants' infringement of the '364 patent has been willful and in spite of the objectively high likelihood that its actions constituted infringement.

52. With knowledge of the '364 patent, Defendants, through at least their marketing materials, user manuals, and customer support channels, have actively induced and encouraged their customers and end users to use the TB products. Use of the TB products by Defendants' customers and end users is an act of direct infringement of at least one claim of the '364 patent, including but not limited to claim 1.

53. Defendants induce and encourage use of the TB products by their customers and end users despite knowledge that the TB products infringe the '364 patent and/or the objectively high likelihood that such use infringes one or more claims of the '364 patent, and Defendants do so with the specific intent that their customers and end users infringe one or more claims of the '364 patent. At least these acts constitute indirect infringement of one or more claims of the '364 patent.

54. Defendants have committed these acts of infringement without license or authorization.

55. Lane shark reserves the right to assert additional claims and supporting evidence and allegations, and the foregoing allegations are meant to be exemplary only.

56. Defendants have substantially injured Lane Shark and are liable to Lane Shark for direct infringement of the '364 patent for all damages caused by the infringement to the fullest

extent permitted by the Patent Act, together with prejudgment interests and costs for Defendants' wrongful conduct.

57. As a result of Defendants' infringement of the '364 patent, Lane Shark has suffered and will suffer irreparable harm and seeks injunctive relief.

SECOND CLAIM FOR RELIEF
Trade Dress Infringement—Lanham Act § 43(a)

58. The foregoing paragraphs are incorporated by reference as if set forth here in full.

59. Based at least on its distinctive and *de jure* nonfunctional design, as well as Lane Shark's extensive advertising, promotion, and sales of Lane Shark brush cutters in the United States, the consuming public accepts and recognizes the Lane Shark brush cutter trade dress, and it has become an asset of substantial value as a symbol of Lane Shark, its innovative products, and its goodwill. As a result of Lane Shark's efforts, customers associate the distinctive Lane Shark Product design with Lane Shark.

60. Lane Shark is the owner of all right and title to the Lane Shark Product trade dress.

61. Lane Shark is entitled to legal protection of its trade dress under § 43(a) of the Lanham Act, which trade dress includes a main pivot point on the lower-left side of the mounting plate, an L-shaped adjustable arm, red-handled adjustable locking pins, "hockey-stick" contours on the outermost faces of the cutting deck, two parallel channels aside the hydraulic motor, placement of an American Flag with "made in the USA" declaration in the upper-left corner of the mounting plate, and the brush cutters' overall dimensions and shape, among other things, as Lane Shark's brush cutter products are presented to the consuming public.

62. Notwithstanding Lane Shark's preexisting valid and enforceable rights in the Lane Shark trade dress, Defendants used Lane Shark's trade dress without permission or approval. Defendants' unauthorized use of the Lane Shark trade dress includes selling and offering for sale its TB products in the United States, including to and through its network of dealers. In addition,

Defendants featured the TB product design—which includes Lane Shark’s unique and nonfunctional trade dress—prominently on its website and other marketing materials.

63. Defendants have so closely imitated and/or copied Lane Shark’s trade dress that there is a likelihood of confusion among the consuming public as to the source, origin, or sponsorship of the accused TB products. The consuming public has believed and will likely continue to erroneously believe that Defendants’ products come from Lane Shark or are licensed or sponsored by Lane Shark.

64. By using Plaintiffs’ trade dress in the TB products and related advertising, as alleged above, Defendants have infringed upon Plaintiffs’ trade dress and goodwill.

65. On information and belief, Defendants’ copying of Lane Shark’s trade dress was intentional, and in bad faith. Defendants intended to create brush cutters that are confusingly similar in appearance to Lane Shark’s brush cutter products and intended to market its knockoff TB products in direct competition with Lane Shark to consumers searching for Lane Shark’s products.

66. The accused TB products and Lane Shark’s brush cutter products are strikingly similar, substantially duplicated, substantially identical, remarkably similar, essentially duplicated and/or closely imitated.

67. Defendants’ acts of trade dress infringement have caused and continue to cause damages and injury to Plaintiffs.

68. Lane Shark may recover for damages an award to compensate Lane Shark for the injuries and damages it has sustained as a result of Defendants’ conduct which violates § 43(a) of the Lanham Act.

69. Because Defendants’ acts were intentional, willful, and/or deliberate, Plaintiffs are entitled to an award of treble damages under § 43(a) of the Lanham Act.

70. Lane Shark is entitled to an award of Defendant's profits under the Lanham Act, 15 U.S.C. § 1117(a).

71. Plaintiffs are entitled to an award of pre-judgment interest for damages sustained as a result of the Defendants' wrongful conduct.

72. Defendants' wrongful, malicious, fraudulent, deliberate, willful, intentional and/or incredible conduct makes this case an exceptional case, entitling Plaintiffs to an award of attorneys' fees and costs under the Lanham Act. 15 U.S.C. § 1117(a).

73. Lane Shark has no adequate remedy at law, has suffered and continues to suffer irreparable harm as a result of Defendants' acts, and is therefore entitled to a preliminary and permanent injunction to enjoin Defendants' wrongful conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. That this Court enter judgment that Defendants have directly and indirectly infringed the '364 patent and that the claims of the '364 patent are not invalid;
2. That this Court enter a preliminary and permanent injunction against Defendants prohibiting Defendants from any further direct or indirect infringement of the '364 patent through its manufacture, use, sale or offers to sell the infringing TB products or any other product that infringes the '364 patent;
3. That this Court award Lane Shark all damages caused by Defendants infringing actions;
4. That this Court find this case exceptional and award Lane Shark enhanced damages and all attorneys' fees and costs incurred by Lane Shark in this action; and
5. For any further relief that this Court deems equitable and just.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Lane Shark demands a jury trial on all issues so triable.

Dated: May 11, 2020

Respectfully submitted,

By: /s/ Brett L. Foster

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Attorneys for Plaintiff Lane Shark USA, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 11, 2020, a copy of the foregoing First Amended Complaint was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

s/ Brett L. Foster
Counsel for Plaintiff