

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

SUNDESA, LLC d/b/a THE)	
BLENDERBOTTLE COMPANY, a)	
Utah limited liability company,)	
)	CIVIL ACTION NO. 1:20-cv-591
Plaintiff,)	
)	
v.)	
)	
GLEEB LLC, a Virginia limited)	JURY TRIAL DEMANDED
liability company,)	
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Sundesa, LLC, d/b/a The BlenderBottle Company (“BlenderBottle®”) hereby complains of Defendant GleeB LLC (“Defendant”) and alleges as follows:

NATURE OF THE ACTION

1. BlenderBottle® seeks injunctive relief and damages for Defendant’s acts of patent infringement in violation of the laws of the United States.

THE PARTIES

2. Plaintiff Sundesa, LLC doing business as the BlenderBottle® Company, is a limited liability company organized and existing under the laws of the State of Utah, with its principal place of business located at 250 South 850 East, Lehi, Utah 84043.

3. BlenderBottle® is informed and believes, and, based thereon, alleges that Defendant GleeB LLC is a limited liability company organized and existing under the laws of the Commonwealth of Virginia, with its principal place of business located at 1456 Waggaman Cir., Mclean, Virginia 22101.

JURISDICTION AND VENUE

4. This Court has original subject matter jurisdiction over the claims in this action pursuant to §§ 1331 and 1338(a), as these claims arise under the laws of the United States, including the patent laws.

5. This Court has personal jurisdiction over Defendant because Defendant resides in this judicial district, has a principal place of business in this judicial district, and has a continuous, systematic, and substantial presence within this judicial district. For example, Defendant has been selling and offering for sale infringing products in this judicial district, and committing acts of infringement in this judicial district,

including but not limited to, selling infringing products to consumers and/or retailers in this district and selling infringing products into the stream of commerce knowing such products would be sold in this district. These acts form a substantial part of the events or omissions giving rise to BlenderBottle®'s claims.

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), 1391(d), and 1400(b) because Defendant is a company organized and existing under the laws of the Commonwealth of Virginia and has its principal place of business located within this district, because Defendant has committed acts of infringement by offering to sell and/or selling infringing products in this judicial district, and because Defendant has a regular and established place of business in this district.

BACKGROUND

7. BlenderBottle® revolutionized the way nutritional supplements are mixed and consumed. Through the tireless efforts of its designers and engineers over nearly two decades, BlenderBottle® has pioneered innovative technology and path-breaking designs to create premium products that help simplify everyday life. Available in more than 90 countries worldwide and in over 60,000 retail locations, BlenderBottle®'s shakers have become the go-to products for outdoor enthusiasts, gym goers, serious protein drinkers and more. Products embodying BlenderBottle®'s proprietary designs and technology have been lauded by consumers and the media, including *Good Morning America*, *Reader's Digest*, *Self*, *the Today Show*, *Men's Fitness*, and others.

8. BlenderBottle® protects its substantial investment in innovation and design from imitators with its intellectual property rights.

9. On April 15, 2014, the USPTO duly and lawfully issued United States Patent No. 8,695,830 (the “’830 Patent”), titled “CONTAINER LID HAVING INDEPENDENTLY PIVOTING FLIP TOP AND HANDLE.” BlenderBottle® is the exclusive licensee of the ’830 Patent and has been granted all rights thereunder, including the right and standing to enforce the ’830 Patent. A true and correct copy of the ’830 Patent is attached hereto as **Exhibit 1**.

10. On February 2, 2016, the USPTO duly and lawfully issued United States Design Patent No. D748,478 (the “D478 Patent”), titled “CLOSURE FOR A CONTAINER.” BlenderBottle® is the exclusive licensee of the D478 Patent and has been granted all rights thereunder, including the right and standing to enforce the D478 Patent. A true and correct copy of the D478 Patent is attached hereto as **Exhibit 2**.

11. On June 12, 2018, the USPTO duly and lawfully issued United States Design Patent No. D820,038 (the “D038 Patent”), titled “LID FOR A CONTAINER.” BlenderBottle® is the exclusive licensee of the D038 Patent and has been granted all rights thereunder, including the right and standing to enforce the D038 Patent. A true and correct copy of the D038 Patent is attached hereto as **Exhibit 3**.

COUNT ONE – PATENT INFRINGEMENT

12. BlenderBottle® repeats and re-alleges the allegations of paragraph 1-11 of this Complaint as if set forth fully herein.

13. This is a claim for patent infringement under 35 U.S.C. § 271.

14. Defendant, through its agents, employees and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the ’830 Patent, either literally or under the doctrine of equivalents, through, for example, the manufacture,


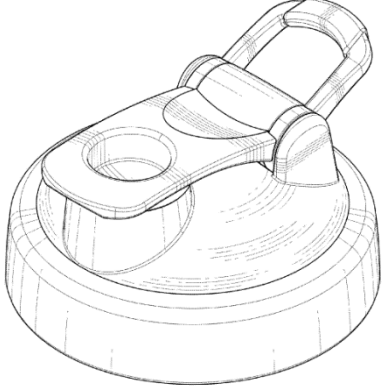
use, sale, offer for sale, and/or importation into the United States of Defendant's gravity bong (the "Accused Product") which is depicted below.




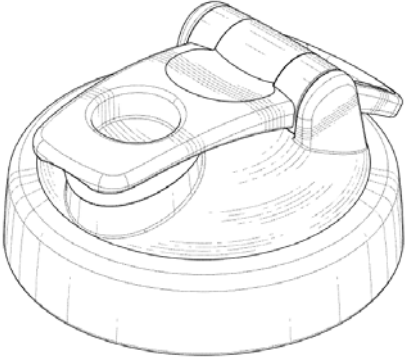
15. For example, the Accused Product infringes at least Claim 1 of the '830 Patent as shown in the claim chart attached hereto as **Exhibit 4**.

16. Defendant, through its agents, employees and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D478 Patent by making, using, selling, offering for sale, and/or importing products, including for example the Accused Product, which has a design that infringes the D478 Patent. For example, the side-by-side visual comparison of a representative figure of BlenderBottle®'s patented design and an image of the Accused Product shown below establishes that in the eye of the ordinary observer, giving such attention as a purchaser usually gives, the design of Defendant's Accused Product is substantially the same as the claimed design of the D478 Patent, because the resemblance is such as to deceive

such an observer inducing him to purchase one supposing it to be the other. As a result, Defendant infringes the D478 Patent.

Accused Product	U.S. Design Patent No. D748,478
	

17. Defendant, through its agents, employees and/or servants has, and continues to, knowingly, intentionally, and willfully infringe the D038 Patent by making, using, selling, offering for sale, and/or importing products, including for example the Accused Product, which has a design that infringes the D038 Patent. For example, the side-by-side visual comparison of a representative figure of BlenderBottle®’s patented design and an image of the Accused Product shown below establishes that in the eye of the ordinary observer, giving such attention as a purchaser usually gives, the design of Defendant’s Accused Product is substantially the same as the claimed design of the D038 Patent, because the resemblance is such as to deceive such an observer inducing him to purchase one supposing it to be the other. As a result, Defendant infringes the D038 Patent.

Accused Product	U.S. Design Patent No. D820,038
	

18. The Accused Product is a gravity bong. Defendant’s website, www.gleebtm.com, advertises that the Accused Product will “[c]hange your smoking experience forever. The Gleeb provides the smoothest hits on-the-go ... and no one knows you’re moking’ on that GAS.” “Smoking that Gas” is modern slang for smoking marijuana.

19. Defendant touts that the Accused Product is discreet, claiming that “[i]t looks like a shaker cup that you would use to work out with.” BlenderBottle® is informed and believes, and based thereon alleges that Defendant intended to copy BlenderBottle®’s designs and visited BlenderBottle®’s website, where BlenderBottle® lists its patents, including the ’830 Patent, D478 Patent, and D038 Patent. BlenderBottle® is informed and believes, and based thereon alleges that Defendant had actual knowledge of BlenderBottle®’s patent rights.

20. Defendant’s acts of infringement of each of the ’830, D478, and D038 Patents were undertaken without permission or license from BlenderBottle®. BlenderBottle® is informed and believes and based thereon alleges that Defendant had

actual knowledge of BlenderBottle®'s rights in each of the '830, D478, and D038 Patents. BlenderBottle® and its iconic designs are well-known throughout the industry and Defendant's Accused Product is an identical copy of BlenderBottle®'s patented design. Accordingly, Defendant's actions constitute willful and intentional infringement of each of the '830, D478, and D038 Patents. Defendant infringed each of the asserted patents with reckless disregard of BlenderBottle®'s patent rights. Defendant knew, or it was so obvious that Defendant should have known, that its actions constitute infringement of the asserted patents. Defendant's acts of infringement of the asserted patents were not consistent with the standards of commerce for its industry.

21. As a direct and proximate result of Defendant's acts of infringement, Defendant has derived and received gains, profits, and advantages in an amount that is not presently known to BlenderBottle®.

22. Pursuant to 35 U.S.C. § 284, BlenderBottle® is entitled to damages for Defendant's infringing acts and treble damages together with interests and costs as fixed by this Court.

23. Pursuant to 35 U.S.C. § 285, BlenderBottle® is entitled to reasonable attorneys' fees for the necessity of bringing this claim.

24. Pursuant to 35 U.S.C. § 289, BlenderBottle® is entitled to Defendant's total profits from Defendant's infringement of the asserted design patent.

25. Due to Defendant's actions, constituting patent infringement, BlenderBottle® has suffered great and irreparable injury, for which BlenderBottle® has no adequate remedy at law. For example, Defendant's continued infringement of

BlenderBottle®'s patent rights, including the blatant copying of BlenderBottle®'s designs creates the false impression that Defendant's products are associated with, sponsored by, originated from, or are approved by BlenderBottle®. This perceived association is severely detrimental to BlenderBottle®'s reputation for health and social responsibility, especially given that Defendant's products are intended to aid in the consumption of illicit substances, e.g., marijuana.

26. Defendant will continue to infringe BlenderBottle®'s patent rights to the great and irreparable injury of BlenderBottle®, unless and until Defendant is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, BlenderBottle® prays for judgment in its favor against Defendant for the following relief:

A. An Order adjudging Defendant to have willfully infringed each of U.S. Patent No. 8,695,830, U.S. Design Patent No. D748,478, and U.S. Design Patent No. D820,038 under 35 U.S.C. § 271;

B. A preliminary and permanent injunction enjoining Defendant, its respective officers, directors, agents, servants, employees, customers, and attorneys, and those persons in active concert or participation with Defendant, from infringing any of U.S. Patent Nos. 8,695,830, U.S. Design Patent No. D748,478, or U.S. Design Patent No. D820,038 in violation of 35 U.S.C. § 271, including, for example, through the manufacture, use, sale, offer for sale, and/or importation into the United States of Defendant's products accused of infringing any of U.S. Patent No. 8,695,830, U.S.

Design Patent No. D748,478, or U.S. Design Patent No. D820,038 and any products that are not colorably different from these products;

C. That Defendant account for all gains, profits, and advantages derived through Defendant's infringement of U.S. Patent No. 8,695,830, U.S. Design Patent No. D748,478, and U.S. Design Patent No. D820,038 in violation of 35 U.S.C. § 271, and that Defendant pay to BlenderBottle® all damages suffered by BlenderBottle® from such infringement pursuant to 35 U.S.C. § 284;

D. That, if Plaintiff so elects, Defendant pay to BlenderBottle® Defendant's total profits from infringement of U.S. Design Patent No. D748,478 and U.S. Design Patent No. D820,038 pursuant to 35 U.S.C. § 289;

E. An Order adjudging that this is an exceptional case under 35 U.S.C. § 285;

F. An Order that Defendant's infringement is willful and a trebling of damages and/or exemplary damages because of Defendant's willful conduct pursuant to 35 U.S.C. § 284;

G. An award to BlenderBottle® of the attorneys' fees, expenses, and costs incurred by BlenderBottle® in connection with this action pursuant to 35 U.S.C. § 285;

H. An award of pre-judgment and post-judgment interest and costs of this action against Defendant; and,

I. Such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, BlenderBottle® requests a trial by jury of all issues so triable.

s/ Andrea L. Cheek

Andrea L. Cheek

Counsel for Plaintiff
SUNDESA, LLC d/b/a THE
BLENDERBOTTLE COMPANY

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