

Plaintiff, Tyger Manufacturing LLC, for its Second Amended Complaint against the Defendants, Mike's Worldwide LLC, Mike's Novelties, Inc., and Manish Chander, a/k/a Manish Chandra, and a/k/a Mike Chander d/b/a MWI, alleges as follows:

1. Plaintiff, Tyger Manufacturing LLC, is a California limited liability company having a principal place of business at 1528 S. El Camino Real, Suite #108, San Mateo CA 94402.
2. On information and belief, defendant Mike's Worldwide LLC is a Texas limited liability company having a principal place of business at 10515 Harwin Drive, Suite 136, Houston, TX 77036 and/or 7250 Harwin Drive, Suite C, Houston, TX 77036.
3. On information and belief, defendant Mike's Novelties, Inc., is a Texas corporation having a principal place of business at 10515 Harwin Drive, Suite 136, Houston, TX 77036 and/or 7250 Harwin Drive, Suite C, Houston, TX 77036.

4. On information and belief, defendant Manish “Mike” Chander, a/k/a Manisch Chandra, and a/k/a Mike Chander d/b/a MWI is an individual having a principal place of business at 10515 Harwin Drive, Suite 136, Houston, TX 77036 and/or 7250 Harwin Drive, Suite C, Houston, TX 77036.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, 35 U.S.C. §1 *et seq.*

6. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§1331 and 1338(a).

7. This Court has personal jurisdiction over the Defendants based upon their contacts with this forum, including, residing and having a regular and established place of business within the State of Texas and this District.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. §§1391(b) and 1400(b).

GENERAL FACTS

9. Plaintiff is the sole owner of U.S. Patent No. 10,314,333 entitled “Smoking Device” that issued on June 11, 2019. Attached as Exhibit A is a true copy of U.S. Patent No. 10,314,333. U.S. Patent No. 10,314,333 is valid and enforceable.

10. Plaintiff is the sole owner of U.S. Patent No. D761,487 entitled “Smoking Device” that issued on July 12, 2016. Attached as Exhibit B is a true copy of U.S. Patent No. D761,487. U.S. Patent No. D761,487 is valid and enforceable.

11. Plaintiff manufactures, markets, and sells a smoking pipe covered and protected by U.S. Patent No. 10,314,333 and U.S. Patent No. D761,487 under the marks 7PIPE and TWISTY that has been highly successful. Attached as Exhibit C are true pictures of Plaintiff’s smoking pipe.

Plaintiff's smoking pipe has received acclaims by industry professionals for its unique and elegant functional and aesthetic design. Plaintiff's smoking pipe has gone viral on the internet.

12. Upon information and belief, Defendants, import, use, offer to sell, and sell several smoking pipes that infringe U.S. Patent No. 10,314,333 and U.S. Patent No. D761,487. Attached as Exhibit D is a true copy of a web page from Defendants' web site (www.gomwi.com) offering for sale the following smoking pipes: Model Nos: MNP57-GLD; MNP57-RN; MNP57-SL; MNP58-GLD; MNP58-RN; MNP58-SL; and MNP59-GLD. Except for color, Model Nos. MNP57-GLD; MNP57-RN; MNP57-SL are identical to each other (hereinafter collectively the "First Accused Product"). Except for color, Model Nos. MNP58-GLD; MNP58-RN; MNP58-SL are identical to each other (hereinafter collectively the "Second Accused Product"). Model No. MNP 59-GLD shall be referred to herein as the "Third Accused Product." Attached as Exhibit E is a true copy of a web page from Defendants' web site (www.gomwi.com) offering for sale a smoking pipe identified as Model No. MNP54-WH (also one of the pipes of the First Accused Product).

13. On September 26, 2018, Plaintiff sent counsel for Defendants a letter advising Defendants that its import, offer to sell, and/or sale of the First Accused Products infringe U.S. Patent No. D761,487 (the "First Letter"). In the First Letter, Plaintiff demanded, *inter alia*, that Defendants immediately cease and desist from any further import, offer to sell, and/or sale of the First Accused Product, and that Defendants reply to Plaintiff or further legal action would be commenced.

14. On June 11, 2019, Plaintiff sent counsel for Defendants a letter advising Defendant that its import, offer to sell, and/or sale of the First, Second, and Third Accused Products infringes U.S. Patent No. 10,314,333 (the "Second Letter"). In the Second Letter, Plaintiff demanded, *inter*

alia, that Defendants immediately cease and desist from any further import, offer to sell, and/or sale of the First, Second, and Third Accused Product, and that Defendants reply to Plaintiff or further legal action would be commenced.

COUNT I - PATENT INFRINGEMENT - U.S. PATENT NO. 10,314,333

15. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1-14 as if fully alleged herein.

16. Each of the First, Second, and Third Accused Products has each and every limitation of claim 1 of U.S. Patent No. 10,314,333, literally or under the doctrine of equivalents. First, each of the Accused Products has a “glass housing comprising a lower open-end portion, an upper open-end portion, and an inner portion” as required by claim 1. Next, each of the Accused Products has a “body comprising a rear body portion comprising a rear surface disposed within said lower open-end portion of said glass housing” as required by claim 1. Next, each of the Accused Products has a “first rubber O-ring removably attached to said rear body portion” as required by claim 1. Next, in each of the Accused Products, the rear body portion of the body is “rotatably and sealably engaged with said lower open-end portion of said glass housing by said first rubber O-ring” as required by claim 1. Next, each of the Accused Products has an “auger comprising a first end portion engaged with said rear body portion and a second end portion extending within said inner portion of said glass housing to form a bowl area at said upper open end portion of said glass housing” as required by claim 1. Next, in each of the Accused Products, the bowl area is “bound by said upper open-end portion of said glass housing and a terminal end surface of said second end portion of said auger adjacent to and facing said bowl area” as required by claim 1. Next, in each Accused Product, “said auger, said glass housing extending from said lower open-end portion to said upper open-end portion, and said bowl area share a common central

longitudinal axis” as required by claim 1. Next, in each Accused Product, “rotation of said body causes rotation of said auger causing the smoking material within said glass housing to move toward said bowl area” as required by claim 1. Finally, in each Accused Product, “further rotation of said body causes said auger to expel the smoking material from said upper open-end portion of said glass housing” as required by claim 1.

17. Each of the First, Second, and Third Accused Products has each and every limitation of claim 2 of U.S. Patent No. 10,314,333, literally or under the doctrine of equivalents. First, each of the Accused Products has a “first opening disposed in the rear surface spaced apart from the auger” as required by claim 2.

18. Defendants’ import, offer to sell, and/or sale of the Accused Products into and/or within the United States and its territories infringes claims 1 and 2 of U.S. Patent No. 10,314,333 in violation of 35 U.S.C. §271(a).

19. Defendants had constructive and then actual knowledge of U.S. Patent No. 10,314,333. Defendants’ import, offer for sale, and/or sale of the Accused Products after receiving actual knowledge of U.S. Patent No. 10,314,333 is and continues to be a willful infringement of U.S. Patent No. 10,314,333.

20. There are no non-infringing substitutes for plaintiff’s pipe as the scope of protection afforded by claim 1 of U.S. Patent No. 10,314,333 is broad.

21. As a result of Defendants’ infringement of U.S. Patent No. 10,314,333, Plaintiff has and continues to incur irreparable harm.

22. As a result of Defendants’ infringement of U.S. Patent No. 10,314,333, Plaintiff has and continues to incur monetary damages.

COUNT II - PATENT INFRINGEMENT - U.S. PATENT NO. D761,487

23. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1-21 as if fully alleged herein.

24. The ornamental design of the First Accused Product is highly similar if not identical to the claimed design of U.S. Patent No. D761,487. A consumer would mistake or confuse the design of the First Accused Products with the claimed design of U.S. Patent No. D761,487. An ordinary observer would be deceived into believing that each of the First Accused Products is the same as plaintiff's patented design.

25. Defendants' import, use, offer for sale, and/or sale of the First Accused Product infringes U.S. Patent No. D761,487 in violation of 35 U.S.C. §271(a).

26. Defendants had constructive and then actual knowledge of U.S. Patent No. D761,487. Defendants' import, offer for sale, and/or sale of the First Accused Products after receiving actual knowledge of U.S. Patent No. D761,487 is and continues to be a willful infringement of U.S. Patent No. D761,487.

27. There are no non-infringing substitutes for plaintiff's pipe as the scope of protection afforded by claimed design of U.S. Patent No. D761,487 is broad.

28. As a result of Defendants' infringement of U.S. Patent No. D761,487, Plaintiff has and continues to incur irreparable harm.

29. As a result of Defendants' infringement of U.S. Patent No. D761,487, Plaintiff has and continues to incur monetary damage.

PRAYER FOR RELIEF

A. Plaintiff requests this Court to enter judgment in favor of it and against the Defendants on the above counts and grant it the following relief:

B. Pursuant to 35 U.S.C. §283, an Order that Defendants be preliminary enjoined from

making, importing, using, offering for sale, and/or selling the Accused Products or any other product that infringes U.S. Patent Nos. 10,314,333 and/or D761,487;

C. Pursuant to 35 U.S.C. §283, an Order that Defendants be permanently enjoined from making, importing, using, offering for sale, and/or selling the Accused Product or any other product that infringes U.S. Patent Nos. 10,314,333 and/or D761,487;

D. Pursuant to 35 U.S.C. §284, that Defendants pay plaintiff actual damages as may be proved at trial, and in no event less than a reasonable royalty;

E. Pursuant to 35 U.S.C. §289, that Defendants pay plaintiff an amount of damages equal to the profits realized by Defendant from the sale of the Accused Products as may be proved at trial;

F. Pursuant to 35 U.S.C. §284, that Plaintiff be awarded treble damages;

G. Pursuant to 35 U.S.C. §284, that Plaintiff be awarded interest on damages;

H. Pursuant to 35 U.S.C. §285, that Plaintiff be awarded its reasonable attorney fees;

I. Pursuant to 35 U.S.C. §284, that Plaintiff be awarded its costs; and

J. Such other relief as this Court deems equitable and just.

REQUEST FOR A JURY

Plaintiff hereby requests a jury on all issues triable by a jury.

Respectfully submitted,

Dated: August 5, 2020

By: /s/ John T. Polasek

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 5th day of August 2020, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

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/s/ Tari Martin