

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LIFETIME BRANDS, INC.,

Plaintiff,

v.

HILLS POINT INDUSTRIES LLC, dba
GORILLA COMMERCE,

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL COMPLAINT

1. Lifetime Brands, Inc. (“Lifetime Brands”), by its attorneys, files this Complaint against Hills Point Industries LLC, dba Gorilla Commerce (“Gorilla” or “Defendant”), and states and alleges as follows:

2. This is a patent infringement action to stop Defendant’s infringement of U.S. Patent No. 7,395,753 to Dorion, titled “Comestible Product Press” (the “’753 Patent” or the “Asserted Patent”), attached hereto as Exhibit A.

3. Lifetime Brands seeks injunctive relief prohibiting Defendant from making, using, offering for sale, selling, and/or importing citrus squeezers infringing the Asserted Patent, including but not limited to the Accused Product (as defined below), as well as an award of monetary damages to compensate Lifetime Brands for Defendant’s infringing acts and willful infringement of the ’753 Patent.

THE PARTIES

4. Plaintiff Lifetime Brands is a Delaware corporation with a registered office at 241 Little Falls Drive, Wilmington, Delaware 19808.

5. Defendant, upon information and belief, is a Delaware limited liability company with its principal place of business in Connecticut, with its registered agent at 1209 Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

6. This is an action for patent infringement pursuant to the Patent Laws of the United States, in particular 35 U.S.C. §§ 271, 281, 283, 284, and 285. Subject matter jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 and 1338(a).

7. Defendant is a Delaware limited liability company and, therefore, is subject to jurisdiction within this District pursuant to the Delaware Long-Arm Statute, Del. Code Ann. tit. 10 § 3104(c)(1-2).

8. Defendant has sufficient minimum contacts with this District, through at least the importation, distribution, offer and/or sale of infringing goods within this District, such that this Court has personal jurisdiction over Defendant.

9. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 1400, as this Court has personal jurisdiction over Defendant.

BACKGROUND

10. Lifetime Brands is a leader in the consumer products industry. The Lifetime Brands family of affiliated companies manufacture and market a diversified range of high-quality kitchen tools and gadgets, under brands including Farberware®, KitchenAid®, Sabatier®, Amco Houseworks®, Chef'n®, Chicago™ Metallic, Copco®, Fred® & Friends, Houdini™, KitchenCraft®, Kamenstein®, Kizmos™, La Cafetière®, MasterClass®, Misto®, Swing-A-Way®, Taylor® Kitchen, and Rabbit®.

11. The owner of the Chef'n® family of trademarks and licensee of the Amco Houseworks® family of trademarks, Lifetime Brands and its predecessors-in-interest have made and continue to make substantial investments in developing new technologies related to kitchen gadgets that have been sold under the Chef'n® and Amco Houseworks® brands. Lifetime Brands owns hundreds of patents on kitchen gadget-related technology, including the Asserted Patent. Chef'n® and Amco Houseworks® brand products are sold throughout the United States and the world. One such product is the Chef'n® FreshForce Citrus Juicer, which is directed to users removing juice from a lemon or lime. For example, a side view and a top view of the Citrus Squeezer for the Chef'n® FreshForce Citrus Juicer are depicted below:



12. The Chef'n® FreshForce Citrus Juicer incorporates various aspects of Lifetime Brands' patented comestible product press technologies.

13. Another such product is the Amco Houseworks® 8-Inch Two-in-One Citrus Squeezer, which is directed to users removing juice from a lemon or lime. For example, a front image of the packaging and a side view of the Citrus Squeezer for the Amco Houseworks® 8-Inch Two-in-One Citrus Squeezer are depicted below:



14. The Amco Houseworks® 8-Inch Two-in-One Citrus Squeezer incorporates various aspects of Lifetime Brands’ patented comestible product press technologies.

15. On information and belief Gorilla Commerce has marketed and sold the Gorilla Grip Premium Lemon Lime Citrus Squeezer in the United States in at least two versions, shown here in Exhibits B and C (“Accused Product”).

16. According to its own website, the Gorilla Grip Premium Lemon Lime Citrus Squeezer is “[c]onstructed of heavy-duty metal with a long and easy-to-use handle, the juicer has been specially engineered to help extract more juice with less effort” See <https://gorillagrip.com/products/gorilla-grip-premium-lemon-lime-citrus-squeezer>.

17. According to its Amazon product page, Hills Point Industries, LLC manufactures the Gorilla Grip Premium Lemon Lime Citrus Squeezer. See <https://www.amazon.com/Gorilla-Grip-Premium-Squeezer-Dishwasher/dp/B0861MBVV1?th=1>. Defendant's Gorilla Grip Premium Lemon Lime Citrus Squeezer is marketed to consumers, at least in the United States, with the phrase "only juice while capturing pulp and seeds." See <https://www.amazon.com/Gorilla-Grip-Premium-Squeezer-Dishwasher/dp/B0861MBVV1?th=1>.

18. Defendant's Gorilla Grip Premium Lemon Lime Citrus Squeezer also has been marketed with the phrase "patent-pending design." See image below and <https://www.amazon.com/Gorilla-Grip-Premium-Squeezer-Dishwasher/dp/B0861MBVV1?th=1>.



19. The Accused Product infringes at least one claim of the Asserted Patent, as shown in Exhibit D.

20. Upon information and belief, through their actions, Defendant also has (i) induced third parties to directly infringe at least one claim of the Asserted Patent and/or (ii) contributed to the direct infringement of at least one claim of the Asserted Patent by third parties, in that those third parties have at least used, offered for sale, and/or sold the Accused Product in the United States.

COUNT I
PATENT INFRINGEMENT OF U.S. PATENT NO. 7,395,753

21. Lifetime Brands incorporates the above paragraphs herein by reference.

22. On July 8, 2008, United States Patent No. 7,395,753 was duly and legally issued.

23. The '753 Patent discloses, *inter alia*, a comestible product press having a first and second handle, each having a protrusion, and an intermediate member between the first and second handle, where the intermediate member comprises a plurality of apertures. A true and correct copy of the '753 Patent is attached hereto as Exhibit A.

24. Lifetime Brands is the owner of the '753 Patent by virtue of assignments that have been duly and properly recorded with the U.S. Patent and Trademark Office.

25. Upon information and belief, Defendant has manufactured, made, marketed, sold, imported, and/or used the Accused Product, comprising all of the elements and limitations of one or more of the claims of the '753 Patent, and therefore Defendant has infringed one or more claims of the '753 Patent; and/or has induced and/or contributed to the infringement of one or more of the claims of the '753 Patent by others.

26. Defendant has infringed and currently infringes the '753 Patent, literally and/or under the doctrine of equivalents by making, using, selling, offering for sale, and/or importing the Accused Product without permission or license from Lifetime Brands.

27. Lifetime Brands is entitled to recover damages as a result of Defendant's infringing conduct, as well as interest and costs as fixed by this Court pursuant to 35 U.S.C. § 284. Lifetime Brands reserves the right to seek treble damages and recovery of attorneys' fees as a result of Defendant's willful infringement of the '753 Patent, as further investigation and discovery so indicates.

28. Upon information and belief, Defendant will continue its infringement of one or more claims of the '753 Patent unless enjoined by the Court. Defendant's infringing conduct thus causes Lifetime Brands irreparable harm and will continue to cause such harm without the issuance of an injunction.

JURY DEMAND

Lifetime Brands hereby requests a jury trial of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Lifetime Brands prays for judgment that:

- a. One or more claims of United States Patent No. 7,395,753 has been infringed, either literally and/or under the doctrine of equivalents, by Defendant and/or by others to whose infringement Defendant has contributed and/or by others whose infringement has been induced by Defendant;
- b. Defendant, Defendant's respective officers, agents, servants, employees, contractors, and attorneys, and all those in active concert and participation with the foregoing persons and entities be enjoined permanently from further infringement of the Asserted Patent;
- c. Lifetime Brands be awarded damages, together with prejudgment interest and costs, to compensate Lifetime Brands for Defendant's infringement of the Asserted Patent and, with respect to at least the '753 Patent, that such award be increased by three times the amount assessed in view of Defendant's willful infringement;
- d. Lifetime Brands be awarded its costs, disbursements, and attorneys' fees pursuant to 35 U.S.C. § 285;

- e. Lifetime Brands recovers pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and
- g. Lifetime Brands be awarded such other and further relief, at law or in equity, as the Court may deem just and proper.

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