

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

YOGIBO, LLC,

Plaintiff,

v.

GALAXY RELAXATION, LLC, and
JOHN FIORENTINO,

Defendants.

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C.A. No.:

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Yogibo, LLC (“Yogibo”) hereby asserts the following claim for patent infringement against Defendant Galaxy Relaxation, LLC. (“Galaxy”), and Defendant John Fiorentino (collectively, “Defendants”), and states as follows:

NATURE OF ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, based upon Defendants’ infringing Yogibo’s intellectual property, including Yogibo’s patented pillows protected by U.S. Patent No. 10,098,475 (the “‘475 Patent”).

2. Defendants offer for sale and sell several infringing pillow products in place of the patented products designed, manufactured, and sold by Yogibo.

3. As a result of Defendants’ unlawful infringement, they have been wrongfully enriched, and Yogibo has been injured through loss of sales and good will and seeks injunctive and monetary remedies under the federal patent statute, 35 U.S.C. §§ 283, 284, and 285.

THE PARTIES

4. Plaintiff incorporates the preceding paragraphs herein by reference.

5. Plaintiff Yogibo is a New Hampshire limited liability corporation. Its principal place of business is 16 Celina Ave., Unit 13, Nashua, NH 03063.

6. Defendant Galaxy is a Delaware limited liability company, and on information and belief, Galaxy has places of business at 7 Lispenard Street, Unit 2, New York, NY 10013, and 183 Lawson Road, Scituate MA 02066.

7. Galaxy may be served through its registered agent in Delaware, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808. Fiorentino may also be served by delivery personally. Fed.R.Civ.P. 4(e).

8. Defendant John Fiorentino is the principal of Defendant Galaxy, and its founder. On information and belief, he resides at 183 Lawson Road, Scituate MA 02066. He is subject to service of process pursuant to 10 *Del. C.* § 3104(c).

JURISDICTION AND VENUE

9. Plaintiff incorporates the preceding paragraphs herein by reference.

10. This is an action for patent infringement brought under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, including but not limited to 35 U.S.C. §§ 271, 281, 282, 283, 284, and 285. This Court has original subject matter jurisdiction over the claims in this action pursuant to 28 U.S.C. § 1331 (federal question), and 28 U.S.C. § 1338(a) (patents).

11. This Court has personal jurisdiction over Galaxy, which is amenable to service of summons for this action. Furthermore, personal jurisdiction over Galaxy in this action comports with due process. Galaxy has conducted and regularly conducts business within the United States and in Delaware. Galaxy has purposefully availed itself of the privileges of conducting business in Delaware. Galaxy has sought the protection and benefit from the laws of the State of Delaware by incorporating in Delaware and marketing, producing, distributing, offering to sell, and selling

infringing products into the stream of commerce with the knowledge, intent and/or reasonably expectation that these infringing products will be purchased by consumers in Delaware.

12. As discussed more fully herein, Galaxy – directly or through intermediaries (including distributors, retailers, and others), alter egos, and/or agents – ships, distributes, offers for sale, and/or sells its products in the United States and Delaware. Galaxy has purposefully and voluntarily placed one or more of its infringing products into the stream of commerce with the awareness and/or intent that they will be purchased by consumers in Delaware. Galaxy knowingly and purposefully ships infringing products into and within Delaware. These infringing products have been and continue to be purchased by consumers in Delaware. Upon information and belief, through those activities, Galaxy has committed the tort of patent infringement in Delaware and/or has induced others to commit patent infringement in Delaware. Plaintiff’s cause of action for patent infringement arises directly from Galaxy’s activities in Delaware.

13. This Court has personal jurisdiction over Fiorentino pursuant to 10 *Del. C.* § 3104(c). Fiorentino is amenable to service of summons for this action. Furthermore, personal jurisdiction over Fiorentino in this action comports with due process. Through his ownership and control of Galaxy, Fiorentino has conducted and regularly conducts business within the United States and in Delaware. Fiorentino has purposefully availed himself of the privileges of conducting business in Delaware. Upon information and belief, Fiorentino has sought the protection and benefit from the laws of the State of Delaware by forming Galaxy, or causing Galaxy to be formed, as a Delaware limited liability company, and by marketing, producing, distributing, offering to sell, and selling infringing products into the stream of commerce with the knowledge, intent and/or reasonably expectation that these infringing products will be purchased by consumers in Delaware.

14. As discussed more fully herein, Fiorentino formed Galaxy, or caused Galaxy to be formed, as a Delaware limited liability company; and through Galaxy – the alter ego or agent of Fiorentino – Fiorentino directly or through other intermediaries (including distributors, retailers, and others), alter egos, and/or agents – ships, distributes, offers for sale, and/or sells infringing products in the United States and Delaware. Fiorentino has purposefully and voluntarily placed one or more of Galaxy’s infringing products into the stream of commerce with the awareness and/or intent that these infringing products will be purchased by consumers in Delaware. Fiorentino knowingly and purposefully ships infringing products into and within Delaware. These infringing products have been and continue to be purchased by consumers in Delaware. Upon information and belief, through those activities, Fiorentino, individually, and jointly with Galaxy, his alter ego or agent, has committed the tort of patent infringement in Delaware and/or has induced others to commit patent infringement in Delaware. Plaintiff’s cause of action for patent infringement arises directly from Fiorentino’s activities in Delaware.

15. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(d), 1400. Galaxy and Fiorentino are subject to personal jurisdiction in Delaware, and therefore are deemed to reside in Delaware for purposes of venue. As discussed herein, Fiorentino formed Galaxy, or caused Galaxy to be formed, as a Delaware limited liability company, and Galaxy is the alter ego or agent of Fiorentino. Upon information and belief, Fiorentino owns and controls Galaxy, and directs its marketing, distribution and sales of infringing products in the United States and Delaware, specifically. Upon information and belief, Galaxy and Fiorentino have committed acts within Delaware giving rise to this action and do business in Delaware, including, but not limited to, marketing, offering to sell, and selling infringing products in Delaware, providing service and

support to their respective customers in Delaware and/or by operating an interactive website, available to persons in Delaware that advertises, markets, and/or offers for sale infringing products.

BACKGROUND FACTS

16. Plaintiff incorporates the preceding paragraphs herein by reference.

Plaintiff Yogibo Innovated The ‘475 Patented Products

17. Yogibo is a world-renowned developer of bead enclosure furniture and home decor accessories. The company offers various types of pillows, chairs, furniture and home decor accessories through its online platform and retail chain stores.

18. Yogibo was launched in Nashua, New Hampshire in 2009, opening a concept store in 2010 in Natick, Massachusetts. Since then it has grown to over 120 Yogibo retail showrooms with a very strong online presence in the United States, Canada, Japan, Korea, Taiwan and elsewhere.

19. Yogibo also sells its patented products online through its website (www.Yogibo.com), and through numerous online retailers, including Amazon.com, Wayfair.com and others.

20. Yogibo filed for patent protection through a provisional application dated November 27, 2013, and is the owner, assignee of all rights, title and interest in U.S. Patent No. 10,098, 475 (the “‘475 Patent”) entitled “Functionally Supportive Pillows And Methods Of Preparation Thereof”, which issued by the United States Patent and Trademark Office October 16, 2018, based on that provisional application. Yogibo holds the right to sue and recover damages for infringement thereof, including current and past infringement. A copy of the ‘475 Patent is attached as **Exhibit A**.

21. The ‘475 Patent is valid and enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

22. Yogibo's '475 Patent is directed to a functionally supportive pillow comprising a dynamically responsive combination of an inner core enclosing a bead material and an outer shell, wherein the inner core is defined by a first fabric material shaped into a pre-defined form capable of enclosing the bead material, wherein said first fabric consists of one or more synthetic fibers engineered to be stretchy and durable; the outer shell is defined by a second fabric shaped to contain the inner core enclosing the bead material, wherein said second fabric comprises one or more fibers engineered to be stretchy and durable; the bead material comprises a plurality of rounded particulates of polymeric foam capable of free flowing movement in the absence of constant pressure applied to the pillow, and wherein the inner core is disposed directly inside of the outer shell, such that the combination of the inner core with the outer shell creates a dynamic response to applied pressure to the pillow for increased functional support of said pillow, rigidifying the bead material enclosed in the inner core in response to the application of the pressure to the pillow, and returning the bead material to free flowing in the absence of the pressure.

23. Yogibo manufactures and sells a pillows with the design of the '475 Patent, including Yogibo Max, Yogibo Short, Yogibo Midi, Yogibo Pod, Yogibo double, Yogibo Pod X, Yogibo Lounger, Yogibo Support, and Luxe Max, among others.

24. Yogibo products are marked with the '475 Patent number in accordance with 35 USC § 287.

Defendant Fiorentino Copied Yogibo's Patented Product And Other Intellectual Property And Founded Defendant Galaxy To Infringe Yogibo's Intellectual Property

25. Yogibo sales records indicate that Defendant Fiorentino purchased a series of multiple Yogibo products beginning in October, 2017, and continuing through May 2018. These purchases include Yogibo Double Dark Grey, Yogibo Max Deep purple, Yogibo Max Light Grey & Yogibo Max light grey cover, Yogibo Midi light grey, 2 x Yogibo Midi light grey cover, Yogibo Midi Dark Grey cover, Yogibo Max Dark Grey, Yogibo Double Dark Grey Cover, 4 x Yogibo Max light grey cover, and Refill Beads.

26. Fiorentino caused those Yogibo products to be shipped to him at 1087 Flushing Ave. in Brooklyn, New York. On information and belief, that address is the location of a separate business formed by Fiorentino, known as The Good Ones, Inc., which is a Delaware corporation formed in 2016, and has its principal place of business located at 1087 Flushing Ave, Brooklyn, NY. Receipts of Fiorentino's purchases of Yogibo products attached hereto as **Exhibit B**.

27. Approximately, one month after he began purchasing Yogibos's patented products, Fiorentino formed, or caused to be formed, Galaxy Relaxation LLC on November 22, 2017.

28. On information and belief, Fiorentino purchased more than a dozen of Yogibo's products in just 8 months to study the products, their function, raw materials, structure, and designs in order to create a direct copy of Yogibo's patented product. Even a cursory review of the number of items Fiorentino purchased clearly illustrate that they were not purchased for his personal use.

29. Shortly after purchasing Yogibo's products and forming Galaxy, Fiorentino took to the Internet claiming that he "invented," "engineered," "created," and "designed" the Moon Pod, after visiting Japan. In one video, Fiorentino can be heard claiming "I went to Japan and saw all these bean bags and there wasn't such a bean bag in United States."

(<https://www.podchaser.com/creators/john-fiorentino-107a98i36n>),

(<https://youtu.be/CTpvtAgUPqw>)

30. In another social media posting on Twitter, dated September 10, 2018, Fiorentino shared his business philosophy with the public.



31. Upon information and belief, Fiorentino's business model has been and continues to be based on copying the products of others, thereby avoiding the cost and burden of research, development and innovation; avoiding the need to raise capital and validate proof of concept; and appropriating the good will and established market of others.

32. As discussed above, Yogibo's products have been available in the United States and Japan, among other locations, since before Mr. Fiorentino's first purchase from Yogibo. On information and belief, Fiorentino observed Yogibo's products and purchased samples from Yogibo for the purpose of copying its patented features and design, and subsequently copied Yogibo's products.

33. Fiorentino continues to mislead the public by taking credit for inventing a product, that in reality, he derived and copied from Yogibo. For example, in a Facebook posting last year, Fiorentino claimed, "It's like Elon Musk designed a bean bag." (<https://www.facebook.com/moonpod.co/videos/get-25-off-today/619597938768783> (May 30, 2020 Facebook post on the accused product)).

34. On information and belief, Fiorentino even derived the name for his products from Yogibo, copying Yogibo product names to misappropriate Yogibo's good will and with the intention of confusing consumers. At that time, Yogibo widely marketed a product called "Moon" and another product called "Pod."

Yogibo Moon



Yogibo Pod



35. Galaxy's United States Federal Trademark Registration No. 5842916, for "Moonpod" claims a date of first use in commerce of June 13, 2018, months after Fiorentino began purchasing multiple Yogibo products. Galaxy filed its trademark registration application on October 29, 2018.

36. On information and belief, there has been actual confusion in the market among consumers regarding the Yogibo Moon and Yogibo Pod products on the one hand, and the Galaxy Moon Pod product on the other, and there has also been reverse confusion between the products. On information and belief, based on this actual confusion and other evidence to be revealed in discovery, there is a likelihood of confusion between the parties' products.

37. In 2014, Yogibo launched its Zoola line of water resistant bean bags and covers for bean bags, which were for pillows to be used outdoors. They included replacement covers that are water resistant, removable, and washable.



Zoola Mini

38. On information and belief, after seeing Yogibo’s innovation and adaptation for its patented pillows to be used outdoors, Fiorentino again copied Yogibo’s product, which he called the “Outdoor Cover,” with the same false claim to innovation: “Introducing our newest innovation, the Outdoor Cover. Simply place your Moon Pod inside the cover, take it outside, and relax.”



Galaxy Is Nothing More than the Alter Ego, or an Agent, of Fiorentino

39. On information and belief, Fiorentino formed Galaxy, or caused it to be formed, in Delaware for the purpose of marketing and distributing Moon Pod products.

40. On information and belief, Fiorentino controls the finances, policies and business affairs of Galaxy, and is the sole or dominant shareholder of Defendant Galaxy.

41. On information and belief, Galaxy has no other managers, directors and/or officers, at least none that function properly in accordance with Delaware law.

42. On information and belief, Galaxy does not observe corporate formalities.

43. On information and belief, Fiorentino directs and manages all of Galaxy's business activities, including the infringing activities alleged in this Complaint.

44. A Dun & Bradstreet, Inc. Comprehensive Report (the "D&B Report") shows that Galaxy has a high Financial Stress Class, a high risk Credit Score Class, and an undetermined number of employees. The D&B Report is attached as **Exhibit C**. The D&B report suggests that Galaxy is undercapitalized, and may have few or no employees.

45. On information and belief, Fiorentino is siphoning corporate funds from Galaxy for his personal use, rendering Galaxy undercapitalized and on the edge of insolvency to render the company judgement proof.

46. From Galaxy's inception to the present, Fiorentino has promoted himself as the founder and sole creator of Galaxy's accused products, and he is the sole public-facing individual involved in marketing and promoting the accused products. For example, Fiorentino personally appears in videos, interviews, and through extensive social media postings promoting the accused products in this case. *See Exhibit D* (including references, articles, interviews and videos (a) equating Fiorentino with Galaxy, by promoting Galaxy's progress and success as Fiorentino's personal success; (b) promoting Galaxy by a "Day in the Life" video featuring Fiorentino alone, labeling himself "the infomercial man for the company"; (c) claiming Galaxy's obtaining a Time Square billboard as fulfilling his personal dream; (d) claiming that a celebrity endorsement of the Accused Product as one of the "coolest things that will ever happen to me"; (e) showing there are few if any other employees of Galaxy besides Fiorentino; and, (f) showing multiple negative reviews by customers unable to contact or communicate with any actual customer service or employees of Galaxy).

47. On information and belief, Fiorentino formed Galaxy as a Delaware limited liability company, in part, to shield himself from personal liability from his practice of copying Yogibo's successful products and infringing Yogibo's intellectual property rights. Patent infringement has long been recognized by the law as a tort.

48. On information and belief, Galaxy is nothing more than the alter ego, or an agent of, Fiorentino, who runs Galaxy entirely for his personal benefit.

49. Alternatively, Fiorentino aided and abetted and knowingly induced the infringement by Galaxy and its customers of Yogibo's '475 Patent, and is the sole, or primary, beneficiary of the infringing conduct of Galaxy and its customers.

Defendants Fiorentino And Galaxy Infringe The '475 Patent

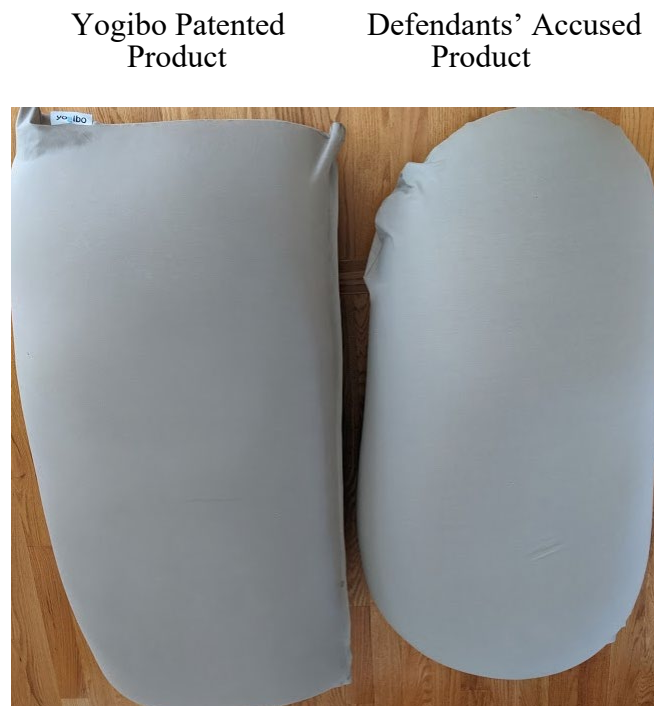
50. In contravention to 35 U.S.C. § 271, Defendants have infringed at least claim 1 of the '475 Patent, literally or by the doctrine of equivalents, by making, using, selling, and/or offering to sell, importing, or causing others to make, use, sell, and/or offer to sell, or import, the accused products, including but not limited to its Moon Pod, Crescent, Super Moon Pod and Lunar Lift A representative claim chart for the accused products is provided in **Exhibit E**.

Yogibo Patented Product



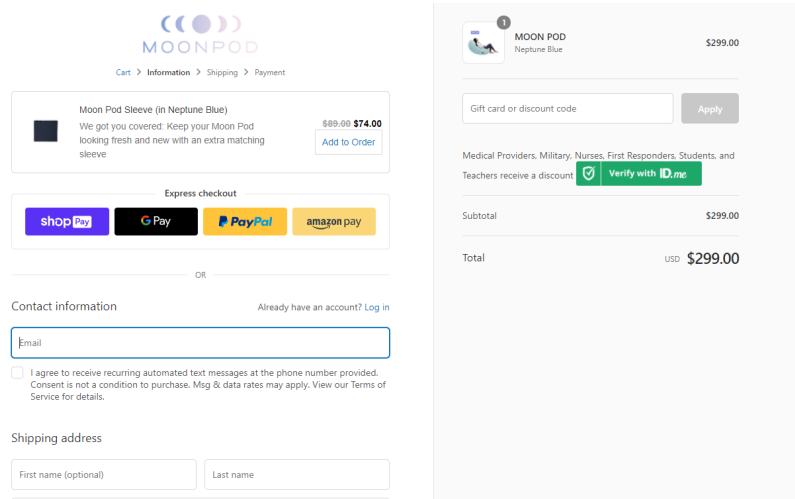
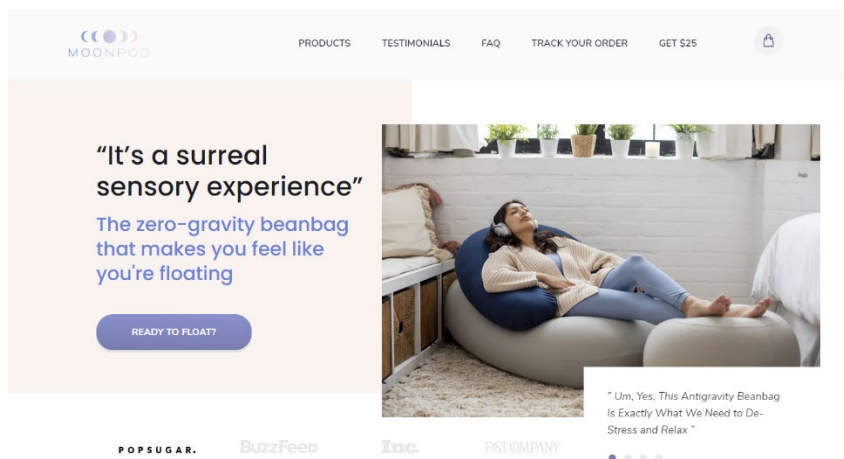
Defendants' Accused Moon Pod





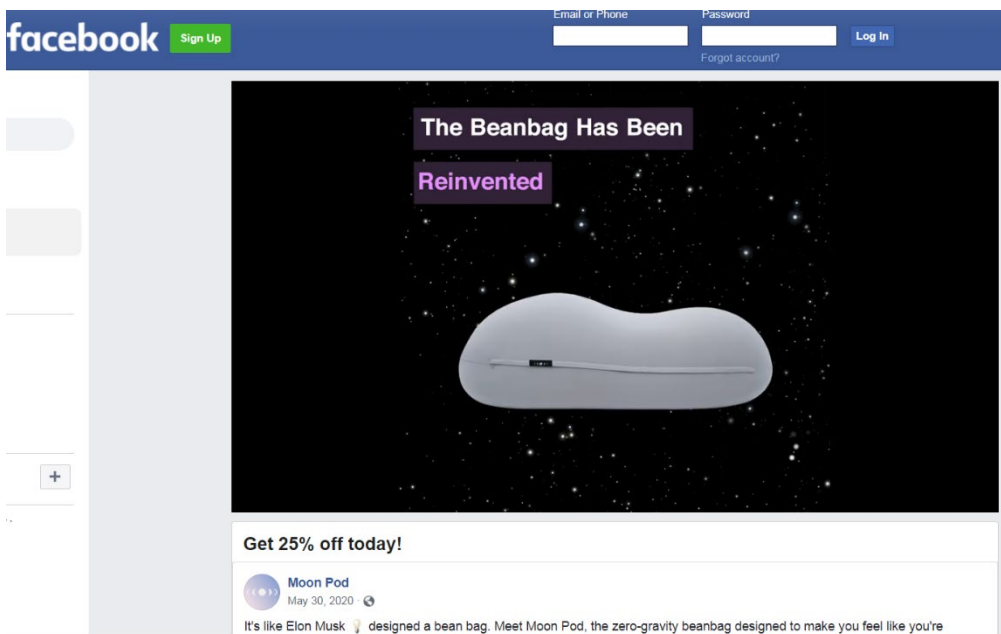
51. On information and belief, Defendants sell other products as a result of infringing sales of accused products, including derivative and convoked sales, such as related non-patented products, replacement parts such as sleeves, etc., which may be considered in assessing the full scope of Defendants' infringement and damages attributable therefore.

52. Defendants conduct business through a website, <https://www.moonpod.co>, operated by Galaxy. Through that website, Defendants offer for sale and sell a variety of products, including the accused products of this case to customers in the United States, including in Delaware.



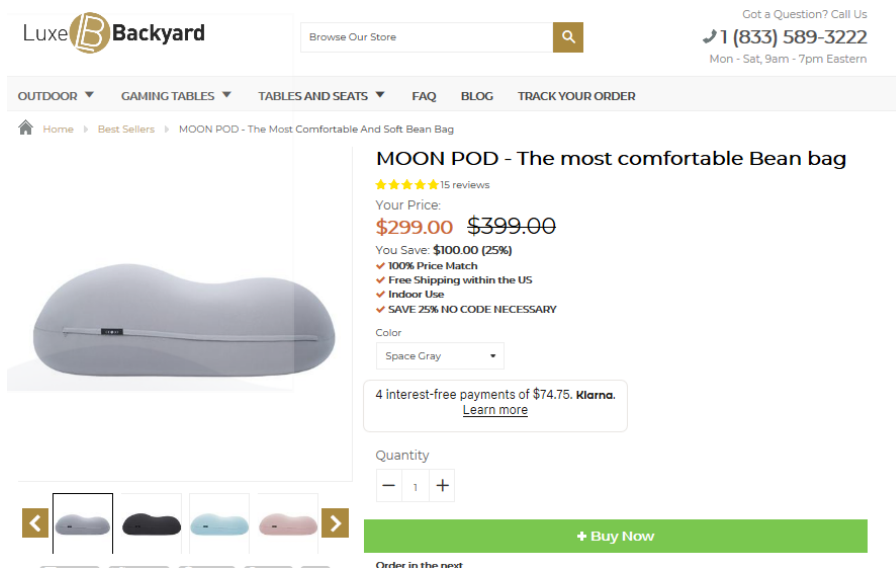
<https://www.moonpod.co/products/moon-pod> (last accessed March 10, 2021).

53. Defendants also market and sell Galaxy's infringing products on-line through advertising on Facebook, Google, and Shopify, among others:

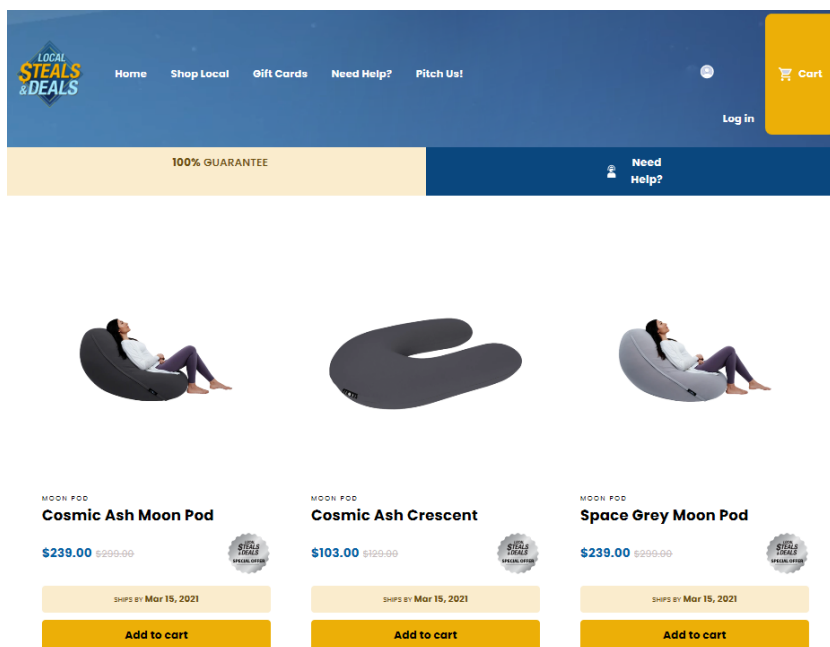


<https://www.facebook.com/moonpod.co/videos/get-25-off-today/619597938768783/>

54. Defendants also sell the accused products through other on-line websites such as Luxebackyard.com and Localstealsanddeals.com:



<https://www.luxebackyard.com/products/moon-pod-the-most-comfortable-bean-bag>



<https://localstealsanddeals.com/collections/moon-pod>

55. Defendants directly infringe the '475 Patent by offering to sell and selling the accused products as assembled products that directly infringes the '475 Patent, and when they make and use assembled accused products in manufacturing, testing, marketing and sales.

56. In addition, Defendants also directly infringe the '475 Patent by (i) selling and offering to sell all of the components of the patented product; and (ii) delivering to customers the inner core containing beads and the outer shell, which are configured to fit and operate together; and (iii) instructing customers to assemble the accused products by inserting the inner core into

UNPACK THE SLEEVE

Remove the sleeve from the clear packaging inside of the shipping box. Unfold and unzip the sleeve.

PLACE THE PODS IN THE SLEEVE

Match up the top seam of the first filled pod with the top seam of the outer sleeve. Slowly and gently place the first filled pod inside the outer sleeve.

ADD THE SECOND POD

Insert the second pod into the sleeve by lining up the side of the pod with the sleeve opening, and the top seam with the top of the sleeve. Make sure that both pods are spread evenly across the sleeve to ensure the correct shape.

the outer shell. Defendants direct their customers to assemble the accused products through written documentation provided with each sale, such as:

and through instructional videos on its YouTube Channel such as:



<https://www.youtube.com/watch?v=K-sFbSdjW9Q> (Moon Pod Unboxing, September 11, 2019)

57. Yogibo's '475 Patent was published to the world as a pending patent application on June 2, 2015, and was issued October 16, 2018.

58. Defendants have been aware of the '475 Patent in suit at least since October, 25, 2018, when Yogibo sent a letter to Defendant Fiorentino advising Defendants of the '475 Patent, and that Defendants' accused products infringed.

59. By letter dated December 4, 2018, Defendants' counsel denied liability on the basis of invalidity assertions based on prior art already considered by, and arguments already rejected by, the United States Patent & Trademark Office during the prosecution of the application leading to the '475 Patent. As such, these assertions did not raise a genuine issue of invalidity by clear and convincing evidence to overcome the statutory presumption of validity, 35 USC § 282, and are not exculpatory for purposes of refuting Defendants' intent as to indirect infringement, or willful infringement.

60. To the extent Defendants purport to have relied on the positions stated in the December 4, 2018, letter, that reliance was an unjustified and inadequate basis to continue its infringement, and to continue to induce and contribute to the infringement by others.

61. Based on this Complaint and other information contemporaneously provided to Defendants demonstrating the unreliability and inadequacy of the positions taken in the December 4, 2018, letter, Defendants' post-Complaint direct and indirect infringement is intentional and willful.

62. On information and belief, Defendants did not in good faith obtain or rely on its counsel's invalidity assertions in directly copying the Yogibo patented products, or continuing to infringe after notice of the '475 Patent. For these reasons, among other things to be learned in discovery, Defendants' infringement is intentional and willful since October, 2018.

CAUSE OF ACTION
COUNT I

(Infringement of U.S. Patent No. 10,098,475 by Defendant Galaxy)

63. Plaintiff incorporates the preceding paragraphs herein by reference.

64. Galaxy has infringed, currently directly infringes, and will continue to directly infringe, the '475 Patent unless enjoined by this Court from making, using, offering for sale, importing and/or selling products infringing Yogibo's patented design within the United States. 35 U.S.C. § 271(a).

65. Because Defendants have been on notice of the '475 Patent since at least October 25, 2018, Defendants knew or should have known of Yogibo, its patented commercial products, and the '475 Patent, and consciously ignored the possibility that their actions would infringe the '475 Patent.

66. Alternatively, because Defendants have been on notice of the ‘475 Patent since at least October 25, 2018, Defendants were willfully blind to Yogibo, its patented commercial products, and the ‘475 as well as Patent the possibility that their actions would infringe the ‘475 Patent.

67. Galaxy has aided and abetted other persons (e.g., distributors, manufacturers, customers, and end users) to infringe the ‘475 Patent by actively and knowingly inducing others to directly infringe the ‘475 patent with knowledge (or willful blindness) of that infringement, such as by making, advertising, selling, offering to sell, supporting, distributing, and using Galaxy’s infringing accused products. These other persons directly infringe the ‘475 patent. 35 U.S.C. § 271(b). Whereas Galaxy has been aware of the ‘475 Patent since October 2018 and Yogibo’s charge of infringement, and that Galaxy’s accused products in use by customers infringes the ‘475 Patent, Galaxy specifically intended these direct infringers to infringe the ‘475 Patent and knew that the direct infringer’s acts constituted infringement.

68. Galaxy has been and is contributing to the infringement of the ‘475 Patent by selling or offering to sell Galaxy’s infringing accused products, knowing them to be especially made or especially adapted for practicing the inventions of the ‘475 Patent and not a staple article or commodity of commerce suitable for substantial non-infringing use. 35 U.S.C. § 271(c). Galaxy knew the accused products, components and materials to be especially made or adapted for a use that is both patented and infringing, and that there is no substantial non-infringing use of the accused products.

69. As a direct and proximate result of Galaxy’s direct and indirect infringement of the ‘475 Patent, Yogibo is suffering damages as well as irreparable injury for which it has no adequate remedy at law. Yogibo will continue to suffer such harm unless Galaxy is enjoined.

70. Yogibo is entitled to recover damages under 35 USC § 284 to adequately compensate for Galaxy's infringement.

CAUSE OF ACTION
COUNT II
(Infringement of U.S. Patent No. 10,098,475 by Fiorentino)

71. Plaintiff incorporates the preceding paragraphs herein by reference.

72. Fiorentino created Galaxy for the purpose of shielding himself from liability for infringing on Yogibo's patent rights by selling and distributing the accused products. On information and belief, Fiorentino authorized the filing of Galaxy's Certificate of Formation with the Secretary of State of the State of Delaware, thereby committing a substantial act within the State of Delaware.

73. On information and belief, Galaxy was formed for the purpose of perpetrating a fraud or injustice, namely, to ensure that Fiorentino would not be subject to any personal liability for infringing on others' intellectual property rights. Galaxy is the alter ego of Fiorentino, and this Court may pierce the corporate veil under Delaware law to find Fiorentino liable for direct infringement of the '475 Patent.

74. Fiorentino has infringed, currently directly infringes, and will continue to directly infringe, the '475 Patent unless enjoined by this Court from making, using, offering for sale, importing and/or selling products infringing Yogibo's patented design within the United States. 35 U.S.C. § 271(a).

75. Fiorentino has induced infringement of the '475 Patent and this Court may find him liable under 35 USC § 271(b) without the need to pierce the corporate veil.

76. Fiorentino has and continues to aid and abet other persons (e.g., Defendant Galaxy, distributors, manufacturers, customers, and end users) to infringe Yogibo's '475 Patent by actively

and knowingly inducing others to directly infringe the ‘475 patent with knowledge (or willful blindness) of that infringement, such as by making, advertising, selling, offering to sell, supporting, distributing, and using Galaxy’s infringing products. These other persons directly infringe the ‘475 patent. 35 U.S.C. § 271(b). Whereas Fiorentino has been aware of the ‘475 Patent since October 2018 and Yogibo’s charge of infringement, and that its products in use by customers infringes the ‘475 Patent, Fiorentino specifically intended these direct infringers to infringe the ‘475 Patent and knew that the direct infringer’s acts constituted infringement.

77. On information and belief, Fiorentino knew of Yogibo, Yogibo’ patented commercial product, the ‘475 Patent, or was willfully blind to its existence, and Fiorentino knew or was willfully blind in consciously ignoring the possibility that its actions would infringe the ‘475 Patent.

78. As a direct and proximate result of Fiorentino’s direct and indirect infringement of the ‘475 Patent, Yogibo is suffering damages as well as irreparable injury for which it has no adequate remedy at law. Yogibo will continue to suffer such harm unless Fiorentino is enjoined.

79. Yogibo is entitled to recover damages under 35 USC § 284 to adequately compensate for Fiorentino’s infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against Galaxy and Fiorentino:

1. Declare that Galaxy is merely the alter ego or an agent of Fiorentino, and pierce the corporate veil for all purposes necessary in this action, if any, to assess liability and damages jointly and severally against Defendant Galaxy and Defendant Fiorentino;

2. A judgment that Galaxy and Fiorentino directly and indirectly infringe U.S. Patent No. 10,098,475, 35 U.S.C. §271(a), (b), (c);
3. A judgment that Defendants Galaxy's and Fiorentino's infringement is willful.
4. Pursuant to 35 U.S.C. § 283, grant a permanent injunction enjoining Galaxy and Fiorentino, Galaxy's subsidiaries, affiliates, divisions, officers, agents, servants, employees, directors, partners, representatives, and all parties in active concert and/or participation with Galaxy and Fiorentino from directly or indirectly making, having made, selling, offering for sale, distributing, using, or importing into the United States products that infringe the '475 Patent;
5. Find Pursuant to 35 U.S.C. § 284, direct Galaxy and Fiorentino, jointly and severally, to account for and pay to Plaintiff all damages caused by their infringement of the '475 Patent, including lost profits and interest, but in no event less than a reasonable royalty, including pre-judgment and post-judgment interest;
6. Pursuant to 35 U.S.C. § 285, award Plaintiff its costs and attorneys' fees incurred in connection with this action, upon a judgment declaring this an exceptional case; and,
7. Such other and further relief as the Court deems just and proper.

HEYMAN ENERIO
GATTUSO & HIRZEL LLP

/s/ Dominick T. Gattuso

Dominick T. Gattuso (# 3630)
Elizabeth A. DeFelice (# 5474)
300 Delaware Ave., Suite 200
Wilmington, DE 19801
T: (302) 472-7311
dgattuso@hegh.law
edefelice@hegh.law

OF COUNSEL:

BURNS & LEVINSON LLP
Howard J. Susser
Eric G. J. Kaviar
125 High Street
Boston, MA 02110
T: 617-345-3000
hsusser@burnslev.com
ekaviar@burnslev.com

Dated: March 10, 2021