

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SHENZHEN TAIHE TECHNOLOGY CO.,
LTD., D/B/A ROTTAY,

Plaintiff,

v.

SIGE ZHANG,

Defendant.

1:23-cv-16841

JURY TRIAL DEMANDED

**SHENZHEN TAIHE TECHNOLOGY CO., LTD.,
D/B/A ROTTAY’S COMPLAINT AGAINST SIGE ZHANG**

Plaintiff Shenzhen Taihe Technology Co., Ltd., d/b/a Rottay (“Plaintiff” or “Rottay”), by and through its undersigned attorneys, brings this Complaint for Declaratory Judgment against Defendant Sige Zhang (“Defendant” or “Zhang”). Rottay makes these allegations on knowledge as to its own actions and otherwise upon information and belief, as follows:

NATURE OF THE ACTION

1. This is an action under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, seeking a declaration that Defendant’s U.S. Design Patent No. D957,868 S (“the ‘868 patent”) is invalid under at least 35 U.S.C. §§ 102 and 103 and/or unenforceable.

2. This action arises out of Defendant’s misuse of Amazon’s patent infringement complaint process in an effort to have Amazon “delist” certain of Plaintiff’s products from Amazon’s online marketplace. Defendant falsely claimed to Amazon that a number of Plaintiff’s products infringe the ‘868 patent (the “Accused Baking Sheet Pans”). As a result, Amazon delisted and removed the Accused Baking Sheet Pans from the Amazon marketplace. This

delisting could result in the destruction of Plaintiff's business and has already resulted in significant business, financial, and economic harm.

JURISDICTION AND VENUE

3. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 2201, 2202, 1331, 1338(a) and because this action arises under the laws of the United States, in particular the Patent Act of the United States, 35 U.S.C. § 100 et seq.

4. An actual case or controversy exists in this action. Specifically, Defendant filed a patent infringement complaint to Amazon alleging several of Plaintiff's products infringe the '868 patent. This resulted in the delisting and removal of Plaintiff's products from the online marketplace. The delisting of Plaintiff's products from Amazon's marketplace has stopped Plaintiff's product sales on Amazon and has resulted in significant financial loss to Rottay. Defendant's actions thereby give rise to an actual controversy under 28 U.S.C. §§ 2201 et seq.

5. This Court has personal jurisdiction over Defendant because, upon information and belief, Defendant has constitutionally sufficient contacts with Illinois and this District. Defendant submitted a patent infringement complaint on Amazon to delist Plaintiff's products from the marketplace. Upon information and belief, Defendant is a seller on Amazon and targets business activities towards consumers, including consumers residing within this district, through at least Defendant's e-commerce Amazon storefront, through which Defendant and/or his agents offer for sale and do sell products that embody the '868 patent within the state of Illinois and within this District. Defendant has targeted sales to Illinois residents by operating e-commerce stores that target United States customers using one or more Seller Aliases, offering shipping to customers within the United States and, more specifically, Illinois, and accepts payment in U.S.

dollars. Defendant is engaged in interstate commerce and has wrongfully caused Plaintiff substantial financial injury in Illinois.

6. Additionally, this Court has personal jurisdiction over Defendant because Defendant's unlawful practice of filing meritless patent infringement complaints on Amazon against Plaintiff's products were committed and/or caused harm to Plaintiff within the state of Illinois and this District. Illinois is a prime market for Plaintiff's products and Amazon's removal of the products from Amazon's online marketplace has a substantial effect on the consumers of the state, such that a declaratory judgment action of invalidity and/or unenforceability is proper.

7. Alternatively, this Court has personal jurisdiction over Defendant under Federal Rule of Civil Procedure 4(k)(2) because the claims in this action arise under federal law, Defendant is not subject to the jurisdiction of the courts of general jurisdiction of any state, and exercising jurisdiction over Defendant is consistent with the U.S. Constitution. The cause of action of this Complaint arises under federal patent law. *See* 28 U.S.C. § 1338. If Defendant is not subject to the jurisdiction of the courts of general jurisdiction of any particular state, personal jurisdiction exists in this Court because Defendant has at least minimum contacts with the United States to warrant the exercise of personal jurisdiction over Defendant because, *inter alia*, Defendant: (a) is an Amazon seller and operates a storefront on Amazon's marketplace that offers to sell and does sell products that embody the '868 patent throughout the United States; (b) submitted a patent infringement complaint to Amazon in the United States to delist Plaintiff's products from the Amazon marketplace in the United States; (c) due to Defendant's baseless and frivolous patent infringement complaint on Amazon, has caused significant business and financial harm to Plaintiff in the United States; and (d) availed himself of the United States patent system by filing and obtaining the '868 patent from the United States Patent and

Trademark Office (“USPTO”). Therefore, upon information and belief, Defendant has contacts with the United States sufficient to justify the application of United States law and to satisfy due process.

8. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (c)(3) because Defendant is a foreign individual with no residence or regular and established place of business in the United States and a substantial part of the events giving rise to this action occurred in this District.

PARTIES

9. Plaintiff Rottay is a Chinese corporation with its principal place of business at Kun Yi Fu Court Building 10,1802 Pinghu Street Longgang District, Shenzhen China 518000. Plaintiff Rottay sells and distributes, among other things, baking sheet pans in the United States and abroad, including through Amazon.

10. Upon information and belief, Defendant Sige Zhang is an individual citizen of the People’s Republic of China, residing in Guangdong, China. Defendant is the alleged inventor and applicant of the ‘868 patent.

FACTUAL BACKGROUND

A. Rottay and Its Business

11. Plaintiff is an online retailer that sells, among other things, baking sheet pans online in the United States through various marketplaces, such as Amazon.com, and has enjoyed considerable commercial success. Plaintiff owns and operates the Amazon storefront, Rottay.

12. The Amazon marketplace is an online e-commerce platform that allows for third parties like Rottay to sell products on that platform.

13. Plaintiff's Amazon store is highly successful with hundreds to thousands of 5-star reviews across its products.

14. A substantial portion of Rottay's business is derived from the sale of products on the Amazon marketplace. Delisting or removal of products from the Amazon marketplace is highly detrimental to Rottay, as removal from Amazon's platform not only results in lost sales, but can also result in the permanent loss of a product's listing after six (6) months and potentially hundreds of associated customer reviews that drive customer demand. Even if a business like Rottay is successful in having a product relisted, the product may have a lower ranking after relisting, even further decreasing sales.

15. Any harm that comes to the relationship between Rottay and Amazon creates a potential for serious and irreparable injury to Rottay.

B. The '868 Patent

16. The '868 patent is a design patent entitled "TRAY" and generally relates to the ornamental design for a baking tray. A true and correct copy of the '868 patent is attached as **Exhibit A**.

17. The '868 patent issued from U.S. Application No. 29/809,181 ("the '181 application"), which was filed on September 27, 2021. The USPTO issued the '868 patent on July 19, 2022.

18. Defendant is the sole listed inventor and applicant of the '868 patent. Defendant is the purported record owner of the '868 patent, as there are no public assignments, recordings, or otherwise.

19. According to the prosecution history of the '868 patent, the name and contact information of the attorney that prosecuted the '868 patent is: Raymond J. Chew of the Chew Patents Group (Jumpy), 28039 Scott Rd. Suite D-180, Murrieta, CA 92563.

20. As of filing of this Complaint, the Address & Attorney/Agent Information listed on the USPTO's official website, Patent Center, is Andrew Cheng ((909) 436-5796) of True Shepherd LLC (CHEW)) 516 N. Diamond Bar Blvd, #310, Diamond Bar, CA 91765.

C. Defendant's Baseless Complaint to Amazon

21. On or before November 26, 2023, Defendant filed an "Infringement Report" with Amazon, alleging that a number of Plaintiff's products infringe the '868 patent. Amazon then issued a complaint letter (the "Amazon IP Complaint") to Plaintiff. The Amazon IP Complaint notified Plaintiff that it had received the Infringement Report from Defendant and that certain of Plaintiff's products were alleged to infringe the '868 patent and, thus, were at risk of deactivation. The Amazon IP Complaint identified the Accused Baking Sheet Pans with Amazon Standard Identification Numbers ("ASIN") B09VKWDLJP, B096KW2XNY, B0992HQPL8, and B08SVYWVMX as purportedly infringing the '868 patent. The Amazon IP Complaint also indicated that the "Rights Owner" who submitted the Infringement Report was "YIYUYAO" and whose "contact details" are "yiyuyaous@163.com." A true and correct copy and translation of the Amazon IP Complaint is attached as **Exhibit B**.

22. In order to submit a report for IP infringement, Amazon explicitly requires the submitter to be the Rights Owner or Rights Owner's agent:

To submit a notice of IP infringement, you must be the Rights Owner who owns the IP being reported or an agent with permission from the Rights Owner to submit notices on his or her behalf.

See **Exhibit C**. Upon information and belief, Amazon further requires that a submitter certify that he or she is the Rights Owner before submitting a report for IP infringement.

23. Upon information and belief, as the individual who submitted the infringement complaint against Plaintiff's Accused Baking Sheet Pans to Amazon, YIYUYAO certified that he or she is the Rights Owner or Rights Owner's agent of the '868 patent.

24. Sige Zhang is the sole inventor and applicant of the '868 patent, and there are no public assignments, recordings, or otherwise. Sige Zhang is therefore the Rights Owner of the '868 patent.

25. Upon information and belief, YIYUYAO is either Sige Zhang or Sige Zhang's agent.

26. Upon information and belief, Sige Zhang or his agent submitted the patent infringement complaint to Amazon alleging infringement of the '868 patent against Plaintiff.

27. Upon information and belief, Sige Zhang or Sige Zhang's agent can be contacted using the contact information provided in Exhibit B, yiyuyaous@163.com.

28. As a result of Defendant's filing of the Infringement Report with Amazon, Plaintiff's Accused Baking Sheet Pans' listings were ultimately delisted and removed by Amazon and are no longer available on Amazon's marketplace.

29. On December 11, 2023, counsel for Rottay sent correspondence to the "Rights Owner" identified in the Amazon IP Complaint, YIYUYAO, using the contact information provided by Amazon, yiyuyaous@163.com. The correspondence explained that Amazon's takedown of the Accused Baking Sheet Pans was improper, identified various reasons why the '868 patent is invalid, and demanded that Defendant's groundless infringement complaint to Amazon be retracted. The letter is attached hereto as **Exhibit D**. Counsel for Rottay also emailed

this correspondence to Defendant's counsel identified during prosecution of the '868 patent, including: (a) Raymond J. Chew, who was listed on the Power of Attorney during prosecution of the '868 patent; and (b) Andrew Chang, identified in the Address & Attorney/Agent Information listed on the USPTO's official website, Patent Center, for the '868 patent.

30. On December 13, 2023, counsel for Rottay sent a letter to Amazon (the "12/13/2023 Letter to Amazon") notifying Amazon that Rottay would file a Declaratory Judgment action in United States District Court if Defendant did not retract the infringement complaint against Plaintiff's Accused Baking Sheet Pans by close of business on December 13, 2023. The 12/13/2023 Letter to Amazon further stated the reasons why the Accused Baking Sheet Pans do not infringe the '868 patent. A true and correct copy of the 12/13/2023 Letter to Amazon is attached as **Exhibit E**.

31. As of filing of this Complaint, Plaintiff has not received responses to its letters to Defendant or Defendant's counsel. Plaintiff has also not received a response to the 12/13/2023 Letter to Amazon. Further, the Accused Baking Sheet Pans have not been relisted on Amazon.

D. The '868 Patent Is Invalid

32. The '868 patent's earliest effective filing date is September 27, 2021. The issuance date is July 19, 2022.

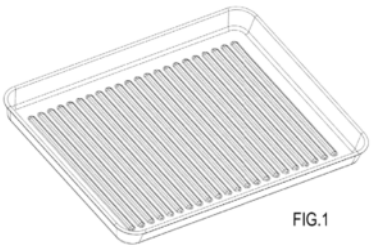
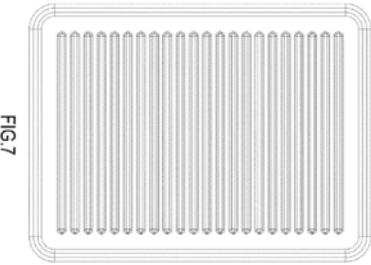
33. The design covered by the '868 patent was, however, already patented, in public use, on sale, or otherwise made available to the public before the '868 patent's earliest effective filing date.

34. Chinese Design Patent No. CN306418465S ("the '465 patent") was filed on November 10, 2020 and issued on March 30, 2021. The '465 patent discloses all the claimed design of the '868 patent. A true and correct copy of the '465 patent is attached as **Exhibit F**.

	'465 Patent (Prior Art)	'868 patent
Filing date	November 10, 2020	September 27, 2021
Issue date	March 30, 2021	July 19, 2022

35. As shown in the table above, the '465 patent is prior art under 35 U.S.C. 102(a)(1) and/or 102(a)(2) (AIA).

36. Side-by-side images of the figures from the '465 patent and the '868 patent illustrating the similarities of claimed design are shown below:

	'465 Patent (Prior Art)	the '868 patent
Perspective view		
Front elevational view		
Top plan view		



37. The ‘868 patent is therefore invalid as anticipated and/or obvious in view of the ‘465 patent.

38. Several of the Accused Baking Sheet Pans were also on sale, in public use, and otherwise available to the public before the earliest effective filing date of the ‘868 patent (*i.e.*, ASIN B08SVYWVMX, B096KW2XNY, and B0992HQPL8; collectively referred to as the “Prior Art Baking Sheet Pans”).

39. The ROTTAY Baking Sheet with Rack Set (2 Pans + 2 Racks), which is identified by Amazon using ASIN B08SVYWVMX, was first available on Amazon January 13, 2021, as identified by internal Amazon identification. This product was available over eight months before the filing of the ‘868 patent, as indicated below:

Filters: Status: All Active Inactive Incomplete Listing Removed Search Suppressed Impi									
☐	Status	Image	SKU Condition	Product Name ASIN	Date Created Status Changed Date	Available	Unfulfillable	Reserv	
☐	Detail Page Removed	No image available	1/8 Baking Sheet New	ROTTAY Small Baking Sheet Pan with Wire Rack Set [2 Pans... B09VKWDLJP	03/15/2022 03:32:36 11/26/2023 07:07:14	510	0		
☐	Detail Page Removed	No image available	Baking Pan Set New	ROTTAY Baking Sheet with Rack Set (2 Pans + 2 Racks), Stain B08SVYWVMX	01/13/2021 05:09:29 11/26/2023 07:07:14	3189	32	14	
☐	Detail Page Removed	No image available	13x9 Bking Sheet New	ROTTAY Quarter Baking Sheet Pan with Wire Rack Set [2 Pa.. B096KW2XNY	06/03/2021 09:37:44 11/26/2023 07:07:13	598	6		
☐	Detail Page Removed	No image available	18x13 Baking Sheet New	ROTTAY Baking Sheet, Half Sheet Pan with Cooling Rack Set. B0992HQP8	07/09/2021 08:37:02 11/26/2023 07:07:13	494	7		

40. The ROTTAY Quarter Baking Sheet Pan with Wire Rack Set, which is identified by Amazon using ASIN B096KW2XNY, was first available on Amazon June 3, 2021, as identified by internal Amazon identification. This product was available nearly 3 months before the filing of the '868 patent, as indicated below:

Filters: Status: All Active Inactive Incomplete Listing Removed Search Suppressed Impi									
☐	Status	Image	SKU Condition	Product Name ASIN	Date Created Status Changed Date	Available	Unfulfillable	Reserv	
☐	Detail Page Removed	No image available	1/8 Baking Sheet New	ROTTAY Small Baking Sheet Pan with Wire Rack Set [2 Pans... B09VKWDLJP	03/15/2022 03:32:36 11/26/2023 07:07:14	510	0		
☐	Detail Page Removed	No image available	Baking Pan Set New	ROTTAY Baking Sheet with Rack Set (2 Pans + 2 Racks), Stain B08SVYWVMX	01/13/2021 05:09:29 11/26/2023 07:07:14	3189	32	14	
☐	Detail Page Removed	No image available	13x9 Bking Sheet New	ROTTAY Quarter Baking Sheet Pan with Wire Rack Set [2 Pa.. B096KW2XNY	06/03/2021 09:37:44 11/26/2023 07:07:13	598	6		
☐	Detail Page Removed	No image available	Baking Sheet New	et, Half Sheet Pan with Cooling Rack Set. B0992HQP8	07/09/2021 08:37:02 11/26/2023 07:07:13				

41. The ROTTAY Baking Sheet, Half Sheet Pan with Cooling Rack Set, which is identified by Amazon using ASIN B0992HQP8, was first available on July 9, 2021, as

identified by internal Amazon identification. This product was available over two months before the filing of the '868 patent, as indicated below:

Filters: Status: All Active Inactive Incomplete Listing Removed Search Suppressed Impi								
☐	Status	Image	SKU Condition	Product Name ASIN	Date Created Status Changed Date	Available	Unfulfillable	Reserv
☐	Detail Page Removed	No image available	1/8 Baking Sheet New	ROTTAY Small Baking Sheet Pan with Wire Rack Set [2 Pans.. B09VKWDLJP	03/15/2022 03:32:36 11/26/2023 07:07:14	510	0	
				+2 marketplaces				
☐	Detail Page Removed	No image available	Baking Pan Set New	ROTTAY Baking Sheet with Rack Set (2 Pans + 2 Racks), Stainless Steel B08SVYVVMX	01/13/2021 05:09:29 11/26/2023 07:07:14	3189	32	14
				+2 marketplaces				
☐	Detail Page Removed	No image available	13x9 Baking Sheet New	ROTTAY Quarter Baking Sheet Pan with Wire Rack Set [2 Pans.. B096KW2XNY	06/03/2021 09:37:44 11/26/2023 07:07:13	598	6	
				+2 marketplaces				
☐	Detail Page Removed	No image available	18x13 Baking Sheet New	ROTTAY Baking Sheet, Half Sheet Pan with Cooling Rack Set. B099ZHQPLB	07/09/2021 08:37:02 11/26/2023 07:07:13	494	7	
				+2 marketplaces				

42. The Prior Art Baking Sheet Pans are prior art under at least 35 U.S.C. § 102(a)(1) to the '868 patent.

43. Defendant accused these Prior Art Baking Sheet Pans of infringing the '868 patent by submitting the Infringement Report with Amazon. Because these Prior Art Baking Sheet Pans were on sale, in public use, or otherwise available to the public prior to the earliest effective filing date of the '868 patent, the '868 patent is invalid as anticipated and/or obvious in view of these Prior Art Baking Sheet Pans.

44. Accordingly, the '868 patent is invalid under 35 U.S.C. §§ 102 and/or 103.

45. During prosecution of the '868 patent, Defendant failed to disclose the existence of the '465 patent or the prior sale of the Prior Art Baking Sheet Pans to the USPTO.

46. Upon information and belief, Defendant knew of the ‘465 patent and/or the prior sale, public use, and/or availability to the public of Plaintiff’s Prior Art Baking Sheet Pans (*i.e.*, ASIN B08SVYWVMX, B096KW2XNY, and/or B0992HQPL8).

COUNT I
(Declaratory Judgment of Invalidity of U.S. Patent No. D957,868)

47. Plaintiff repeats and realleges the preceding paragraphs as if fully set forth herein.

48. This claim arises under the patent laws of the United States, Title 35 of the United States Code, and the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

49. There exists an actual and justiciable controversy between Plaintiff and Defendant with respect to the validity and enforceability of the ‘868 patent given Defendant’s assertion of patent infringement of the ‘868 patent against Plaintiff’s Accused Baking Sheet Pans to Amazon. Defendant’s assertion resulted in the delisting of Plaintiff’s Accused Baking Sheet Pans from Plaintiff’s Amazon webstore and caused Plaintiff significant business, economic, and financial harm.

50. The ‘868 patent is invalid for failure to comply with one or more conditions of patentability set forth in 35 U.S.C. §§ 101, 102, 103, and/or 171. As shown above, the design as claimed by the ‘868 patent was previously disclosed in Chinese Design Patent No. CN306418465S, which was publicly available on March 30, 2021, well before the filing date of the ‘868 patent of September 27, 2021. As further illustrated above, several of Plaintiff’s Prior Art Baking Sheet Pans (ASIN B08SVYWVMX, B096KW2XNY, and B0992HQPL8) that Defendant accused of infringing the ‘868 patent were on sale, in public use, and/or otherwise available to the public before the filing date of the ‘868 patent. Accordingly, the ‘868 patent is invalid.

51. In view of the foregoing, Plaintiff is entitled to a judgment declaring that the ‘868 patent is invalid.

COUNT II
(Declaratory Judgment of Unenforceability of U.S. Patent No. D957,868)

52. Plaintiff repeats and realleges the preceding paragraphs as if fully set forth herein.

53. This claim arises under the patent laws of the United States, Title 35 of the United States Code, and the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*

54. There exists an actual and justiciable controversy between Plaintiff and Defendant with respect to the validity and enforceability of the ‘868 patent given Defendant’s assertion of patent infringement of the ‘868 patent against Plaintiff’s Accused Baking Sheet Pans to Amazon. Defendant’s assertion resulted in the delisting of Plaintiff’s Accused Baking Sheet Pans from Plaintiff’s Amazon webstore and caused Plaintiff significant business, economic, and financial harm.

55. As shown above, there are multiple prior art references that predate the earliest effective filing date of the ‘868 patent and the design of the ‘868 patent has been on sale well before the filing date of the ‘868 patent. Defendant, however, failed to disclose any of this prior art and material information during prosecution of the ‘868 patent.

56. Therefore, the ‘868 patent is unenforceable for inequitable conduct for failing to disclose material information to the USPTO during prosecution.

57. In view of the foregoing, Plaintiff is entitled to a judgment declaring that the ‘868 patent is unenforceable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

1. For judgment in favor of Plaintiff against Defendant on all claims.

2. Declaring that Defendant's '868 patent registration is invalid;
3. Declaring that Defendant's '868 patent registration is unenforceable;
4. Judgment that this case is exceptional and an award to Plaintiff its costs, expenses, and reasonable attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285;
5. Order by this Court that Defendant must immediately revoke any complaints of infringement of the '868 patent made to Amazon with respect to Plaintiff's Accused Baking Sheet Pans;
6. For a preliminary and permanent injunction precluding Defendant, its officers, directors, employees, agents, and all other persons acting in concert or participation with them from suing for infringement or otherwise asserting infringement of the '868 patent against Plaintiff, including further correspondence with Amazon asserting infringement;;
7. For damages and restitution adequate to compensate Plaintiff's lost sales resulting from the delisting of its products in an amount to be determined at trial;
8. For damages adequate to compensate Plaintiff's losses arising from lost inventory storage and expenses arising from removing inventory resulting from the delisting of Plaintiff's Products in an amount to be determined at trial;
9. For damages arising from Plaintiff's lost good will, reputation, reviews, ratings, and rankings built up over years of sales using the delisted ASINs on Amazon's marketplace in an amount to be determined at trial;
10. Ordering Defendant to return to the Court with proof of compliance of this Order within fourteen (14) days of entry thereof, with a courtesy copy served upon Plaintiff's counsel;
11. Awarding Plaintiff damages due to Defendant's improper acts, doubled and/or trebled due to the willful and exceptional nature of this case;

12. Awarding Plaintiff compensatory, general and special, consequential and incidental damages in an amount to be determined at trial;
13. Awarding Plaintiff exemplary, punitive, statutory, and enhanced damages;
14. Awarding pre- and post-judgment interest;
15. Any further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury on all issues so triable of right by a jury raised in this Complaint.

Respectfully submitted,

Dated: December 15, 2023

/s/ Yizhou Liu
Yizhou Liu (0093842)
bliu@calfee.com
Kyle T. Deighan (request for admission to
NDIL forthcoming)
kdeighan@calfee.com
Dustin D. Likens (request for admission to
NDIL forthcoming)
dlikens@calfee.com
CALFEE, HALTER & GRISWOLD LLP
The Calfee Building
1405 East Sixth Street
Cleveland, Ohio 44114-1607
Phone: 216.622.8200
Facsimile: 216.241.0816

Attorneys for Plaintiff