

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

ENDURING BRANDS LLC,

Plaintiff,

v.

HUAIAN SUNLAND INTERNATIONAL
TRADING CO., LTD.,

Defendants.

No. 23-cv-16137

DEMAND FOR JURY TRIAL

AMENDED COMPLAINT

Enduring Brands LLC (“Plaintiff”), by and through its undersigned counsel, hereby files this Complaint for design patent infringement under the Patent Act against Huaian Sunland International Trading Co., Ltd. (“Defendant”). In support hereof, Plaintiff states as follows:

I. JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Patent Act, 35 U.S.C. § 1, et seq., 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331.

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, and this Court may properly exercise personal jurisdiction over Defendant, since Defendant directly targets business activities toward consumers in the United States, including Illinois, through at least the fully interactive, e-commerce store operating under the seller alias identified as Huaian Sunland International Trading Co., Ltd. (the “Seller Alias”). Specifically, Defendant has targeted sales to Illinois residents by setting up and operating an e-commerce store that targets United States consumers using at least the Seller Alias, offers shipping to the United States, including Illinois, accepts payment in U.S. dollars and/or funds from U.S. bank accounts, and has sold products using

infringing and versions of Plaintiff's federally registered design patent to residents of Illinois. Defendant is committing tortious acts in Illinois, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the State of Illinois.

II. INTRODUCTION

3. Plaintiff filed this action to combat an online infringer who trades upon Plaintiff's reputation and goodwill by making, using, offering for sale, selling and/or importing into the United States for subsequent sale or use unauthorized and unlicensed products that infringe Plaintiff's design patent (U.S. Patent No. US D927,170) (the "PEMBROOK Design"). *See Exhibit 1.* Defendant created an e-commerce store operating under the Seller Alias that is advertising, offering for sale, and selling infringing products to unknowing consumers. Plaintiff is forced to file this action to combat Defendant's willful infringement of Plaintiff's patented design, as well as to protect unknowing consumers from purchasing infringing products over the Internet. Plaintiff has been and continues to be irreparably damaged through loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing its patented design.

III. THE PARTIES

Plaintiff Enduring Brands LLC

4. Plaintiff is a Delaware limited liability company and is the creator and seller of high-quality, unique clothing and accessories, including, but not limited to, a diverse range of socks (collectively, the "PEMBROOK Products"). Plaintiff sells these designs through its brand PEMBROOK, which allows consumers to purchase the product through the company's e-commerce marketplaces. The PEMBROOK Products have become enormously popular, driven by Plaintiff's exacting quality standards and innovative designs. Among the purchasing public, genuine PEMBROOK Products are instantly recognizable as such. In the United States and around

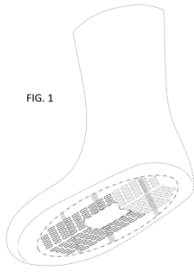
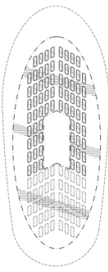
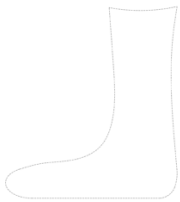
the world, the PEMBROOK brand has come to symbolize high quality, and the PEMBROOK Products are among the most recognizable socks in the United States.

5. Plaintiff launched its PEMBROOK branded products in 2012, on its own website¹ and Amazon storefront.² Plaintiff's founder and inventor created the unique PEMBROOK design after observing a need for socks with an aesthetically pleasing grip design. Since 2012, Plaintiff has introduced several variations of the PEMBROOK Design through its various e-commerce marketplaces. Plaintiff continues to heavily advertise its unique products on all its e-commerce marketplaces, social media, and advertisements. Its websites and social media feature original content, reviews, and testimonials for the PEMBROOK Products.

6. Plaintiff is the manufacturer, distributor, and retailer of PEMBROOK Products. The Company is engaged in the business of distributing and retailing its high-quality clothes and accessories within the Northern District of Illinois. Defendant's sales of the counterfeit product in violation of Plaintiff's intellectual property rights are irreparably damaging Plaintiff. The PEMBROOK Products are known for their distinctive patented design. Socks that use this design are associated with the quality and innovation that the public has come to expect from PEMBROOK Products. Plaintiff uses this design in connection with its PEMBROOK branded products, including, but not limited to, the following patented design.

¹ <https://www.pembrookapparel.com>

² <https://www.amazon.com/s?me=A1G6WAAHSSSJ46&marketplaceID=ATVPDKIKX0DER>

Patent Number: US D927,170		Issue Date: August 10, 2021	
CLAIM			
Figure 1	 FIG. 1	Figure 2	 FIG. 2
Figure 3	 FIG. 3	Figure 4	 FIG. 4
Figure 5	 FIG. 6	Figure 6	 FIG. 7

7. Enduring Brands, LLC is the lawful assignee of all rights to, title in, and interest in the PEMBROOK Design: US Patent No. D927,170 (Scott Dyer, issued August 10, 2021) (the “170 Patent”).

8. Plaintiff has expended substantial time, money, and other resources to develop, advertise, and otherwise promote the PEMBROOK Design. As a result, customers recognize that products bearing the distinctive PEMBROOK Design originate exclusively from the Plaintiff.

The Defendant

9. Defendant is an entity of unknown makeup who owns and/or operates at least the Seller Alias and/or other seller aliases not yet known to Plaintiff. Upon information and belief,

Defendant resides in the People's Republic of China or other foreign jurisdictions, or redistributes products from the same or similar sources in those locations. Defendant conducts business throughout the United States, including within the state of Illinois and in this Judicial District, through the operation of a fully interactive e-commerce store operating under its Seller Alias. Defendant targets the United States, including Illinois, and has offered to sell and, on information and belief, has sold and continues to sell infringing products to consumers within the United States, including Illinois and in this Judicial District.

10. Defendant knowingly and willfully manufactures, imports, distributes, offers for sale, and sells infringing products. The tactics used by Defendant to conceal its identity and the full scope of its infringing operation make it virtually impossible for Plaintiff to learn the precise scope and the exact interworking of their counterfeit network. If Defendant provides additional credible information regarding its identity, Plaintiff will take appropriate steps to amend the Complaint.

IV. THE DEFENDANT'S UNLAWFUL CONDUCT

11. The success of Plaintiff's design has resulted in significant infringement of the PEMBROOK Design. Consequently, Plaintiff has identified numerous marketplace listings on eCommerce platforms such as, but not limited to, Alibaba, which includes the Defendant Alia, and which have been offering for sale, completing sales, and exporting illegal products to consumers in this Judicial District and throughout the United States. Defendant has persisted in creating the Defendant Aliases. E-commerce sales, including e-commerce internet stores like those of Defendant, have resulted in a sharp increase in the shipment of unauthorized products into the United States. See **Exhibit 2** (ECF No. 1-3), U.S. Customs and Border Protection, *Intellectual Property Rights Seizure Statistics, Fiscal Year 2021*. According to Customs and Border Patrol's

(“CBP”) report, over 90% of all CBP intellectual property seizures were smaller international mail and express shipments (as opposed to large shipping containers). *Id.* Approximately 60% of CBP seizures originated from mainland China and Hong Kong. *Id.* Counterfeit and pirated products account for billions of dollars in economic losses, resulting in tens of thousands of lost jobs for legitimate businesses and broader economic losses, including lost tax revenue.

12. E-commerce store operators like Defendant maintain off-shore bank accounts and regularly move funds from their financial accounts to off-shore accounts outside the jurisdiction of this Court to avoid payment of any monetary judgment awarded to Plaintiff.

13. Counterfeiters take advantage of the anonymity provided by the internet, which allows them to evade enforcement efforts to combat counterfeiting. For example, counterfeiters take advantage of the fact that marketplace platforms do not adequately subject new sellers to verification and confirmation of their identities, allowing counterfeiters to “routinely use false or inaccurate names and addresses when registering with these Internet platforms.” *See Exhibit 3* (ECF No. 1-4), Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 41 Nw. J. Int’l. L. & Bus. 24 (2020). Additionally, “Internet commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of counterfeits and counterfeiters.” *Id.* at 25. Therefore, with the absence of regulation, Defendant may and does garner sales from Illinois residents by setting up and operating e-commerce internet stores that target United States consumers using one or more aliases, offer shipping to the United States, including Illinois, accept payment in U.S. dollars, and, on information and belief, have sold counterfeit products to residents of Illinois.

14. E-commerce store operators like Defendant commonly engage in fraudulent conduct when registering seller aliases by providing false, misleading, and/or incomplete

information to e-commerce platforms to prevent discovery of their true identities and the scope of their e-commerce operation.

15. E-commerce store operators like Defendant regularly register or acquire new seller aliases for the purpose of offering for sale and selling Counterfeit PEMBROOK Products. Such seller alias registration patterns are one of many common tactics used by e-commerce store operators like Defendant to conceal their identities, the full scope and interworking of their counterfeiting operation, and to avoid being shut down.

16. Upon information and belief, at all times relevant hereto, Defendant has had full knowledge of Plaintiff's ownership of the design patent, including its exclusive right to use and license such intellectual property.

17. Defendant's infringement of the PEMBROOK Design in making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use of the Infringing Products was willful and without any authorization or license from Plaintiff.

18. Defendant's infringement of the PEMBROOK Design in connection with making, using, offering for sale, selling, and/or importing into the United States for the subsequent sale or use of the Infringing Products, including the making, using, offering or sale, selling, and/or importing into the United States for the subsequent sale or use of Infringing Products into Illinois, is irreparably harming Plaintiff.

19. Upon information and belief, Defendant uses other unauthorized search engine optimization tactics and social media spamming so that the Defendant Internet Store listing shows up at or near the top of relevant search results after others are shut down.

20. The infringing products are not PEMBROOK branded products of the Plaintiff. Plaintiff did not manufacture, inspect, or package the infringing products and did not approve the

infringing products for sale or distribution. Defendant's Internet Stores offers shipping to the United States, including Illinois, and, on information and belief, Defendant has sold counterfeit products into the United States, including Illinois.

21. Upon information and belief, Defendant will continue to register or acquire listings for the purpose of selling infringing products that infringe upon the PEMBROOK design patent unless preliminarily and permanently enjoined.

COUNT I

INFRINGEMENT OF UNITED STATES DESIGN PATENT (35 U.S.C. § 271)

22. Plaintiff hereby realleges and incorporates by reference the allegations set forth in paragraphs 1 through 21.

23. Plaintiff is the lawful assignee of all right, title, and interest in and to the PEMBROOK Design (the '170 Patent). *See Exhibit 1.*

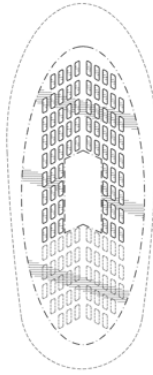
24. Without permission or authorization from Plaintiff and in violation of 35 U.S.C. § 271(a), Defendant is making, using, offering for sale, selling, and/or importing into this District and elsewhere in the United States, which are at least sold at amazon.com, including, but not limited to grip socks having item numbers 1600922127679³ and 1600922725268⁴, for subsequent sale or use Infringing Products that infringe the ornamental design claimed in the Plaintiff's design patent either directly or under the doctrine of equivalents. *See Exhibit 4.*

³ <https://www.alibaba.com/product-detail/1600922127679.html>

⁴ <https://www.alibaba.com/product-detail/1600922725268.html>



Product 1600922725268



'170 patent, Fig 3



Product 1600922127679

25. Defendant has been and is infringing Plaintiff's design patent by making, using, selling, or offering for sale in the United States, or importing into the United States, including within this judicial district, the accused products in violation of 35 U.S.C. § 271(a).

26. Defendant has infringed Plaintiff's design patent through the aforesaid acts and will continue to do so unless enjoined by this Court. Defendant's wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing the patented design. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

27. Defendant has infringed Plaintiff's design patent because, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the ornamental designs of Plaintiff's Design Patents and the overall design features of Defendant's products are substantially the same, if not identical, with resemblance such as to deceive an ordinary observer, inducing such observer to purchase an Infringing Product supposing to be Plaintiff's product protected by Plaintiff's Design Patent.

28. Plaintiff is entitled to recover damages adequate to compensate for the infringement, including Defendant's profits pursuant to 35 U.S.C § 289. Plaintiff is entitled to recover any other damages that are appropriate pursuant to 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

A. That Defendant, their affiliates, officers, agents, employees, attorneys, and all persons acting for, with, by, through, under or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:

i. making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use any products not authorized by Plaintiff and that include any reproduction, copy or colorable imitation of the design claimed in the PEMBROOK Design;

ii. aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon the PEMBROOK Design; and

iii. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (a) and (b).

B. Entry of an Order that, upon Plaintiff's request, those with notice of the injunction, including, without limitation, any online marketplace platforms such as Alibaba; payment processors such as: PayPal, Stripe, Payoneer, and LianLian; social media platforms such as: Facebook, Instagram, Snapchat, TikTok, YouTube, LinkedIn, and Twitter; Internet search engines such as Google, Bing, and Yahoo; webhosts for the Defendant Domain Names; and domain name registrars shall disable and cease displaying any advertisements used by or associated with Defendant in connection with the sale of goods that infringe the ornamental design claimed in the PEMBROOK Design;

C. That Plaintiff be awarded such damages as it shall prove at trial against Defendant that are adequate to compensate Plaintiff for Defendant's infringement of Plaintiff's Designs, but in no event less than a reasonable royalty for the use made of the invention by the Defendant, together with interest and costs, pursuant to 35 U.S.C. § 284;

D. That the amount of damages awarded to Plaintiff to compensate Plaintiff for infringement of the PEMBROOK Design be increased by three times the amount thereof, as provided by 35 U.S.C. § 284;

E. In the alternative, that Plaintiff be awarded complete accounting of all revenue and profits realized by Defendant from Defendant's infringement of the PEMBROOK Design, pursuant to 35 U.S.C. § 289;

F. That Plaintiff be awarded its reasonable attorneys' fees and costs; and,

G. That Plaintiff be awarded any and all other relief that this Court deems equitable and just.

Plaintiff demands trial by jury as to all causes of action so triable.

Dated: April 30, 2024

Respectfully submitted,

/s/ James E. Judge

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