

LARRY R. LAYCOCK (USB No. 4868)
TIGE KELLER (USB No. 9110)
CLINTON E. DUKE (USB No. 9784)
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
Telephone: (801) 533-9800
Facsimile: (801) 328-1707
Attorneys for Plaintiff
LIFETIME PRODUCTS, INC.

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DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

LIFETIME PRODUCTS, INC., a Utah corporation, Plaintiff, v. ICEBERG ENTERPRISES LLC, a Delaware limited liability corporation, Defendant.	FIRST AMENDED COMPLAINT (JURY TRIAL DEMANDED) Civil Action No. 1:05CV00060 PGC Judge Paul G. Cassell
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Plaintiff LIFETIME PRODUCTS, INC. ("Lifetime") hereby complains against the defendant ICEBERG ENTERPRISES LLC, ("Iceberg"), and for causes of action alleges as follows:

THE PARTIES

1. Lifetime is a corporation duly organized and existing under the laws of the State of Utah, with its principal place of business in the City of Clearfield, Davis County, Utah.

2. Lifetime alleges on information and belief that Iceberg is a limited liability corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 310 Windy Point Drive, Glendale Heights, Illinois, 60139.

3. This is an action for patent infringement. The products accused of infringement are folding blow-molded plastic chairs of a certain style and design which, Lifetime alleges on information and belief, Iceberg makes, sells and/or offers for sale within the United States.

JURISDICTION AND VENUE

4. This is a civil action for patent infringement committed by Iceberg, arising under the patent laws of the United States, including 35 U.S.C. §§ 271, 281, 283, 284 and 285.

5. This Court has original subject matter jurisdiction over Lifetime's claims for relief, which arise under the laws of the United States, pursuant to 28 U.S.C. §1331.

6. This Court also has original subject matter jurisdiction over Lifetime's claims for relief, which arise under acts of Congress relating to patents, pursuant to 28 U.S.C. §1338(a).

7. Because this is a civil action where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different States, this Court also has original jurisdiction over Lifetime's claims for relief pursuant to 28 U.S.C. § 1332(a)(1).

8. Lifetime further alleges on information and belief that Iceberg has sold or contracted for the sale of infringing goods within the State of Utah, or has induced others to sell or contract for the sale of infringing goods within the State of Utah, to Lifetime's injury, which relates to the claims asserted by Lifetime, and out of which Lifetime's claims in part arise.

9. This Court's exercise of personal jurisdiction over Iceberg is consistent with the Constitutions of the United States and the State of Utah. Moreover, this Court has personal jurisdiction over Iceberg pursuant to the Utah Long Arm Statute, Utah Code Ann. § 78-27-24.

10. Pursuant to 28 U.S.C. § 1391(c), Iceberg is deemed to reside in this judicial district for purposes of venue.

11. Venue is proper in this judicial district pursuant to, at least, 28 U.S.C. § 1391(b)(1), 28 U.S.C. § 1391(b)(2), and 28 U.S.C. § 1400(b).

FACTUAL BACKGROUND

12. Lifetime is an award-winning innovator in the field of sports equipment, consumer products and office products, which are constructed of high quality steel and blow-molded plastic.

13. Several of Lifetime's most successful innovations have been in the design and development of lightweight and highly durable folding tables and chairs that combine metal frames and blow-molded plastic surfaces.

14. Lifetime's technological and aesthetic innovations in the field of folding chair design are protected, *inter alia*, by a portfolio of utility and design patents, including United States Patent No. 6,543,842 (the "'842 Patent"), a true and correct copy of which is attached hereto as Exhibit A, United States Patent No. 6,871,906 (the "'906 Patent"), a true and correct copy of which is attached hereto as Exhibit B, and United States Patent No. 6,912,961 (the "'961 Patent"), a true and correct copy of which is attached hereto as Exhibit C. The '842, '906 and '961 Patents are collectively referred to herein as the "Asserted Patents."

15. Lifetime is the owner by assignment of the Asserted Patents.

16. Lifetime has not licensed Defendants to practice any of the Asserted Patents, and Defendants do not have any right or authority to license others to practice any of the Asserted Patents.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Infringement of the '842 Patent)

17. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 16, as though fully set forth herein.

18. Lifetime alleges on information and belief that Iceberg is importing, making, selling and/or offering for sale within the United States folding plastic chairs that fall within the scope of one or more of the claims of the '842 Patent.

19. Lifetime alleges on information and belief that, by at least the activities alleged in the foregoing paragraph, Iceberg has infringed, continues to infringe, and, unless and until enjoined by this Court, will continue to infringe the '842 Patent.

20. The conduct of Iceberg as set forth hereinabove gives rise to a cause of action for infringement of the '842 Patent, pursuant to 35 U.S.C. §§ 271(a) and 281.

21. Lifetime alleges on information and belief that Iceberg is infringing the '842 Patent in willful and deliberate disregard of Lifetime's rights.

22. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Iceberg, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

SECOND CAUSE OF ACTION

(Inducement of Infringement of the '842 Patent)

23. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 22, as though fully set forth herein.

24. Lifetime alleges on information and belief that Iceberg is actively inducing others to make, use, sell and/or offer for sale, within the United States, without authority or license to do so from Lifetime, folding plastic chairs that fall within the scope of one or more of the claims of the '842 Patent.

25. The conduct of Iceberg as set forth hereinabove gives rise to a claim for relief for inducement of infringement of the '842 Patent, pursuant to 35 U.S.C. § 271(b) and 281.

26. Lifetime alleges on information and belief that Iceberg is inducing infringement of the '842 Patent in willful and deliberate disregard of Lifetime's rights.

27. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Iceberg, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

THIRD CAUSE OF ACTION

(Infringement of the '906 Patent)

28. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 27, as though fully set forth herein.

29. Lifetime alleges on information and belief that Iceberg is importing, making, selling and/or offering for sale within the United States folding plastic chairs that fall within the scope of one or more of the claims of the '906 Patent.

30. Lifetime alleges on information and belief that, by at least the activities alleged in the foregoing paragraph, Iceberg has infringed, continues to infringe, and, unless and until enjoined by this Court, will continue to infringe the '906 Patent.

31. The conduct of Iceberg as set forth hereinabove gives rise to a cause of action for infringement of the '906 Patent, pursuant to 35 U.S.C. §§ 271(a) and 281.

32. Lifetime alleges on information and belief that Iceberg is infringing the '906 Patent in willful and deliberate disregard of Lifetime's rights.

33. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Iceberg, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

FOURTH CAUSE OF ACTION

(Inducement of Infringement of the '906 Patent)

34. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 33, as though fully set forth herein.

35. Lifetime alleges on information and belief that Iceberg is actively inducing others to make, use, sell and/or offer for sale, within the United States, without authority or license to do so from Lifetime, folding plastic chairs that fall within the scope of one or more of the claims of the '906 Patent.

36. The conduct of Iceberg as set forth hereinabove gives rise to a claim for relief for inducement of infringement of the '906 Patent, pursuant to 35 U.S.C. § 271(b) and 281.

37. Lifetime alleges on information and belief that Iceberg is inducing infringement of the '906 Patent in willful and deliberate disregard of Lifetime's rights.

38. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Iceberg, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

FIFTH CAUSE OF ACTION

(Infringement of the '961 Patent)

39. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 38, as though fully set forth herein.

40. Lifetime alleges on information and belief that Iceberg is importing, making, selling and/or offering for sale within the United States folding plastic personal tables that fall within the scope of one or more of the claims of the '961 Patent.

41. Lifetime alleges on information and belief that, by at least the activities alleged in the foregoing paragraph, Iceberg has infringed, continues to infringe, and, unless and until enjoined by this Court, will continue to infringe the '961 Patent.

42. The conduct of Iceberg as set forth hereinabove gives rise to a cause of action for infringement of the '961 Patent, pursuant to 35 U.S.C. §§ 271(a) and 281.

43. Lifetime alleges on information and belief that Iceberg is infringing the '961 Patent in willful and deliberate disregard of Lifetime's rights.

44. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Iceberg, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

SIXTH CAUSE OF ACTION

(Inducement of Infringement of the '961 Patent)

45. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 44, as though fully set forth herein.

46. Lifetime alleges on information and belief that Iceberg is actively inducing others to make, use, sell and/or offer for sale, within the United States, without authority or license to do so from Lifetime, folding plastic personal tables that fall within the scope of one or more of the claims of the '961 Patent.

47. The conduct of Iceberg as set forth hereinabove gives rise to a claim for relief for inducement of infringement of the '961 Patent, pursuant to 35 U.S.C. § 271(b) and 281.

48. Lifetime alleges on information and belief that Iceberg is inducing infringement of the '961 Patent in willful and deliberate disregard of Lifetime's rights.

49. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Iceberg, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

PRAYER FOR RELIEF

WHEREFORE, Lifetime prays for judgment against Iceberg as follows:

A. A judgment finding Iceberg liable for infringement and inducement of infringement of the '842 Patent and of the '906 Patent;

B. An Order of this Court temporarily, preliminarily, and permanently enjoining Iceberg, its agents and servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner any of the Asserted Patents, whether by making, using, selling, offering to sell, or importing into the United States any chair, personal table or other product falling within the scope of any claim of the Asserted Patents,, or inducing others to engage in any of the aforementioned acts or otherwise, pursuant to at least 35 U.S.C. § 283;

C. An order of this Court directing Iceberg to destroy its entire stock of infringing products within the United States, pursuant to at least 35 U.S.C. § 283;

D. An award of damages to Lifetime, in an amount to be proven at trial, pursuant to at least 35 U.S.C. §§ 284;

E. An award to Lifetime of its damages, and that such damages be trebled in view of the infringement by Iceberg, pursuant to at least 35 U.S.C. § 284;

F. Prejudgment interest, pursuant to at least 35 U.S.C. § 284;

G. An award of Lifetime's costs in bringing this action, pursuant to at least 35 U.S.C. § 284;

H. That this be declared an exceptional case, and that Lifetime be awarded its attorneys' fees and expenses, pursuant to at least 35 U.S.C. § 285;

I. Post-judgment interest, pursuant to at least 28 U.S.C. § 1961(a); and

J. For such other and further relief as the Court deems just, proper, and equitable.

DEMAND FOR JURY

Plaintiff demands TRIAL BY JURY of all causes so triable.

DATED this 16th day of August, 2005.



WORKMAN NYDEGGER

Larry R. Laycock

Tige Keller

Clinton E. Duke