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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH
(NORTHERN DIVISION)

LIFETIME PRODUCTS, INC., a Utah
corporation,

Plaintiff,

vs.

IGLOO PRODUCTS CORPORATION, a
Delaware corporation,

Defendant.

COMPLAINT

JURY TRIAL DEMANDED

Judge:

1:01CV00157B

Case No.:

Plaintiff Lifetime Products, Inc. ("Lifetime") complains against defendant Igloo Products Corporation ("Igloo"), and for causes of action alleges as follows:

THE PARTIES

1. Lifetime is corporation 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. On information and belief, Igloo is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Houston, Texas.

JURISDICTION AND VENUE

3. This is an action for unfair competition and for patent, trade dress and copyright infringement, arising under federal and state law.

4. This Court has original subject matter jurisdiction over Lifetime's First, Second, Third, Fourth, Fifth and Sixth Causes of Action, which arise under the laws of the United States, pursuant to 28 U.S.C. §1331.

5. This Court has original subject matter jurisdiction over Lifetime's First, Second, Third, Fourth, Fifth and Sixth Causes of Action, which arise under acts of Congress relating to patents, copyrights and trademarks, pursuant to 28 U.S.C. §1338(a).

6. This Court has original subject matter jurisdiction over Lifetime's Sixth and Seventh Causes of Action, which state claims of unfair competition that are joined with substantial and related claims under the copyright, patent and trademark laws of the United States, pursuant to 28 U.S.C. §1338(b).

7. This Court has supplemental subject matter jurisdiction over Lifetime's Seventh Cause of Action, which is so related to Lifetime's First, Second, Third, Fourth, Fifth and Sixth Causes of Action that together they form part of the same Article III case or controversy, pursuant to 28 U.S.C. §1367(a).

8. On information and belief, Igloo has transacted business within the State of Utah, which relates to the claims asserted by Lifetime, and out of which Lifetime's claims in part arise.

9. This Court has personal jurisdiction over Igloo under the Utah Long Arm Statute, Utah Code Ann. §78-27-24(1).

10. On information and belief, Igloo has contracted to supply goods in the State of Utah, which relates to the claims asserted by Lifetime, and out of which Lifetime's claims in part arise.

11. This Court has personal jurisdiction over Igloo under the Utah Long Arm Statute, Utah Code Ann. §78-27-24(2).

12. On information and belief, Igloo has caused injury within the state of Utah by tortious conduct which relates to the claims asserted by Lifetime, and out of which Lifetime's claims in part arise.

13. This Court has personal jurisdiction over Igloo under the Utah Long Arm Statute, Utah Code Ann. §78-27-24(3).

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

15. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(1).

16. A substantial part of the events giving rise to Lifetime's claims against Igloo occurred in this judicial district.

17. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2).

FACTUAL BACKGROUND

18. Lifetime is an award-winning innovator in the field of consumer and office products constructed of high quality steel and blow-molded polyethylene plastic.

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

20. Lifetime's technological innovations in the field of folding table design are protected, *inter alia*, by a portfolio of utility and design patents, including United States Patent

No. 5,536,552 (the “552 patent”), reproduced as Exhibit A hereto, and Des. 414,626 (the “626 patent”), reproduced as Exhibit B hereto.

21. Lifetime has not licensed Igloo to practice either the ‘626 patent or the ‘552 patent.

22. One of Lifetime’s earliest and most successful folding table products is a six-foot banquet table introduced in 1998. In 1999, Lifetime introduced an eight-foot version of its six-foot table, which also proved to be highly successful.

23. Lifetime’s eight-foot table is a slightly enlarged duplicate of Lifetime’s six-foot table. Structurally and ornamentally, the two are virtually indistinguishable apart from the larger dimensions of the eight-foot table.

24. Lifetime’s six- and eight-foot tables incorporate patented structural advantages, as well as numerous ornamental features protected by Lifetime’s ‘626 patent.

25. On information and belief, the consuming public recognizes the combination of structural and ornamental features embodied in Lifetime’s tables as a distinctive trade dress that connotes a common source.

26. One of Lifetime’s most important early retail accounts for its six- and eight-foot banquet tables was Sam’s Club.

27. On information and belief, in about January of 2001, Igloo began selling a competing table through Sam’s Club (“Igloo’s competing table”). Recognizing the superiority of the Lifetime tables over the competing Igloo products, Sam’s Club has since returned to selling Lifetime tables, but on information and belief, Igloo continues to sell its tables through other retail outlets.

28. Igloo’s competing table is a transparent knock-off of the Lifetime tables, employing the same color scheme, same overall shapes and contouring, and virtually every other ornamental feature of the Lifetime tables. Igloo’s competing table even includes a warning label

(the “ Igloo label,” reproduced as Exhibit C hereto), which is copied, word-for-word, from the Lifetime warning label reproduced as Exhibit D hereto (the “Lifetime label”); the Igloo label also copies some of the graphical features of the Lifetime label.

CAUSES OF ACTION

First Cause of Action:
Copyright Infringement

29. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 128, as though fully set forth herein.

30. The Lifetime label is the subject of an application for copyright registration, reproduced as Exhibit E hereto.

31. Lifetime has not authorized Igloo to reproduce, prepare derivative works from, or distribute copies of the Lifetime label.

32. On information and belief, Igloo has reproduced the Lifetime label, prepared derivative works from the Lifetime label, and distributed copies of the Lifetime label.

33. On information and belief, Igloo has violated exclusive rights in the Lifetime label guaranteed to Lifetime by 17 U.S.C. §106(1), (2) and (3).

34. Igloo’s conduct as set forth hereinabove gives rise to a cause of action for copyright infringement pursuant to 17 U.S.C. §501(a).

35. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Igloo, pursuant to 17 U.S.C. §§502-504, as more fully set forth hereinbelow.

Second Cause of Action:
Infringement of the ‘626 Patent

36. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 135, as though fully set forth herein.

37. The design of the Igloo’s competing table is substantially similar to the design protected by the ‘626 patent.

38. In the eye of an ordinary observer, the design of Igloo's competing table is substantially similar to the design protected by the '626 patent.

39. In the eye of an ordinary observer, the design of Igloo's competing table is so similar to the design protected by the '626 patent as to deceive such an observer into purchasing Igloo's competing table, supposing it to be the Lifetime table embodying the design protected by the '626 patent.

40. On information and belief, without authorization from Lifetime, Igloo has made or used Igloo's competing table within the United States, or has imported Igloo's competing table into the United States.

41. On information and belief, without authorization from Lifetime, Igloo has sold or offered to sell Igloo's competing table within the United States.

42. Igloo's conduct as set forth hereinabove gives rise to a cause of action for infringement of the '626 patent, pursuant to 35 U.S.C. §§271 and 281.

43. On information and belief, Igloo has infringed the '626 patent in willful and deliberate disregard of the rights of Lifetime and the consuming public.

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

Third Cause of Action:
Contributory Infringement of the '626 Patent

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

46. On information and belief, without authorization from Lifetime, Igloo has imported into the United States one or more components of Igloo's competing table, knowing the same to be especially made or especially adapted for use in making Igloo's competing table, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

47. Igloo's conduct as set forth hereinabove gives rise to a cause of action for contributory infringement of the '626 patent, pursuant to 35 U.S.C. §§271 and 281.

48. On information and belief, Igloo has contributorily infringed the '626 patent in willful and deliberate disregard of the rights of Lifetime and the consuming public.

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

Fourth Cause of Action:
Infringement of the '552 Patent

50. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 49, as though fully set forth herein.

51. Igloo's competing table incorporates structural elements protected by the '552 patent

52. On information and belief, without authorization from Lifetime, Igloo has made or used Igloo's competing table within the United States, or has imported Igloo's competing table into the United States.

53. On information and belief, without authorization from Lifetime, Igloo has sold or offered to sell Igloo's competing table within the United States.

54. Igloo's conduct as set forth hereinabove gives rise to a cause of action for infringement of the '552 patent, pursuant to 35 U.S.C. §§271 and 281.

55. On information and belief, Igloo has infringed the '552 patent in willful and deliberate disregard of Lifetime's rights.

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

Fifth Cause of Action:
Contributory Infringement of the '552 Patent

57. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 56, as though fully set forth herein.

58. On information and belief, without authorization from Lifetime, Igloo has imported into the United States one or more components of Igloo's competing table, knowing the same to be especially made or especially adapted for use in making Igloo's competing table, and not a staple article or commodity of commerce suitable for substantial noninfringing use.

59. Igloo's conduct as set forth hereinabove gives rise to a cause of action for contributory infringement of the '552 patent, pursuant to 35 U.S.C. §§271 and 281.

60. On information and belief, Igloo has contributorily infringed the '552 patent in willful and deliberate disregard of Lifetime's rights.

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

Sixth Cause of Action:
Trade Dress Infringement

62. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 61, as though fully set forth herein.

63. Igloo's competing table incorporates Lifetime's proprietary trade dress.

64. On information and belief, Igloo has used in interstate commerce a combination of devices on Igloo's competing tables which is likely to cause confusion, mistake or deception as to the origin of Igloo's competing table, to the injury of Lifetime and the consuming public.

65. Igloo's conduct as set forth hereinabove gives rise to a cause of action for unfair competition and trade dress infringement under Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A).

66. On information and belief, Igloo has engaged in unfair competition and has infringed Lifetime's trade dress in willful and deliberate disregard of the rights of Lifetime and the consuming public.

67. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Igloo, pursuant to Sections 34-36 of the Lanham Act, 15 U.S.C. §§1116-18, as more fully set forth hereinbelow.

Seventh Cause of Action:
State Law Unfair Competition

68. By this reference Lifetime realleges and incorporates the foregoing paragraphs 1 through 67, as though fully set forth herein.

69. Igloo, by its actions as set forth hereinabove, has caused a likelihood of confusion or a misunderstanding as to the source of Igloo's competing table, and has thereby engaged in a deceptive trade practice, pursuant to Utah Code Ann. §13-11a-3(1)(b).

70. Igloo's conduct as set forth hereinabove gives rise to a cause of action for unfair competition and related wrongs under the statutory and common law of the State of Utah and other states, including at least Utah Code Ann. §13-11a-4(2)(a).

71. On information and belief, Igloo has engaged in unfair competition against Lifetime in willful and deliberate disregard of the rights of Lifetime and the consuming public.

72. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Igloo, pursuant to at least Utah Code Ann. §13-11a-4(2)(a) and (b), as more fully set forth hereinbelow.

WHEREFORE, Lifetime prays for judgment as follows:

A. An order of this Court temporarily, preliminarily and permanently enjoining Igloo, its agents and servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner the copyright of Lifetime in the Lifetime label,

whether by making unauthorized reproductions or derivative works therefrom, or making unauthorized distributions thereof, or otherwise, pursuant to at least 17 U.S.C. §502;

B. An order of this Court temporarily, preliminarily and permanently enjoining Igloo, its agents and servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner the '626 patent, whether by making, using, selling, offering to sell, or importing any of Igloo's competing tables or any components thereof or otherwise, pursuant to at least 35 U.S.C. §283;

C. An order of this Court temporarily, preliminarily and permanently enjoining Igloo, its agents and servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner the '552 patent, whether by making, using, selling, offering to sell, or importing any of Igloo's competing tables or any components thereof or otherwise, pursuant to at least 35 U.S.C. §283;

D. An order of this Court temporarily, preliminarily and permanently enjoining Igloo, its agents and servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner Lifetime's trade dress, pursuant to at least Section 34(a) of the Lanham Act, 15 U.S.C. §1116(a), and Utah Code Ann. §13-11a-4(2)(a);

E. An order of this Court temporarily, preliminarily and permanently enjoining Igloo, its agents and servants, and any and all parties acting in concert with any of them, from engaging in unfair competition with Lifetime, pursuant to at least Section 34(a) of the Lanham Act, 15 U.S.C. §1116(a), and Utah Code Ann. §13-11a-4(2)(a);

F. An order of this Court directing Igloo, pursuant to at least 17 U.S.C. §503(a), to deliver up to be impounded during the pendency of this action: all unauthorized copies of the Lifetime label, including all copies of the Igloo label, in Igloo's possession or under its control; and all articles, including but not necessarily limited to all plates, molds, masters, tapes, or computer storage media, that have been used for making the Igloo labels;

G. An order of this Court ordering the destruction of all of the items described in the foregoing paragraph, pursuant to at least 17 U.S.C. §503(b);

H. An order of this Court directing Igloo to destroy its entire stock of infringing tables, pursuant to at least 35 U.S.C. §283;

I. An order of this Court directing Igloo to destroy its entire stock of infringing tables, together with all plates, molds, matrices or other means of making the same, pursuant to at least Section 36 of the Lanham Act, 15 U.S.C. §1118;

J. An order of this Court directing Igloo to destroy all labels, signs, prints, packages, wrappers, receptacles and advertisements in its possession which depict Igloo's competing table, together with all plates, molds, matrices or other means of making the same, pursuant to at least Section 36 of the Lanham Act, 15 U.S.C. §1118;

K. An award of a reasonable royalty to Lifetime, in an amount to be proven at trial, pursuant to at least 35 U.S.C. §284;

L. An award of Lifetime's lost profits and other damages, in an amount to be proven at trial, pursuant to at least 17 U.S.C. §504(a), 35 U.S.C. §284, and Section 35(a) of the Lanham Act, 15 U.S.C. §1117(a);

M. An award of Igloo's profits, in an amount to be proven at trial, pursuant to at least 17 U.S.C. §504(a), 35 U.S.C. §289, and Section 35(a) of the Lanham Act, 15 U.S.C. §1117(a);

N. An award of treble any reasonable royalty or lost profits assessed against Igloo, pursuant to at least 35 U.S.C. §284;

O. An award of treble Lifetime's damages and Igloo's profits, pursuant to at least Section 35(a) of the Lanham Act, 15 U.S.C. §1117(a);

P. An award of Lifetime's damages and Igloo's profits, in an amount to be proven at trial, pursuant to applicable state statutory and common law, including at least the greater of Lifetime's actual damages and \$2,000, pursuant to Utah Code Ann. §13-11a-4(2)(b);

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

R. An award of Lifetime's costs in bringing this action, pursuant to at least 17 U.S.C. §50 ; 35 U.S.C. § 284; Section 35(a) of the Lanham Act, 15 U.S.C. §1117(a); and applicable state statutory and common law, including at least Utah Code Ann. §13-11a-4(2)(c);


S. An award of Lifetime's attorneys' fees, pursuant to 35 U.S.C. §285; Section 35(a) of the Lanham Act, 15 U.S.C. §1117(a); and applicable state statutory and common law, including at least Utah Code Ann. §13-11a-4(c);

T. Postjudgment interest, pursuant to at least 28 U.S.C. §1961(a); and

U. For such other and further relief as the Court deems just and equitable.

Plaintiff demands TRIAL BY JURY of all causes so triable.

Dated this 13th day of December, 2001



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Exhibits/
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