

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION**

<b>FLIPO GROUP LTD., an Illinois Corporation,</b>	)	
	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No.</b>
	)	
<b>CHING-HUI LEE d/b/a ADD LUCKY ELECTRONIC TECHNOLOGY CO., INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**COMPLAINT**

Now comes Plaintiff, FLIPO GROUP LTD., a Illinois corporation, and for its Complaint against Defendant CHING-HUI LEE d/b/a ADD LUCKY ELECTRONIC TECHNOLOGY CO., LTD., states and alleges as follows:

**FACTUAL ALLEGATIONS**

*Nature of the Action*

1. Plaintiff seeks declaratory relief that it does not infringe U.S. Patent No. 6,773,133 B2 (“the ‘133 Patent”) and U.S. Patent No. U.S. 6,923,550 B2 (“the ‘550 Patent”), and additionally Plaintiff seeks declaratory relief that the ‘133 Patent and the ‘550 Patent are invalid and that this is an exceptional case under 35 U.S.C. §285 based on Plaintiff’s misuse of said Patents.

*The Parties*

2. Plaintiff, FLIPO GROUP LTD. (“Flipo”), is an Illinois corporation with its principal place of business located in LaSalle, Illinois. Plaintiff is engaged in the manufacture and sale of novelty and costume jewelry items.

3. Upon information and belief, Defendant, CHING-HUI LEE, is a citizen of Taiwan, residing in Taichung City, Taiwan. Defendant is doing business as ADD LUCKY ELECTRONIC TECHNOLOGY CO., LTD., and as such manufactures, imports and distributes into the United States certain novelty items.

***Jurisdiction and Venue***

4. This Court has subject matter jurisdiction over Flipo's claims under 28 U.S.C. §§ 1331 and 1338(a) because they arise under the patent statutes of the United States, Title 35 U.S. Code and under the Declaratory Judgment Act, 28 U.S.C. §§2201-2202.

5. Upon information and belief, this Court has personal jurisdiction over Defendant CHING-HUI LEE as Defendant regularly does business in the State of Illinois by distributing and selling his novelty items within the State of Illinois, and Defendant further caused to be sent to the offices of Flipo located within the State of Illinois a letter threatening legal action for patent infringement.

6. Venue is proper in this district under 28 U.S.C. §1391(b).

***Background***

7. Defendant is the owner of U.S. Patent No. 6,773,133 B2 and U.S. Patent No. U.S. 6,923,550 B2, entitled TOUCH-AND-FLASH DECORATIVE ARTICLE and INNOVATED FLASHING DECORATIVE ARTICLE respectively. A copy of the '133 Patent is attached hereto as Exhibit A, and a copy of the '550 Patent is attached hereto as Exhibit B.

8. On May 18, 2006, Defendant caused to be sent to Flipo a "Cease and Desist Infringement of Utility Patents" letter ("Cease and Desist letter"), and said letter was sent to the offices of Flipo in LaSalle, Illinois. In the Cease and Desist letter Defendant asserts that Flipo infringes both the '133 Patent and the '550 Patent through Flipo's manufacture and/or sale of

flashing/blinking light novelty items which Defendant claims use identical or substantially similar technology as covered by Defendant's patents. A copy of the May 18, 2006 Cease and Desist letter is attached hereto as Exhibit C.

9. The Cease and Desist letter also threatens Flipo with immediate legal action if Flipo does not stop the manufacture and sale of Flipo's products, and further threatens Flipo with "extremely serious liabilities" and "significant damages" if Flipo does not, among other things, stop the manufacture and sale of its products, recall its products, turn over to Defendant a list of its customers, and account to Defendant for all Flipo's products and sales.

10. In addition to sending to Flipo the Cease and Desist letter, Defendant has directly contacted customers of Flipo and wrongfully and without justification alleged that Flipo's products infringe Defendant's patents and demanded that those customers cease doing business with Flipo.

**Count I**  
**(Non-Infringement of the '133 Patent)**

11. Plaintiff repeats and realleges the allegations of paragraphs 1-10 of this Complaint as if fully set forth herein.

12. Flipo has not infringed the '133 Patent because, inter alia, none of Flipo's flashing/blinking light products use a magnet as required in the claims of the '133 Patent.

13. Flipo has not performed any act that constitutes direct patent infringement, contributory patent infringement, or inducing infringement of any claim of the '133 Patent.

14. Despite the lack of infringement, Defendant has accused Flipo of infringing the '133 Patent by way of its May 18, 2006 Cease and Desist letter, and has further threatened Flipo with immediate legal action if Flipo continues to manufacture and sell its products.

15. There is a justiciable controversy between the parties concerning Flipo's alleged liability for the claimed infringement of the '133 Patent, and by virtue of the Cease and Desist letter Defendant has created in Flipo a real and reasonable apprehension that Flipo will be subjected to litigation and damages if Flipo continues to manufacture and sell its products.

16. Based upon Defendant's baseless accusations of infringement, Flipo is entitled to judgment that it does not infringe the '133 Patent.

**Count II**  
**(Non-Infringement of the '550 Patent)**

17. Plaintiff repeats and realleges the allegations of paragraphs 1-10 of this Complaint as if fully set forth herein.

18. Flipo has not infringed the '550 Patent because none of Flipo's flashing/blinking light products use a magnet as required in the claims of the '550 Patent.

19. Flipo has not performed any act that constitutes direct patent infringement, contributory patent infringement, or inducing infringement of any claim of the '550 Patent.

20. Despite the lack of infringement, Defendant has accused Flipo of infringing the '550 Patent by way of its May 18, 2006 Cease and Desist letter, and has further threatened Flipo with immediate legal action if Flipo continues to manufacture and sell its products.

21. There is a justiciable controversy between the parties concerning Flipo's alleged liability for the claimed infringement of the '550 Patent, and by virtue of the Cease and Desist letter Defendant has created in Flipo a real and reasonable apprehension that Flipo will be subjected to litigation and damages if Flipo continues to manufacture and sell its products.

22. Based upon Defendant's baseless accusations of infringement, Flipo is entitled to judgment that it does not infringe the '550 Patent.

**Count III**  
**(Invalidity and Unenforceability of the '133 Patent)**

23. Plaintiff repeats and realleges the allegations of paragraphs 1-10 of this Complaint as if fully set forth herein.

24. The claims of the '133 Patent are invalid for failure to comply with the provisions of 35 U.S.C. §§102, 103 and 112, based upon anticipation and obviousness of the claims of the '133 Patent in light of prior art, and based on failures to comply with the written description, enablement and best mode requirements.

25. Defendant intentionally withheld from the United States Patent and Trademark Office disclosure of invalidating prior art of which the Defendant was aware during the prosecution of the '133 patent, thereby rendering the '133 patent unenforceable for Inequitable Conduct.

26. Defendant has accused Flipo of infringement of the '133 Patent in its Cease and Desist letter, and threatened Flipo with immediate legal action if Flipo continues to manufacture and sell its products.

27. There is a justiciable controversy between the parties concerning Flipo's alleged liability for the claimed infringement of the '133 Patent, and by virtue of the Cease and Desist letter Defendant has created in Flipo a real and reasonable apprehension that Flipo will be subjected to litigation and damages if Flipo continues to manufacture and sell its products.

28. Based upon Defendant's failure to comply with statutory requirements, Flipo is entitled to judgment that the '133 Patent is invalid.

**Count IV**  
**(Invalidity and Unenforceability of the '550 Patent)**

29. Plaintiff repeats and realleges the allegations of paragraphs 1-10 of this Complaint as if fully set forth herein.

30. The claims of the '550 Patent are invalid for failure to comply with the provisions of 35 U.S.C. §§102, 103 and 112, based upon anticipation and obviousness of the claims of the '550 Patent in light of prior art, and based on failures to comply with the written description, enablement and best mode requirements.

31. Defendant intentionally withheld from the United States Patent and Trademark Office disclosure of invalidating prior art of which the Defendant was aware during the prosecution of the '550 patent, thereby rendering the '550 patent unenforceable for Inequitable Conduct.

32. Defendant has accused Flipo of infringement of the '550 Patent in its Cease and Desist letter, and threatened Flipo with immediate legal action if Flipo continues to manufacture and sell its products.

33. There is a justiciable controversy between the parties concerning Flipo's alleged liability for the claimed infringement of the '550 Patent, and by virtue of the Cease and Desist letter Defendant has created in Flipo a real and reasonable apprehension that Flipo will be subjected to litigation and damages if Flipo continues to manufacture and sell its products.

34. Based upon Defendant's failure to comply with statutory requirements, Flipo is entitled to judgment that the '550 Patent is invalid.

**Count V**  
**(Exceptional Case under 35 U.S.C. §285)**

35. Plaintiff repeats and realleges the allegations of paragraphs 1-10 of this Complaint as if fully set forth herein.

36. All claims of both the '133 Patent and the '550 Patent require at least two magnets.

37. None of the accused products of Flipo use a magnet.

38. Upon information and belief, prior to sending the Cease and Desist letter to Flipo, Defendant failed to conduct a reasonable investigation as to his claims of infringement given that none of the accused products use a magnet as required by the '133 and '550 Patents, and as further evidenced by the complete lack of any factual analysis or description of Flipo's products within said letter, the lack of a claims chart, and the lack of any analysis of which claims of the '133 and '550 Patents are allegedly infringed by Flipo's products.

39. Defendant's Cease and Desist letter was delivered to Flipo without reasonable investigation and in bad faith, for the purpose of harassment and intimidation, and in an effort to wrongfully coerce Flipo to withdraw from the marketplace by way of threatened legal proceedings and the threat to Flipo of the expense to defend itself against such action.

40. Further, Defendant contacted the customers of Flipo in bad faith and without reasonable investigation into its claims of infringement, in an effort to coerce and intimidate said customers to cease doing business with Flipo, which contacts constitute intentional patent misuse.

41. Defendant's bad faith in accusing Flipo of infringement of the '133 and '550 Patents make this an exceptional case under 35 U.S.C. §285.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, FLIPO GROUP LTD., respectfully requests this Court to

- A. Enter judgment declaring that Flipo has not infringed U.S. Patent No. 6,773,133 B2;
- B. Enter judgment declaring that Flipo has not infringed U.S. Patent No. 6,923,550 B2;
- C. Enter judgment that U.S. Patent No. 6,773,133 B2 is invalid;
- D. Enter judgment that U.S. Patent No. 6,923,550 B2 is invalid;
- E. Declare this case to be exceptional under the provisions of 35 U.S.C. §285;
- F. Order Defendant CHING-HUI LEE to pay Flipo's reasonable attorneys' fees and costs incurred in connection with this action;
- G. Grant Flipo such other and further relief as this Court deems just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff, FLIPO GROUP LTD. demands a trial by jury on all counts so triable.

FLIPO GROUP LTD., an Illinois corporation,  
Plaintiff,

BY: \_\_\_\_\_ s/ Stephen M. Buck  
One of Its Attorneys



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