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DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

SUMMONS ISSUED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ARTEMIDE SPA and ARTEMIDE, INC.,

Plaintiffs,

v.

KIRCH INDUSTRIAL CO. (U.S.A.) LTD.,

Defendant.

Civil Action No.

COMPLAINT - 0636

(JURY DEMANDED)

FELDERSTIN, J.
TOMLINSON, M.J.

Plaintiffs Artemide SpA and Artemide, Inc., by their attorneys, for their Complaint against Defendant Kirch Industrial Co. (U.S.A.) Ltd., allege as follows:

BACKGROUND

1. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 101 et seq., for trademark infringement under the Trademark Laws of the United States, specifically the Lanham Act, 15 U.S.C. § 1114, et seq., for trade dress infringement under the Trademark Laws of the United States, specifically the Lanham Act, 15 U.S.C. § 1051, et seq., and for trade dress infringement arising under the common law of the state of New York.

THE PARTIES

2. Plaintiff Artemide SpA is a business entity organized and existing under the laws of Italy. Plaintiff Artemide SpA's headquarters are located at Via Bergamo, 18, 20020 Pregnana, Milan, Italy.

3. Plaintiff Artemide, Inc. is a corporation organized and existing under the laws of the State of Delaware. Plaintiff Artemide, Inc.'s headquarters are located at 1980 North Highway, Farmingdale, New York 11735.

4. Plaintiff Artemide SpA is a leading designer, manufacturer and resource of distinctive

and innovative lighting products, including wall lamps, floor lamps, table lamps and suspension lamps. Plaintiff Artemide, Inc. is the exclusive distributor of such products in the United States.

5. Upon information and belief, Defendant Kirch Industrial Co. (U.S.A.) Ltd. (hereinafter “Kirch”) is a New York corporation with a principal place of business at 1966A Broadhollow Road, Farmingdale, New York 11735.

6. Upon information and belief, Defendant sells the complained of products in the marketplace to consumers, as set forth in more detail below.

7. Upon information and belief, Defendant is engaged in business in the State of New York and specifically within this judicial district, and/or the alleged wrongs were committed by Defendant in this state and in this judicial district or outside of this state having consequences within this state and in this judicial district; the Defendant derives substantial revenue from intrastate and interstate commerce; and the Defendant is otherwise within the jurisdiction of this court.

JURISDICTION AND VENUE

8. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338 (a) with respect to the claims arising under the Patent Act, 35 U.S.C. § 101 et seq., pursuant to 28 U.S.C. §§ 1331 and 1338 with respect to the claims arising under the Lanham Act, 15 U.S.C. § 1051 et seq., and pursuant to 28 U.S.C. § 1367 with respect to those claims arising under the laws of the state of New York.

9. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 (b) and (c) and 1400 (b) because this is an action brought pursuant to the Patent and Trademark Laws of the United States, and because Defendant resides and/or conducts business in this district.

FACTS COMMON TO ALL COUNTS

10. Plaintiff Artemide SpA is a world leader in high quality domestic and professional lighting. Founded approximately 50 years ago, Artemide SpA is known for its innovative lighting products. The company has won numerous accolades, including the Compasso d'Oro award for lifetime achievement in 1995 and the European Design Prize in 1997. Artemide SpA's lighting products are included in the permanent collections of many museums, including the Musee des Artes Decoratifs de Montreal, the Galleria Nazionale d'Arte Moderna in Rome, the Metropolitan Museum of Art in New York and the Museum of Modern Art in New York.

11. Plaintiff Artemide, Inc. is the exclusive distributor of Plaintiff Artemide SpA's lighting products in the United States. Plaintiff Artemide, Inc. sells the aforesaid lighting products throughout the United States in lighting stores and in other locations specializing in fine "Italian-designed" and/or "Italian-inspired" lighting products. (Hereinafter, "Plaintiff Artemide" will collectively refer to Plaintiff Artemide SpA and to Plaintiff Artemide, Inc.)

12. Plaintiff Artemide's reputation for designing and marketing innovative lighting products is well known in the design marketplace among interior designers and architects, and also among consumers interested in well-designed and attractive contemporary lighting products. In recent years, stories about Plaintiff Artemide and its products have appeared in publications such as Architectural Lighting, Metropolitan Home, The New York Times, GQ, Dwell, Fortune, House Beautiful, Ty Pennington at Home, and Town and Country, among others. The trade name Artemide is the subject of two United States Trademark Registrations for, *inter alia*, lighting fixtures, namely Nos. 1,334,169 issued on May 7, 1985 (which is now incontestable) and 3,731,640 issued on December 19, 2009. A photoprint of each registration is attached hereto as Exhibit A.

13. On April 6, 2010, United States Letters Patent No. D613,448 entitled “Lamp,” was duly and legally issued by the United States Patent and Trademark Office (hereinafter “USPTO”) to Ross Lovegrove as the patentee and inventor thereof. Letters Patent No. D613,448 includes claims directed to the ornamental design for a lamp. A photoprint of U.S. Letters Patent No. D613,448 is annexed hereto as Exhibit B.

14. Mr. Lovegrove assigned U.S. Letters Patent No. D613,448 to Plaintiff Artemide. Plaintiff is now the owner by assignment of the entire right, title and interest in and to the U.S. Letters Patent No. D613,448.

15. Plaintiff has been engaged in the distribution and sale throughout the United States of distinctively designed lamps that embody the invention disclosed in United States Letters Patent No. D613,448. All such patented products currently carry an appropriate patent marking.

16. Plaintiff’s MERCURY lighting fixtures, which embody United States Letters Patent No. D613,448, have been marketed and sold since April 2007. The MERCURY light is both a suspension and ceiling light fixture with a distinctive, remarkable trade dress. In the words of its designer, Ross Lovegrove, MERCURY is “a ceiling fixture that places a floating assembly of large pebbles below a simple modern aluminum disc. These in turn reflect each other, bouncing light between their taugth bio-morphic surfaces and reflecting the environment around them. During the day, the piece acts as a sculptural object reflecting the dynamics of natural light and movement of people around them.” A photoprint of the MERCURY lighting fixture is annexed hereto as Exhibit C.

17. In addition to the MERCURY fixture, Plaintiff also manufactures, distributes and sells

other uniquely designed lighting fixtures. One such collection of distinctive fixtures is the TOLOMEO collection, which comprises various table, wall, floor, track and suspension lamps.

A photoprint of the TOLOMEO lighting fixture collection is annexed hereto as Exhibit D.

18. Plaintiff's TOLOMEO table lamp was introduced in 1987, and it and the collection (micro and mini table lamps and wall, floor, track and suspension items) are all defined by several unique features, including a unique hood, fully adjustable, articulated arm body structure, joint and tension control knobs and tension cables and a round base. The TOLOMEO table lamp was given the Compasso d'Oro award for Italian industrial design in 1989. TOLOMEO was recognized for the perfect marriage between design and engineering. In addition to earning this prestigious design award, Plaintiff Artemide's TOLOMEO products have met with considerable success both within the trade and with the general consuming public since their introduction. As a result of such sales and attendant promotional activities, the look of Plaintiff Artemide's TOLOMEO fixtures have become distinctive as identifying products originating with Artemide. Accordingly, the items have achieved a protectable "trade dress." Moreover, the mark TOLOMEO is the subject of incontestable U.S. Trademark Registration No. 1,529,578. A photoprint of U.S. Trademark Registration No. 1,529,578 is annexed hereto as Exhibit E.

19. Plaintiff Artemide's NUR lighting fixtures have a distinctive look as well. The NUR fixtures are cable suspended luminaries with dome-shaped bodies/diffusers in spun aluminum, providing direct halogen or fluorescent lighting. NUR products have met with considerable success both within the trade and with the general consuming public since their introduction in 2003. As a result of such sales and attendant promotional activities, the look of Plaintiff Artemide's NUR fixtures have become distinctive as identifying products originating with

Artemide. Accordingly, the items have achieved a protectable “trade dress.” A photoprint of a NUR lighting fixture is annexed hereto as Exhibit F.

20. Plaintiff also manufactures a CASTORE line of light fixtures. The distinctive CASTORE fixtures consist of a diffuser in white hand blown glass with an external etched finish. The fixtures are supported by steel tubing, covered by a tapered sleeve in white translucent molded polycarbonate, allowing for partial soft diffusion of light from the diffuser. CASTORE was introduced in 2003 in floor, suspension and table forms for direct and diffused incandescent lighting. A photoprint of a CASTORE lighting fixture is annexed hereto as Exhibit G.

21. Plaintiff has expended substantial time, money and other resources in developing, advertising and promoting its MERCURY, TOLOMEO, NUR and CASTORE lighting fixtures. As a result of these efforts, Plaintiff’s fixtures have enjoyed substantial commercial success in the United States. The trademarks MERCURY, TOLOMEO, NUR and CASTORE have thereby become distinctive by virtue of extensive use in commerce. The marks are well-recognized by the trade and the public as source indicators of products emanating from Plaintiff Artemide. Consumers readily identify Artemide fixtures as being of the highest quality, and emanating from or sponsored by Artemide. As such, each of the trademarks MERCURY, TOLOMEO, NUR and CASTORE has acquired secondary meaning.

22. Given the aforementioned expenditure of resources, commercial success and significance in the minds of the trade and public as denoting goods coming from Plaintiff, the individual designs of MERCURY, TOLOMEO, NUR and CASTORE also comprise a distinct trade dress. Each of the fixture collections and the names therefore, as described above, are both inherently

distinctive and well known to the consuming public and trade as identifying and distinguishing Plaintiff's products from others.

23. The designs of the MERCURY, TOLOMEO, NUR and CASTORE function as a valuable business asset of Plaintiff, and the goodwill associated therewith are of inestimable value to Plaintiff.

24. Upon information and belief, long after Plaintiff commercialized its unique line of lighting fixtures, Defendant began distributing and selling identical lighting fixtures under Plaintiff's own trademarks which blatantly infringe Plaintiff Artemide's patent, trademark and trade dress rights. Photoprints of Defendant's knock-off fixtures are attached hereto as Exhibits H (MERCURY), I (TOLOMEO), J (NUR), and K (CASTORE). Defendant has sold, or attempted to sell, its infringing fixtures through company catalogs, at its website and at trade shows.

25. Upon information and belief, Defendant had knowledge of Plaintiff's patented MERCURY fixtures, Plaintiff's trademark TOLOMEO and the unique designs of the MERCURY and TOLOMEO fixtures and the NUR and CASTORE fixtures, including the various elements comprising Plaintiff's distinctive trade dresses, prior to the time that Defendant committed the acts complained of herein. This belief is reinforced by statements on Defendant's website, such as the claim, "It's not [sic] real Tolomeo Lamp, it's just a Reproduction," and the use of Plaintiff's own trademarks ARTEMIDE, TOLOMEO, MERCURY, NUR and CASTORE to describe Defendant's knock-off products.

26. Upon information and belief, Defendant's conduct as described above is willful and wanton, in reckless disregard of Plaintiff's proprietary rights, and is intended to confuse the relevant trade and public.

FIRST CAUSE OF ACTION FOR PATENT INFRINGEMENT

27. Plaintiff repeats and realleges the allegations of paragraphs 1-26 hereof as if fully set forth herein.

28. Plaintiff has the full right to enforce United States Letters Patent No. D613,448 and to bring an action for patent infringement thereof.

29. Defendant, notwithstanding the rights of Plaintiff as set forth herein, has infringed United States Letters Patent No. D613,448 by manufacturing, offering for sale and selling products which embody the invention of said patent, in disregard of the rights of Plaintiff under 35 U.S.C. §§271 (a)-(c).

30. Said infringing activities have resulted in the production, distribution and sale of infringing products to retail stores and to the public.

31. The acts of Defendant complained of herein have caused and, unless enjoined by this Court, are likely to continue to cause Plaintiff to suffer irreparable harm through diversion of sales, loss of goodwill and diminution of the value of Plaintiff's patent.

32. Plaintiff has suffered monetary damages as a result of Defendant's action in an amount thus far not yet determined, but if such actions are continued, in an amount believed to be in excess of \$100,000. Plaintiff has no adequate remedy at law.

SECOND CAUSE OF ACTION FOR TRADEMARK INFRINGEMENT

33. Plaintiff repeats and realleges the allegations of paragraphs 1- 32 hereof as if fully set forth herein.

33. Plaintiff has the full right to enforce U.S. Trademark Registration Nos. 1,334,169 and 3,731, 640 for the mark ARTEMIDE.

34. Plaintiff has never authorized Defendant to sell reproductions of Plaintiff's ARTEMIDE lighting fixtures.

35. Plaintiff has never authorized Defendant to use its ARTEMIDE mark in connection with the sale of reproductions of Plaintiff's lighting fixtures.

36. Upon information and belief, Defendant's acts have been done willfully and intentionally, with full knowledge of Plaintiff's trademark rights.

37. Defendant's continuation of its infringing acts has and will cause Plaintiff irreparable harm and injury. Defendant has improperly sold goods under the ARTEMIDE mark, which is the subject of Artemide's trademark registrations, with the intent to cause confusion and mistake, to deceive and mislead the purchasing public and to improperly appropriate the valuable trademark rights of Plaintiff.

38. Defendant's said acts violate Section 32 of the Lanham Act, 15. U.S.C. § 114.

39. Plaintiff has suffered monetary damages as a result of Defendant's actions in an amount thus far not determined, but if such actions are continued, in an amount believed to be in excess of \$100,000. Plaintiff has no adequate remedy at law.

THIRD CAUSE OF ACTION FOR TRADEMARK INFRINGEMENT

40. Plaintiff repeats and realleges the allegations of paragraphs 1- 39 hereof as if fully set forth herein.

41. Plaintiff has the full right to enforce U.S. Trademark Registration No. 1,529,578 for the mark TOLOMEO.

42. Plaintiff has never authorized Defendant to sell reproductions of Plaintiff's TOLOMEO lighting fixtures.

43. Plaintiff has never authorized Defendant to use its TOLOMEO mark in connection with

the sale of reproductions of Plaintiff's lighting fixtures.

44. Upon information and belief, Defendant's acts have been done willfully and intentionally, with full knowledge of Plaintiff's trademark rights.

45. Defendant's continuation of its infringing acts has and will cause Plaintiff irreparable harm and injury. Defendant has improperly sold goods under the TOLOMEO mark, which is the subject of Artemide's trademark registration, with the intent to cause confusion and mistake, to deceive and mislead the purchasing public and to improperly appropriate the valuable trademark rights of Plaintiff.

46. Defendant's said acts violate Section 32 of the Lanham Act, 15. U.S.C. § 114.

47. Plaintiff has suffered monetary damages as a result of Defendant's actions in an amount thus far not determined, but if such actions are continued, in an amount believed to be in excess of \$100,000. Plaintiff has no adequate remedy at law.

FOURTH CAUSE OF ACTION FOR TRADE DRESS INFRINGEMENT

48. Plaintiff repeats and realleges the allegations of paragraphs 1- 47 hereof as if fully set forth herein.

49. As a result of Plaintiff's extensive use, advertising and promotion of its MERCURY, TOLOMEO, NUR and CASTORE lighting fixtures, the appearance or "look" of each of Plaintiff's fixtures, as described herein, has become indicative of origin, relationship, sponsorship and/or association with Plaintiff, and has therefore become protectable trade dress of Plaintiff.

50. The design of each of Plaintiff's MERCURY, TOLOMEO, NUR and CASTORE lighting fixtures, as described herein, comprises trade dress which is inherently distinctive and which has otherwise acquired distinctiveness.

51. The actions of Defendant in producing, marketing and selling four of its products, each with a trade dress essentially identical to that of Plaintiff's four products, has caused and/or is likely to cause purchasers to believe that they are buying Plaintiff's products or an approved or licensed variant thereof, when in fact they are not.

52. Upon information and belief, Defendant's use of lighting fixtures, each a part of a series of trade dress identical to that of Plaintiff's lighting fixtures, was designed and intended to cause confusion in the trade and with consumers.

53. Defendant, by its actions as aforesaid, have willfully and knowingly simulated, and
54. have thereby misappropriated, the configuration and appearance of Plaintiff's lighting fixtures for the sole purpose of trading on the goodwill of Plaintiff which Plaintiff has established in its four lighting fixtures, thereby wrongfully increasing Defendant's profits.

55. Defendant, by its actions as aforesaid, has falsely designated the origin of and has falsely described and/or represented its goods in commerce, in violation of Section 43 (a) of the Trademark Act, 15 U.S.C. § 1125 (a).

56. Upon information and belief, Defendant had knowledge of the designs of Plaintiff's MERCURY, TOLOMEO, NUR and CASTORE lighting fixtures, including the various elements of Plaintiff's distinctive trade dresses, prior to the time that Defendant committed the acts complained herein.

57. Upon information and belief, Defendant's conduct as described above is willful and wanton, and in reckless disregard of Plaintiff's rights.

58. Upon information and belief, Defendant continues to sell and to solicit orders for its four products.

59. The acts of Defendant complained of herein have caused and, unless enjoined by this

Court, are likely to continue to cause substantial confusion among purchasers, and have caused and will continue to cause Plaintiff to suffer irreparable harm through diversion of sales, diminution of Plaintiff's trade dress rights, loss of goodwill and diminution of the value of Plaintiff's advertising of its products.

60. Plaintiff has suffered monetary damages as a result of Defendant's actions in an amount thus far not yet determined, but if such actions are continued, in an amount believed to be in excess of \$100,000. Plaintiff has no adequate remedy at law.

**FIFTH CAUSE OF ACTION FOR UNFAIR COMPETITION INCLUDING
COMMON LAW TRADE MARK INFRINGEMENT**

61. Plaintiff repeats and realleges the allegations of paragraphs 1-60 hereof as if fully set forth herein.

62. As a result of Defendant's improper sale of lighting fixtures in the form of designs that are the subject of Plaintiff's trademark registrations - namely, ARTEMIDE and TOLOMEO - and Plaintiff's common law trademarks MERCURY, NUR, and CASTORE, architects, the lighting trade and the purchasing public are likely to buy Defendant's products with the erroneous belief that they are authorized reproductions of Artemide's trademarked designs or that the lighting fixtures are otherwise associated with Artemide.

63. Upon information and belief, Defendant has intentionally misappropriated the marks that are the subject of Artemide's trademark registrations and common law rights with the intention of causing confusion, mistake and deception among consumers and the trade as to the source of the goods and with the intent to unfairly profit from Plaintiff's goodwill at Plaintiff's expense.

64. As a result of the foregoing, Defendant's actions constitute unfair competition and misappropriation which have had, and will continue to have, a detrimental effect on the general consuming public in violation of the common law of the State of New York.

65. Plaintiff has suffered monetary damages as a result of Defendant's actions in an amount thus far not yet determined, but if such actions are continued, in an amount believed to be in excess of \$100,000. Plaintiff has no adequate remedy at law.

**SIXTH CAUSE OF ACTION FOR INJURY TO BUSINESS REPUTATION
AND DILUTION**

66. Plaintiff repeats and realleges the allegations of paragraphs 1-65 hereof as if fully set forth herein.

67. By reason of the practices and acts set forth above, Defendant is likely to injure Plaintiff's business reputation and dilute the distinctive quality of Plaintiff's marks and business, in violation of Section 360-1 of the New York General Business Law.

68. These acts of Defendant are without permission, license or consent of Plaintiff and, unless enjoined by this Court, Defendant will continue these practices and acts, thereby harming Plaintiff's business reputation and causing Plaintiff immediate and irreparable injury.

69. Plaintiff has suffered monetary damages as a result of Defendant's actions in an amount thus far not yet determined, but if such actions are continued, in an amount believed to be in excess of \$100,000. Plaintiff has no adequate remedy at law.

**SEVENTH CAUSE OF ACTION FOR UNFAIR COMPETITION INCLUDING
COMMON LAW TRADE DRESS INFRINGEMENT**

70. Plaintiff repeats and realleges the allegations of paragraphs 1-70 hereof as if fully set forth herein.

71. As a result of Plaintiff's extensive use, advertising and promotion of its MERCURY, TOLOMEO, NUR and CASTORE lighting fixtures, the overall appearance or "look" of each of Plaintiff's fixtures has become indicative of origin, relationship, sponsorship and/or association with Plaintiff, and therefore each embodies the protectable trade dress of Plaintiff.

72. Defendant has copied the aforesaid “looks,” and said copying has caused confusion and/or is likely to cause confusion in that the trade and relevant public are likely to attribute to Plaintiff the use by Defendant of virtually the same designs on nearly identical lighting fixtures.

73. Defendant’s activities, as aforesaid, are likely to cause confusion, and further constitute “passing off,” trade dress infringement and unfair competition under the common law of the State of New York.

74. Upon information and belief, Defendant had knowledge of Plaintiff’s MERCURY, TOLOMEO, NUR and CASTORE lighting fixtures, including the various elements of Plaintiff’s distinctive series of trade dress for those lighting fixtures, prior to the time that Defendant committed the acts complained herein.

75. Upon information and belief, Defendant’s conduct as described above is willful and wanton, and in reckless disregard of Plaintiff’s rights.

76. Upon information and belief, Defendant continues to sell and to solicit orders for its products.

77. The acts of Defendant complained of herein have caused and, unless enjoined by this Court, are likely to continue to cause substantial confusion among purchasers, and have caused and will continue to cause Plaintiff to suffer irreparable harm through diversion of sales, diminution of Plaintiff’s trade dress rights, loss of goodwill and diminution of the value of Plaintiff’s advertising of its products.

78. Plaintiff has suffered monetary damages as a result of Defendant’s actions in an amount thus far not yet determined, but if such actions are continued, in an amount believed to be in excess of \$100,000. Plaintiff has no adequate remedy at law.

WHEREFORE, Plaintiff prays for the following relief:

1. That United States Letters Patent No. D613,448 be found to be valid and enforceable and to have been infringed by Defendant;

2. That United States Trademark Registration No. 1,529,578 be found to be valid and enforceable and to have been infringed by Defendant;

3. That Plaintiff has a protectable trade dress in each of the MERCURY, TOLOMEO, NUR and CASTORE lighting fixture designs;

4. That each of Plaintiff's trade dress be found to have been infringed by Defendant;

5. That Defendant, its agents, servants, employees, associates, and attorneys, and all persons acting by, through, or in active concert with any of them be preliminarily and permanently enjoined:

(a) from making, manufacturing, assembling, importing, using, selling, offering for sale, or promoting any product in any media which infringes United States Letters Patent No. D613,448;

(b) from causing a third party to make, manufacture, assemble, import, use, sell, offer for sale or promote any product in any media which infringes United States Letters Patent D613,448;

(c) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media under a trademark which infringes United States Trademark Registration No. 1,334,169;

(d) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media under a trademark which infringes United States Trademark Registration No. 3,731,640;

(e) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media under a trademark which infringes United States Trademark Registration No. 1,529,578;

(f) from causing a third party to make, manufacture, assemble, import, use, sell, offer for sale or promote any product in any media under a trademark which infringes United States Trademark Registration No. 1,529,578;

(g) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media which infringes Plaintiff's trade dress in its MERCURY lighting fixtures;

(h) from causing a third party to make, manufacture, assemble, import, use, sell, offer for sale or promote any product in any media which infringes each of Plaintiff's trade dress in its MERCURY lighting fixtures;

(i) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media which infringes Plaintiff's trade dress in its TOLOMEO lighting fixtures;

(j) from causing a third party to make, manufacture, assemble, import, use, sell, offer for sale or promote any product in any media which infringes each of Plaintiff's trade dress in its TOLOMEO lighting fixtures;

(k) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media which infringes Plaintiff's trade dress in its NUR lighting fixtures;

(l) from causing a third party to make, manufacture, assemble, import, use, sell, offer for sale or promote any product in any media which infringes each of Plaintiff's trade dress in its NUR lighting fixtures;

(m) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media which infringes Plaintiff's trade dress in its CASTORE lighting fixtures;

(n) from causing a third party to make, manufacture, assemble, import, use, sell, offer for sale or promote any product in any media which infringes each of Plaintiff's trade dress in its CASTORE lighting fixtures;

(o) from making, manufacturing, assembling, importing, using, selling, offering for sale or promoting any product in any media which infringes any trademark, trade dress or packaging of Plaintiff;

(p) from causing a third party to make, manufacture, assemble, import, use, sell, offer for sale or promote any product in any media which infringes any trademark, trade dress or packaging of Plaintiff;

(q) from using Plaintiff's trademarks ARTEMIDE, MERCURY, TOLOMEO, NUR and/or CASTORE to cause confusion, mistake or deception amongst the trade and purchasing public or in a manner which is likely to cause confusion, mistake or deception amongst the trade and purchasing public;

(r) from using Plaintiff's trademarks ARTEMIDE, MERCURY, TOLOMEO, NUR and/or CASTORE within a domain name to sell lighting fixtures which compete with those of Plaintiff;

(s) from using Plaintiff's trademarks ARTEMIDE, MERCURY, TOLOMEO, NUR and/or CASTORE as key words or adwords in a manner which causes confusion, mistake or deception amongst the trade and purchasing public or in a manner which is likely to cause confusion, mistake or deception amongst the trade and purchasing public;

(t) or committing any other act which falsely represents, or which has the effect of falsely representing, that the products of Defendant are licensed, authorized by, or in any way associated with Plaintiff;

(u) from otherwise unfairly competing with Plaintiff.

5. Directing Defendant to recall from its customers, at Defendant's sole cost, all goods which infringe (a) United States Letters Patent No. D613,448; (b) United States Trademark Registrations No. 1,529,578; (c) United States Trademark Registration No. 1,334,169; (d) United States Trademark Registration No. 3,731, 640; (e) Plaintiff's trademark MERCURY; (f) Plaintiff's trademark NUR; (g) Plaintiff's trademark CASTORE; (h) Plaintiff's trade dress in its TOLOMEO lighting fixtures; (i) Plaintiff's trade dress in its MERCURY lighting fixtures; (j) Plaintiff's trade dress in its NUR lighting fixtures; and (k) Plaintiff's trade dress in its as well as CASTORE lighting fixtures;

6. Directing Defendant to file forthwith with this Court and serve upon Plaintiff a report, in writing, under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction;

7. That Defendant accounts to Plaintiff for all gains, profits and advantages derived from Defendant's wrongful acts;

8. That Plaintiff recovers from Defendant all of Defendant's profits and all damages, including lost profits sustained by Plaintiff as a result of Defendant's wrongful acts, and such

other compensatory damages as the Court determines to be fair and appropriate, pursuant to 35 U.S.C. § 284 and 15 U.S.C. § 1117 (a);

9. That Plaintiff recovers from Defendant three times the amount of Defendant's profits or Plaintiff's damages, whichever is greater, for willful infringement pursuant to 35 U.S.C. § 284 and 15 U.S.C. § 1117 (b);

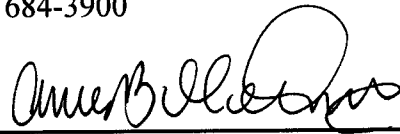
10. That Plaintiff be awarded all the costs, disbursements and attorneys fees incurred by Plaintiffs in bringing this action, pursuant to 35 U.S.C. § 285 and 15 U.S.C. § 1117; and

11. For such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Respectfully submitted,
GOTTLIEB, RACKMAN & REISMAN, P.C.
Attorneys for Plaintiff
270 Madison Avenue, 8th Floor
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(212) 684-3900

By: 
Amy B. Goldsmith (AG 6286)
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Dated: New York, New York
February 7, 2011

EXHIBIT A

Int. Cls.: 11 and 20

Prior U.S. Cls.: 21 and 32

United States Patent and Trademark Office **Reg. No. 1,334,169**
Registered May 7, 1985

**TRADEMARK
PRINCIPAL REGISTER**

ARTEMIDE

ARTEMIDE S.P.A. (ITALY CORPORATION)
CORSO MONFORTE 19
MILAN, ITALY

FOR: ELECTRIC LIGHTS AND LIGHTING
FIXTURES THEREFOR, IN CLASS 11 (U.S. CL.
21).

FIRST USE 0-0-1970; IN COMMERCE
0-0-1970.

FOR: FURNITURE, IN CLASS 20 (U.S. CL. 32).
FIRST USE 0-0-1970; IN COMMERCE
0-0-1970.

SER. NO. 390,710, FILED 9-28-1982.

JODY HALLER DRAKE, EXAMINING ATTOR-
NEY

United States of America
United States Patent and Trademark Office

Artemide

Reg. No. 3,731,640 ARTEMIDE S.P.A. (ITALY JOINT STOCK COMPANY)
Registered Dec. 29, 2009 19, CORSO MONFORTE
I-20122 MILANO
ITALY

Int. Cls.: 11, 20 and 42

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

FOR: LIGHTING APPARATUS AND INSTALLATIONS FOR THE INTERIOR AND EXTERIOR USE, NAMELY LAMPS, CHANDELIERS, WALL LIGHTS, FLOOR LAMPS, IN CLASS 11 (U.S. CLS. 13, 21, 23, 31 AND 34).

FOR: FURNITURE, MIRRORS, PICTURE FRAMES, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FOR: SERVICES OF PROJECT STUDIES AND DESIGN, PROVIDED BY PROFESSIONALS INCLUDING ENGINEERS, ARCHITECTS AND DESIGNERS, NAMELY, CONSULTING SERVICES IN THE FIELD OF ARCHITECTURAL DESIGN AND LIGHTING DESIGN, IN CLASS 42 (U.S. CLS. 100 AND 101).

OWNER OF U.S. REG. NOS. 1,334,169 AND 2,349,855.

PRIORITY DATE OF 10-15-2008 IS CLAIMED.

OWNER OF INTERNATIONAL REGISTRATION 0993495 DATED 12-15-2008, EXPIRES 12-15-2018.

THE MARK CONSISTS OF THE WORDING "ARTEMIDE" IN STYLIZED FONT.

SER. NO. 79-065,392, FILED 12-15-2008.

DANIEL CAPSHAW, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT B

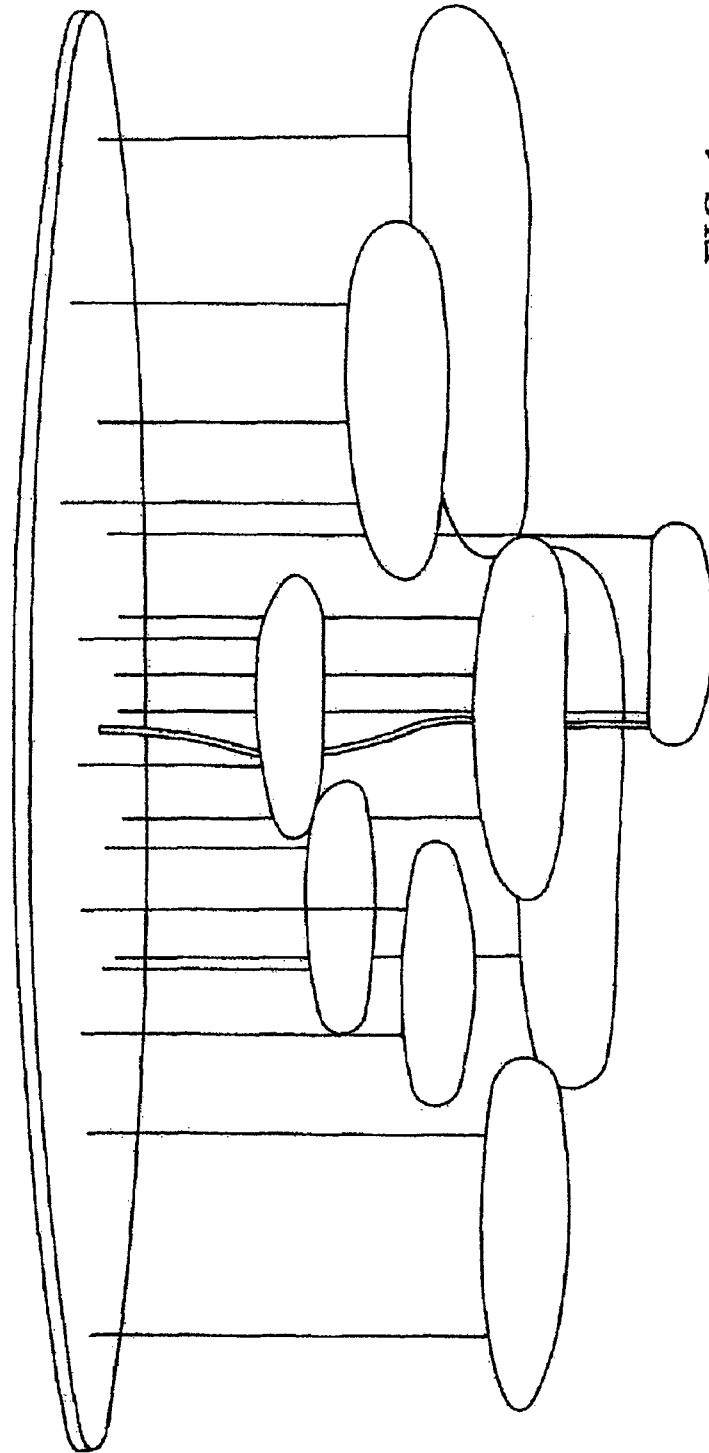


FIG. 1

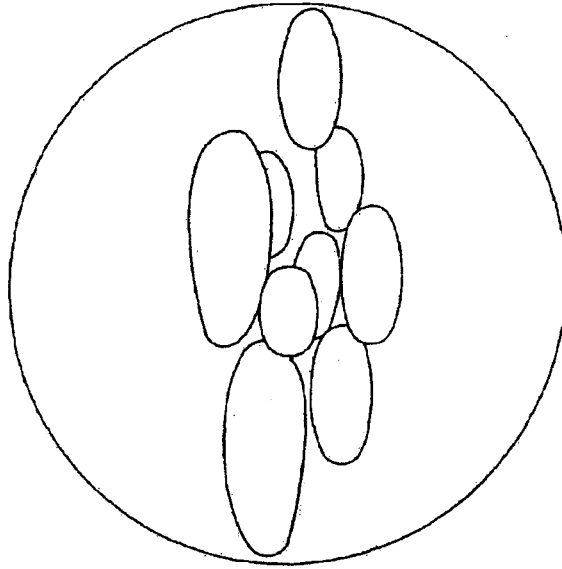


FIG. 2

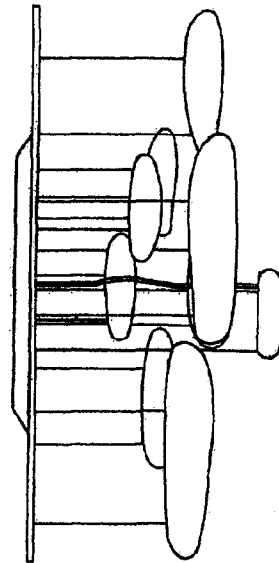


FIG. 3

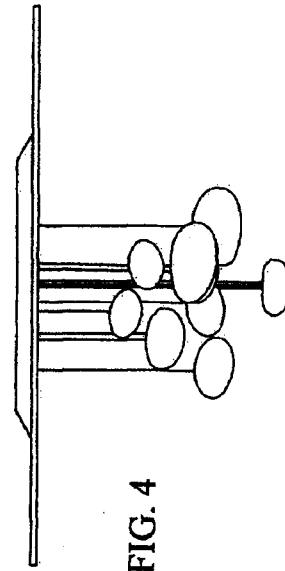


FIG. 4

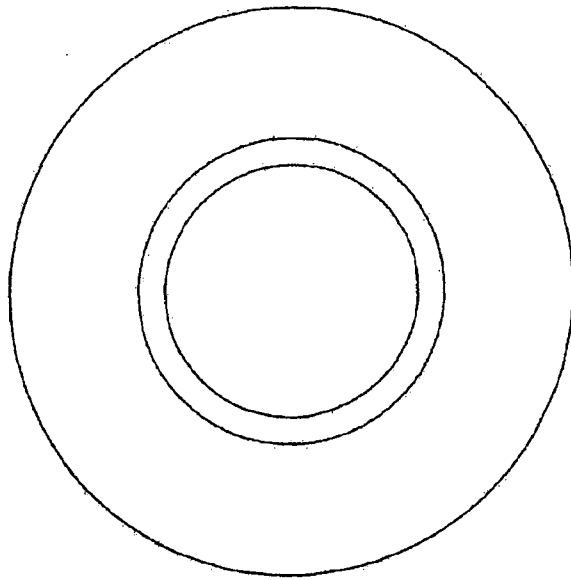


FIG. 5

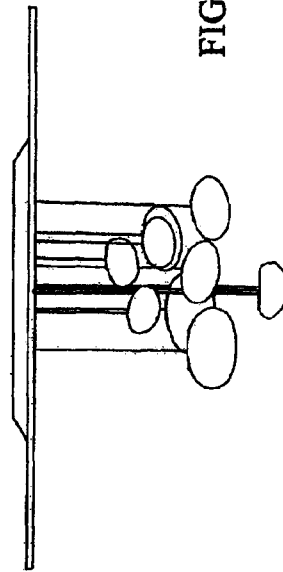


FIG. 6

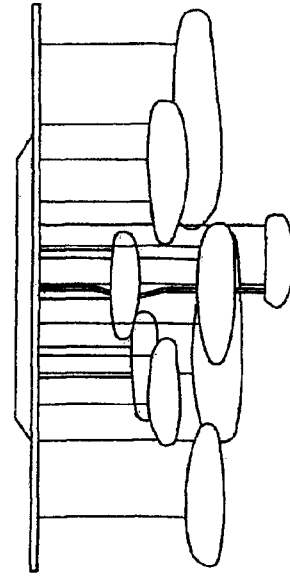


FIG. 7

EXHIBIT C

Artemide

Online Store | Artemide Design

Artemide Architectural

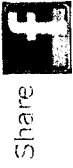
Rezek

Showrooms

Dealer Locator

Catalogs

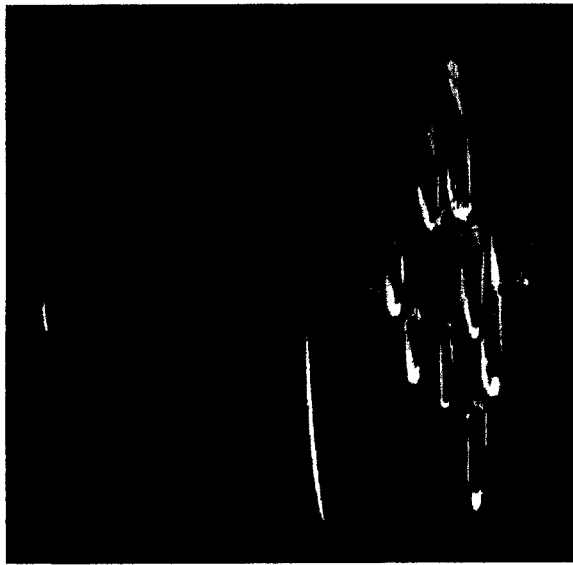
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Mercury Suspension

design by Ross Lovegrove



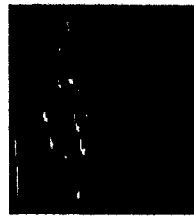
"A ceiling fixture that places a floating assembly of large pebbles below a thin, modern aluminum disc. These in turn reflect each other, bouncing light upwards, their taugth bio-morphic surfaces and reflecting the environment around them. During the day, the piece acts as a sculptural object reflecting the dynamics of natural light and movement of people around them."

-Ross Lovegrove

Cable suspended luminaire for indirect halogen lighting.

- reflective units (pebbles) made of molded thermoplastic with polished chrome finish
- reflective units containing light source in die-cast aluminum polished chrome finish
- disc in die-cast aluminum in pale grey finish
- grey thermoplastic canopy with clear electrical cord and stainless steel cables
- mounting to standard electrical junction boxes

Additional models in this series:



Mercury Ceiling



Mercury Cluster

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Search results for "mercury"

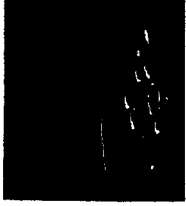
(Click on any product photo for more details)



Mercury Ceiling



Mercury Cluster



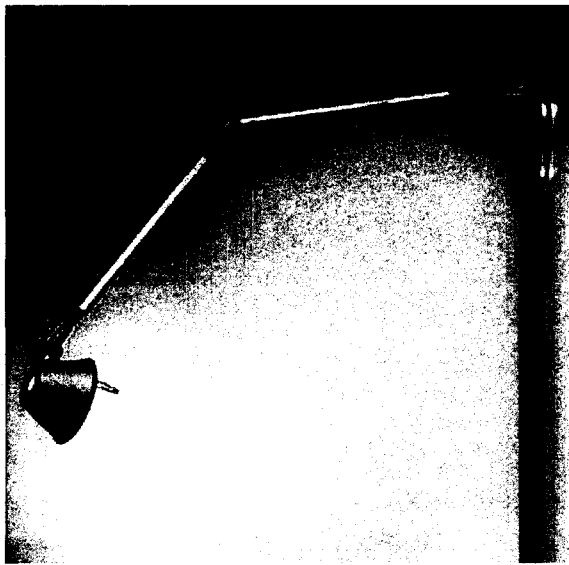
Mercury Suspension

EXHIBIT D



Tolomeo Classic table

design by M. De Lucchi & G. Fossina



Table/desk luminaire for orientable task lighting in your choice of incandescent or energy saving fluorescent light output.

- original full size
- choice of table mounting in polished die-cast aluminum:
 - 9" round base
 - clamp (2" max. clamp opening)
 - in-set support (requires a 3/4" dia. hole and supports 2.5" max. depth)
- fully adjustable, articulated arm body structure in extruded, brilliant, natural anodized aluminum finish
- joints, tension control knobs and mountings in polished die-cast aluminum, cables in stainless steel
- 6" diameter diffuser in stamped, anodized matte aluminum, tiltable and 360° rotatable on lampholder with incorporated on/off switch
- U.L. listed

Incandescent light source

- 1x100W (E26/A19W)

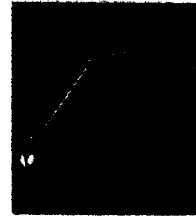
Additional models in this series:



Tolomeo Classic LED lamp



Tolomeo classic LED lamp



Tolomeo Classic LED lamp



Tolomeo Classic LED lamp



Tolomeo mega clamp lamp



Tolomeo Mega suspension lamp



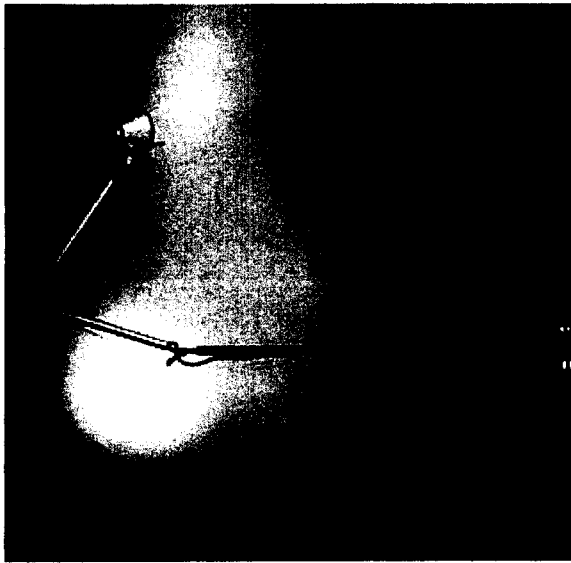
Tolomeo mega wall lamp

[Click here to view all models](#)



Tolomeo classic floor

design by M. De Lucchi & G. Fossina



Floor luminaire for orientable task lighting.

- fully adjustable, articulated arm body structure in extruded, brilliant, polished aluminum
- joints and tension control knobs in polished die-cast aluminum
- tension cables in stainless steel
- 6" diameter diffuser in stamped, anodized matte aluminum, tiltable and 360 degree rotatable on lampholder, with incorporated on/off switch
- floor support consisting of 1 3/4" diameter base in polished die-cast aluminum and stem in chromed steel
- U.L. listed

Incandescent light source

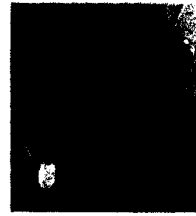
- 1x100W (E26/A1 9W)

All bulbs sold separately unless otherwise noted. All wattage info. listed above denote the maximum allowed wattage.

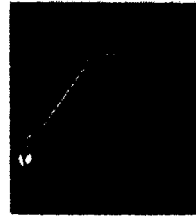
Additional models in this series:



Tolomeo Classic LED floor



Tolomeo classic LED table



Tolomeo Classic LED table



Tolomeo Classic LED wall



Tolomeo mega clamp

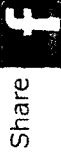


Tolomeo Mega suspension



Tolomeo mega wall

[Click here to view all models](#)



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page 1 of 2



Tolomeo classic floor

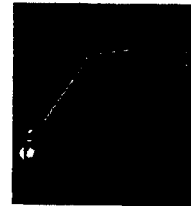


Tolomeo Classic LED floor



Tolomeo classic LED table

****NEW PRODUCT****



Tolomeo Classic LED table



Tolomeo Classic LED table



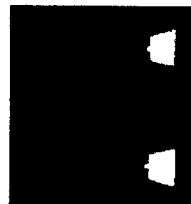
Tolomeo Classic table



Tolomeo classic wall



Tolomeo clip spot



Tolomeo double spaced suspension



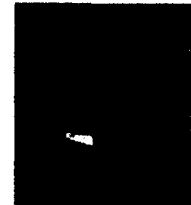
Tolomeo double suspension



Tolomeo man wall



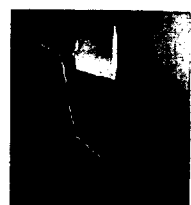
Tolomeo micro-2 planit



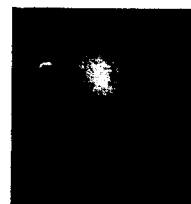
Tolomeo micro floor



Tolomeo Mega lamp



Tolomeo mega wall



Tolomeo micro floor



Tolomeo micro table



Tolomeo micro LED



Tolomeo micro table



Tolomeo micro table



Tolomeo micro table

EXHIBIT E

Int. Cl.: 11

Prior U.S. Cl.: 21

United States Patent and Trademark Office **Reg. No. 1,529,578**
Registered Mar. 14, 1989

**TRADEMARK
PRINCIPAL REGISTER**

TOLOMEO

ARTEMIDE S.P.A. (ITALY JOINT STOCK COM-
PANY)
VIA MONTENAPOLEONE 18
MILANO, ITALY

FOR: ELECTRIC LIGHTING FIXTURES,
TABLE LAMPS AND FLOOR LAMPS, IN
CLASS 11 (U.S. CL. 21).

PRIORITY CLAIMED UNDER SEC. 44(D) ON
ITALY APPLICATION NO. 21426C/87, FILED
7-6-1987, REG. NO. 484770, DATED 10-3-1987,
EXPIRES 7-6-1997.

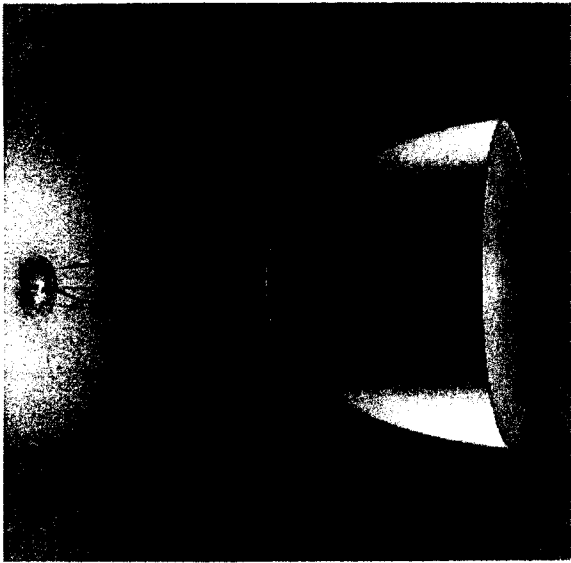
SER. NO. 677,772, FILED 8-7-1987.

ABRAM I. SACHS, EXAMINING ATTORNEY

EXHIBIT F

Nur 1618 suspension

design by Ernesto Gismondi



Cable suspended luminaires providing direct halogen or fluorescent light with subtle indirect lighting.

- large deep domed diffuser in spun aluminum, available in charcoal grey or natural aluminum finish with sanded glass at top of dome
- ceiling canopy in steel with thermoplastic cover in grey
- suspension cables in stainless steel
- mounting to standard electrical junction boxes
- U.L. listed

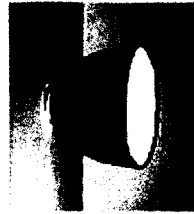
Halogen light source

- Nur 1618 HAL suspension model
- 2 x 500W (R7S/T3) supplied

Fluorescent light source

- Nur 1618 FLU suspension model
- 4 x 42W (GX24q-4/T4)

Additional models in this series:



Nur ceiling and Nur mini ceiling



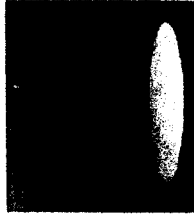
Nur Flu



Nur Gloss suspension



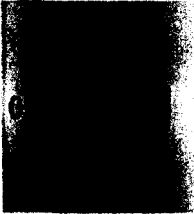
Nur Hal



Nur Meta



Nur Mini Gloss suspension

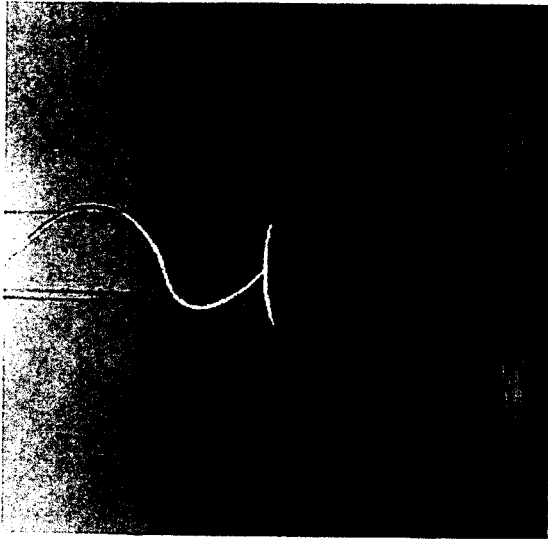


Nur Mini HAL suspension

[Click here to view all models](#)

Nur Meta

design by Ernesto Gismondi



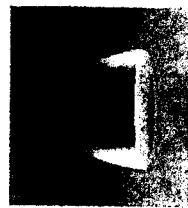
Cable suspended luminaire providing direct color and indirect white halogen lighting, utilizing Artemide's patented Metamorfoosi technology.

- deep dome shaped body/diffuser in spun aluminum, available in charcoal grey or natural anodized aluminum finish
- suspension cables in stainless steel
- ceiling canopy in spun aluminum incorporating a microprocessor and a remote controlled infrared receiver
- lighting emitted by four halogen lamps, three are contained within the upper/lower sections of the dome, each equipped with a dichroic color lens (red, green and blue) providing direct color lighting, one is recessed in the upper/lower section of the diffuser providing indirect white lighting
- U.L. listed

Halogen light source

- 3x150W/120V (B15D frosted) +
- 1x300W/120V (T3/R7s)
- (all included)

Additional models in this series:



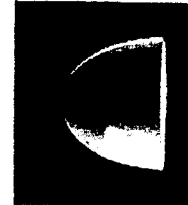
Mini 100 suspended



Mini 100 suspended



Mini 100



Mini 100



Mini 100



Mini 100



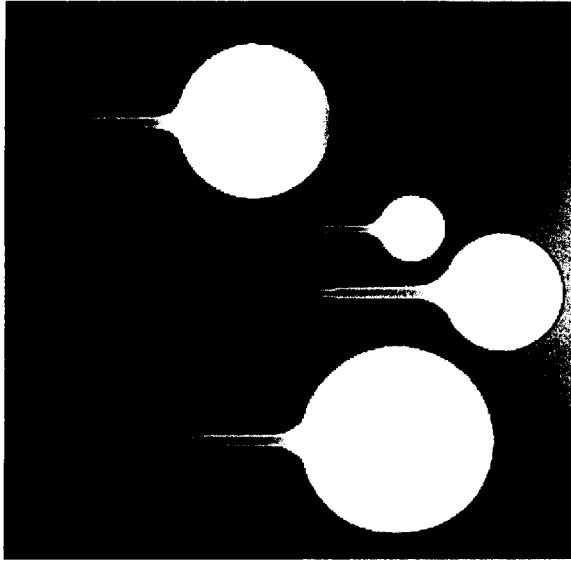
Mini 100

[Click here to view all models](#)



Castore suspension

design by Michele De Lucchi



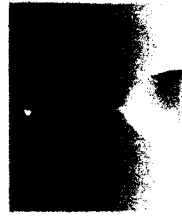
Cable suspended luminaires for diffused incandescent or halogen lighting, available in four sizes:

- diffuser in white handblown glass, with external etched finish, available in four sizes: 14(Ø5 1/2"), 25(Ø10"), 35(Ø13 3/4"), 42(Ø16 1/2")
- diffuser support in steel tubing, covered by a tapered sleeve in white translucent molded polycarbonate, allowing for partial soft diffusion of light from diffuser
- suspension cable in stainless steel
- ceiling plate in steel with canopy in white molded thermoplastic, mounting to standard electrical junction boxes
- incandescent and halogen models can wire to a dimmer switch (dimmer provided by others)
- U.L. listed

Incandescent light source

- Castore Suspension 25 (Ø10") 1X100W (E26/A19W)
- Castore Suspension 35 (Ø13 3/4")

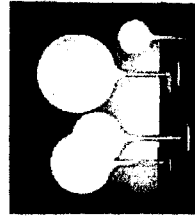
Additional models in this series:



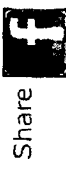
Castore Calice suspension



Castore floor



Castore table



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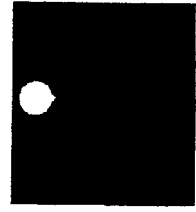
Search results for "castore"

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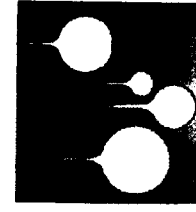
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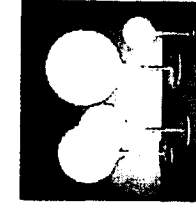
Castore Canice suspension



Castore floor



Castore suspension



Castore table

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EXHIBIT H

2/4/2011

modern light circular light fixture MD20200-2-1100-C...

MD20200-2-1100-CHROME

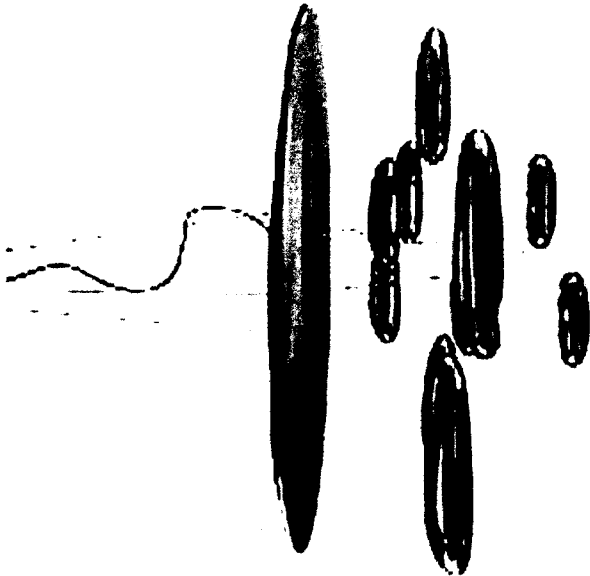
\$1,545.00

Availability: In stock.

modern light circular light fixture MD20200-2-1100-CHROME

[Be the first to review this product](#)

Size: 43"Dia x 59"H
Color: Chrome



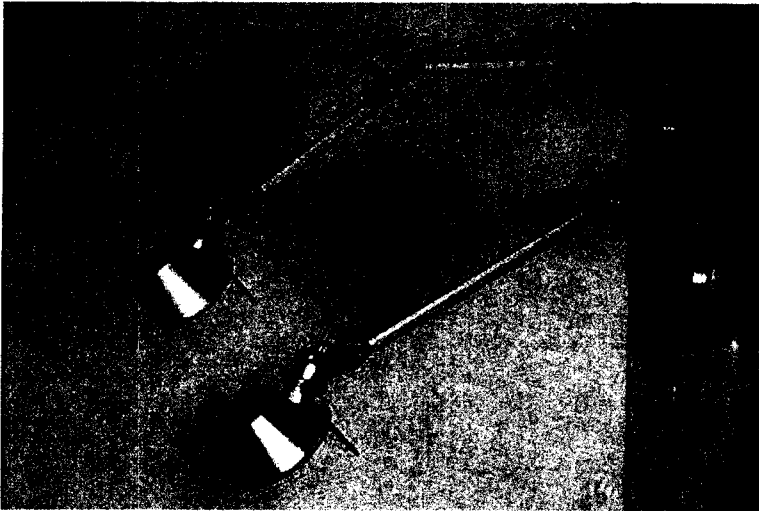
Rollover the image above to view in more detail

Product Description

Size: 43"Dia x 59"H
Color: Chrome

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EXHIBIT I



Rollover the image above to view in more detail

Tolomeo Table Base Lamp 37"H Nickelized Table Lamp

\$179.00

Availability: In stock.

Item#T18

- *It's not real Tolomeo Lamp, it's just a reproduction.
- *Originally Designed by Michele De Lucchi & G. Fassina, 1987
- *Size: 8"W x 33"L x 37"H
- *Pack: 1pc/ctn
- *Material: nickelized
- *Max wattage: 60W
- *Cord length: 2.4M
- *Bulbs: 1xE26

Be the first to review this product

Design Michele De Lucchi & G. Fassina, 1987

The Tolomeo table lamp series offer direct lighting with a fully adjustable, articulated arm structure with joints and tension control knobs. The diffuser is offered in stamped, anodized matte aluminum, rotatable 360° with a table base in weighted steel with a stamped aluminum cover.

Michele De Lucchi was born in 1951 in Ferrara and graduated in architecture in Florence. During the period of radical and experimental architecture he was a prominent figure in movements like Cavart, Alchymia and Memphis. De Lucchi has designed lamps and furniture for well known Italian and European companies. The firm's philosophy is rooted in the search for deep interaction between architectural thinking, industrial design and global communication.

Product Description

Design Michele De Lucchi & G. Fassina, 1987

The Tolomeo table lamp series offer direct lighting with a fully adjustable, articulated arm structure with joints and tension control knobs. The diffuser is

1/25/2011

Tolomeo Table Base Lamp

offered in stamped, anodized matte aluminum, rotatable 360° with a table base in weighted steel with a stamped aluminum cover.

Michele De Lucchi was born in 1951 in Ferrara and graduated in architecture in Florence. During the period of radical and experimental architecture he was a prominent figure in movements like Cavart, Alchymia and Memphis. De Lucchi has designed lamps and furniture for well known Italian and European companies. The firm's philosophy is rooted in the search for deep interaction between architectural thinking, industrial design and global communication.

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Metal Reading Floor Lamp



\$225.00

Availability : In stock.

Size : 28 3/8"L x 11 7/8"W x 67 3/4"H

Material: metal

[Be the first to review this product](#)

This Floor lamp is the ideal companion for your favorite chair. The floor support consists of a weighted steel base with a stamped aluminum cover and stem in chromed steel.

Rollover the image above to view in more detail

Product Description

This Floor lamp is the ideal companion for your favorite chair. The floor support consists of a weighted steel base with a stamped aluminum cover and stem in chromed steel.

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EXHIBIT J

Nur Meta Suspension Lamp Designer Ceiling Lamp White

\$398.00

Availability: In stock.

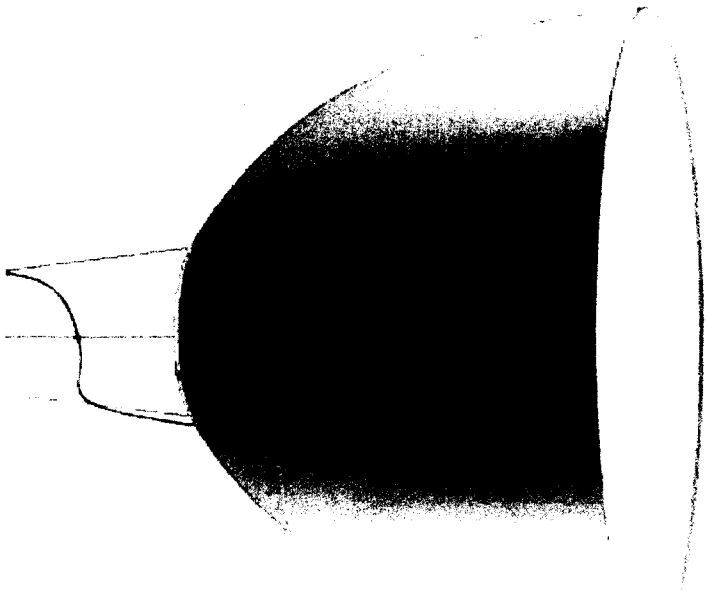
Item#UC550W

- *Brand new, Quality reproduction
- *Size: 22"Dia x 15 1/2"H
- *Material: Iron
- *Max wattage: 60W
- *Bulbs: 1x E26

[Be the first to review this product](#)

Originally Designed by Ernesto Gismondi,

The Nur suspension lamp is a series of luminaires in various sizes, colors and lighting options. This Nur Meta suspension lamp features Artemide's patented Metamorfoosi technology. The lamp is offered with a deep dome shaped body/diffuser in iron in white finish.



[Rollover the image above to view in more detail](#)

Product Description

Originally Designed by Ernesto Gismondi,

The Nur suspension lamp is a series of luminaires in various sizes, colors and lighting options. This Nur Meta suspension lamp features Artemide's patented Metamorfoosi technology. The lamp is offered with a deep dome shaped body/diffuser in iron in white finish.

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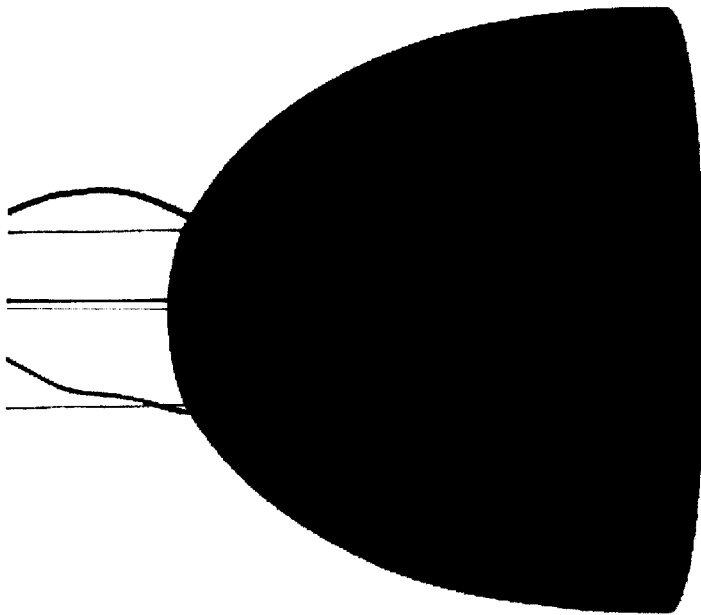
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Product Description

Originally Designed by Ernesto Gismondi,

The Nur suspension lamp is a series of luminaires in various sizes, colors and lighting options. The Nur Meta suspension lamp features Artemide's patented Metamorfofi technology. The lamp is offered with a deep dome shaped body/diffuser in iron in black finish.

Nur Meta Suspension Lamp Designer Ceiling Lamp Lighting

\$398.00

Availability: In stock.

Item#UC550B

- * Brand new, Quality reproduction
- * Size: 22"Dia x 15 1/2"H
- * Material: Iron
- * Max wattage: 60W
- * Bulbs: 1x E26

Be the first to review this product

Originally Designed by Ernesto Gismondi,

The Nur suspension lamp is a series of luminaires in various sizes, colors and lighting options. The Nur Meta suspension lamp features Artemide's patented Metamorfofi technology. The lamp is offered with a deep dome shaped body/diffuser in iron in black finish.

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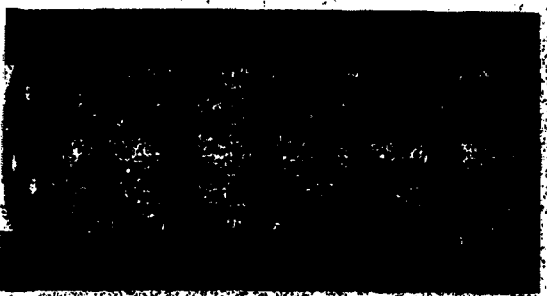
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[Terms & Conditions](#)

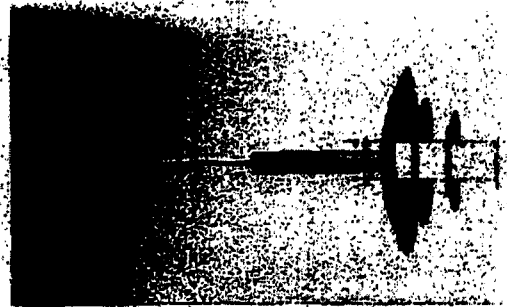
EXHIBIT K



CZ2900
27 1/2" Dia x 56 3/8" H
crystal/metal



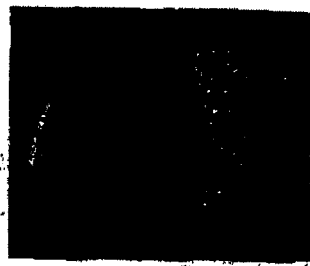
LUR505
23 3/4" Dia x 70 7/8" H
plate



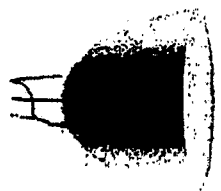
M020902-1-410
17 1/4" Dia x 47 5/8" H
ceramic



M020091-1-189
47 1/4" Dia x 116 1/8" H
PVC/leather



UC6000-2
26 1/4" x 17" x 18 3/8" H
glass



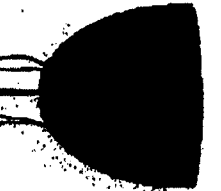
UC2889Y
14 1/4" Dia x 15 1/2" H
iron



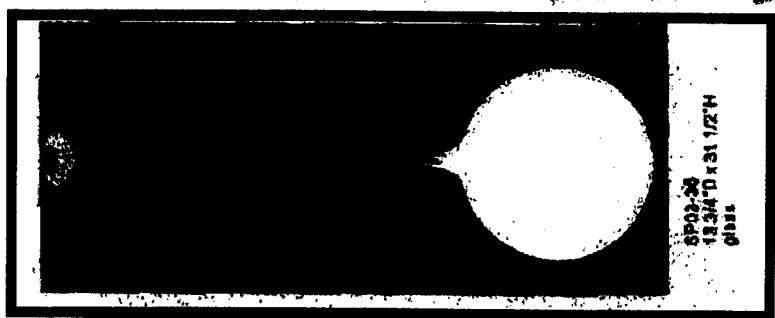
UC6000Y
22" Dia x 16 1/2" H
iron



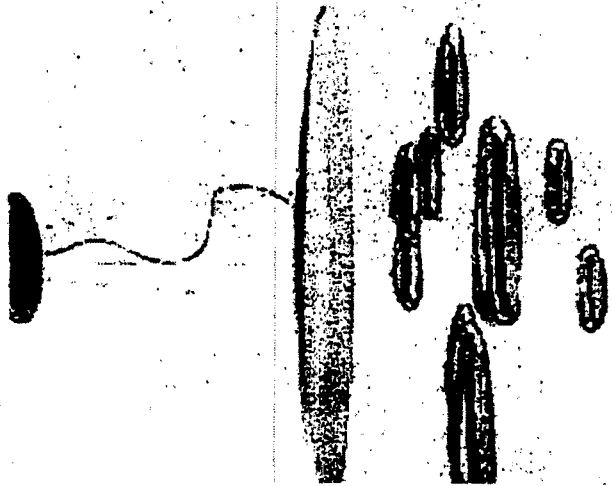
M020091-2-100
48 1/4" Dia x 28 1/2" H
ceramic/metal



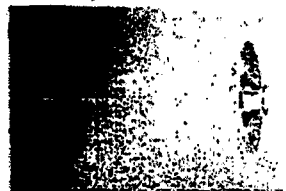
UC6400
22 1/2" Dia x 12 1/2" H
iron



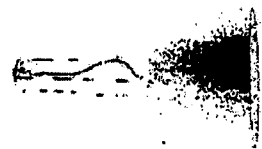
SP03-26
18 3/4" Dia x 31 1/2" H
glass



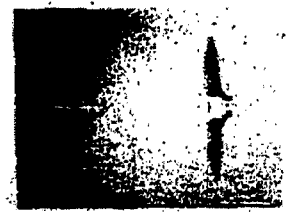
M020091-3-1100
42" Dia x 39" H
ceramic/metal



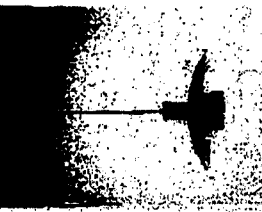
M020091-1-150
17" Dia x 47 1/4" H
ceramic



M020091-1-650
21 1/2" Dia x 65" H
ceramic



M020091-1-150
21 1/4" Dia x 47 1/4" H
ceramic



M020091-1-150
18 1/2" Dia x 47 1/4" H
ceramic