

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

(1) SPECIALTY HOUSE OF CREATION,
INCORPORATED, a New Jersey corporation,

Plaintiff,

v.

(1) QUAPAW TRIBE OF OKLAHOMA,

Defendant.

Case No. 10-CV-371-GKF-TLW

COMPLAINT FOR PATENT INFRINGEMENT AND FALSE MARKING

This action is not related to any previously filed case in this Court. Plaintiff Specialty House of Creation, Incorporated alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement and false marking of United States Design Patent No. D486,531.

PARTIES

2. Plaintiff Specialty House of Creation, Incorporated (“Specialty House” or “Plaintiff”) is a corporation organized and existing under the laws of New Jersey, and has its headquarters and principal place of business in Pittsgrove, New Jersey.

3. On information and belief, Defendant Quapaw Tribe of Oklahoma is a federally recognized Indian tribe.

JURISDICTION AND VENUE

4. This is an action for patent infringement and false marking arising under the patent laws of the United States, Title 35 of the United States Code.

5. This Court has jurisdiction over this action pursuant to 35 U.S.C. §§ 271, *et. seq* and 28 U.S.C. §§ 1331 and 1338.

6. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400.

BACKGROUND

7. Specialty House is the owner by valid assignment of the entire right, title, and interest in and to United States Design Patent No. D486,531 (“the ‘531 Patent”), which is entitled “Slot Machine Card Holder” and issued on February 10, 2004. The ‘531 Patent is attached hereto as Exhibit A.

8. Defendant owns and operates the Downstream Casino Resort in Quapaw, Oklahoma, and the Quapaw Casino in Miami, Oklahoma.

DEFENDANT’S KNOWLEDGE OF THE ‘531 PATENT

9. On or about May 17, 2006, Defendant ordered 14,000 Slot Machine Card Holders from Specialty House. These Slot Machine Card Holders were delivered to Defendant and offered by Defendant to Quapaw Casino patrons at the Quapaw Casino in Miami, Oklahoma. Every Slot Machine Card Holder in this order was stamped “PATENT #D486531.”

10. On or about December 1, 2008, Defendant requested a quote for 25,000 Slot Machine Card Holders from TGI Enterprises Inc.

11. On or about December 2, 2008, Specialty House provided TGI Enterprises Inc. the requested quote. This quote contained a reference to the ‘531 Patent.

12. On or about March 13, 2009, Defendant requested a quote for 50,000; 100,000; 250,000; and 500,000 Slot Machine Card Holders from TGI Enterprises Inc.

13. On or about March 17, 2009, Specialty House provided TGI Enterprises Inc. the requested quote. This quote contained a reference to the ‘531 Patent.

14. On or about March 23, 2009, TGI Enterprises Inc. provided Defendant the requested quote. This quote contained a reference to the '531 Patent.

15. On or about January 12, 2010, Defendant requested a quote for 40,000 Slot Machine Card Holders from TGI Enterprises Inc.

16. On or about January 13, 2010, Specialty House provided TGI Enterprises Inc. the requested quote. This quote contained a reference to the '531 Patent.

**DEFENDANT'S INFRINGEMENT, FALSE MARKING
AND FURTHER KNOWLEDGE OF THE '531 PATENT**

17. Defendant, either directly or through an intermediary, and without the permission or knowledge of Specialty House, arranged for the production of counterfeit Slot Machine Card Holders.

18. The counterfeit Slot Machine Card Holders produced for Defendant were imported into the United States without the permission or knowledge of Specialty House.

19. The counterfeit Slot Machine Card Holders produced and imported into the United States are now being offered by Defendant to Downstream Casino Resort patrons at Downstream Casino Resort in Quapaw, Oklahoma.

20. The counterfeit Slot Machine Card Holders produced, imported into the United States, and offered by Defendant to Downstream Casino Resort patrons at the Downstream Casino Resort in Quapaw, Oklahoma are identical to genuine Slot Machine Card Holders produced and sold by Specialty House.

21. The counterfeit Slot Machine Card Holders produced, imported into the United States, and offered by Defendant to Downstream Casino Resort patrons at the Downstream Casino Resort in Quapaw, Oklahoma are stamped "PATENT #D486531."

22. As set forth above, Specialty House is the owner of the '531 Patent and Specialty House has the right to bring the present action.

COUNT I
(Patent Infringement)

23. Specialty House re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs as though alleged in full herein.

24. On information and belief, Defendant has infringed and continues to infringe the '531 Patent, in violation of 35 U.S.C. § 271, by making, using, selling, offering for sale within the United States, or importing into the United States, articles that fall within the claim of the '531 Patent. Such articles include the counterfeit Slot Machine Card Holders imported into the United States that are now being offered by Defendant to Downstream Casino Resort patrons.

25. Defendant has been and is now contributing to and/or actively inducing the infringement of the '531 Patent by others.

26. Defendant's past and continued infringement of the '531 Patent have damaged and will damage Specialty House, and thus Specialty House is entitled to recover from Defendant damages in an amount adequate to compensate for that infringement.

27. Defendant's acts of infringement have caused and will continue to cause irreparable injury to Specialty House unless and until enjoined by this Court.

28. Defendant's acts of infringement were committed willfully and in knowing violation of the '531 Patent.

COUNT II
(False Marking)

29. Specialty House re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs as though alleged in full herein.

30. On information and belief, Defendant has falsely marked articles and otherwise committed “offenses” as defined by and in violation of 35 U.S.C. § 292. Such articles include the counterfeit Slot Machine Card Holders stamped “PATENT #D486531,” and imported into the United States that are now being offered by Defendant to Downstream Casino Resort patrons.

31. These “offenses” were committed without the consent of Specialty House.

32. These “offenses” were committed with the intent of counterfeiting, imitating the mark of the patentee, or deceiving the public.

33. Defendant’s acts of false marking were committed willfully and in knowing violation of the ‘531 Patent.

PRAYER FOR RELIEF

WHEREFORE, Specialty House of Creation, Incorporated respectfully requests that judgment be entered in its favor and prays that the court grant the following relief:

A. declaring that Defendant has infringed United States Design Patent No. D486,531;

B. permanently enjoining Defendant and its officers, agents, employees, representatives, successors and assigns and those in privity with or acting in concert with Defendant from further infringing United States Design Patent No. D486,531;

C. awarding Specialty House damages adequate to compensate it for Defendant’s acts of infringement with interest, including pre-judgment, post-judgment interest, and costs in accordance with 35 U.S.C. § 284;

D. awarding Specialty House damages in accordance with 35 U.S.C. § 289;

E. fining Defendant not more than \$500 for each of the articles falsely marked in violation of 35 U.S.C. § 292(a), awarding one half of the fine to the United States in accordance with 35 U.S.C. § 292(b), and awarding one half of the fine to Specialty House in accordance with 35 U.S.C. § 292(b).

F. increasing the damages to three times the amount found or assessed for willful infringement in accordance with 35 U.S.C. § 284;

G. an order declaring that Specialty House is the prevailing party and that this is an exceptional case under 35 U.S.C. § 285 and award Specialty House its reasonable attorney fees, expenses, and costs in this action with interest thereon; and

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

June 9, 2010

Respectfully submitted,

**ABINGTON INTELLECTUAL PROPERTY
LAW GROUP, PC**

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