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DISTRICT OF UTAH
BY: _____
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

LIFETIME PRODUCTS, INC., a Utah
corporation,

Plaintiff,

v.

WOK & PAN IND., INC, a Chinese
corporation, and
BANQUET, INC, a Taiwanese corporation

Defendants.

Civil Action No.

COMPLAINT

(JURY TRIAL DEMANDED)

Judge Dee Benson
DECK TYPE: Civil
DATE STAMP: 01/10/2006 @ 15:28:22
CASE NUMBER: 1:06CV00008 DB

Plaintiff LIFETIME PRODUCTS, INC. ("Lifetime") hereby complains against defendants WOK & PAN IND., INC. ("Wok & Pan") and BANQUET INC. ("Banquet") (collectively "Defendants"), and for causes of action alleges as follows:

THE PARTIES

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

2. Lifetime alleges on information and belief that Wok & Pan is a corporation organized and existing under the laws of China, with its principal place of business at Tangja Village, Gonming Town, Bao'an Dist., Shenzhen City, Guangdong, China, 518132.

3. Lifetime alleges on information and belief that Banquet is a corporation organized and existing under the laws of Taiwan, with its principal place of business at 3F, 169, Pa Te Rd., Sec. 3, Taipei City 10546, Taiwan.

4. Lifetime alleges on information and belief that Defendants maintain an office in the United States located at 10 New Jersey, Irvine, CA 92606.

5. This is an action for patent infringement. The products accused of infringement are folding blow-molded plastic tables of a certain style and design which, Lifetime alleges on information and belief, Defendants make, use, sell, import, and/or offer for sale within the United States.

JURISDICTION AND VENUE

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

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

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

9. Lifetime further alleges on information and belief that Defendants have sold or contracted for the sale of infringing goods within the State of Utah, or have induced others to sell or contract for the sale of infringing goods within the State of Utah,

to Lifetime's injury, which relates to the claims asserted by Lifetime, and out of which Lifetime's claims in part arise.

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

11. Pursuant to 28 U.S.C. § 1391(c), Defendants are deemed to reside in this judicial district for purposes of venue.

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

FACTUAL BACKGROUND

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

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

15. Lifetime's technological and aesthetic innovations in the field of folding utility tables are protected, *inter alia*, by a portfolio of utility and design patents, including United States Patent No. 6,895,872 (the "'872 Patent"), a true and correct copy of which is attached hereto as Exhibit A, and United States Patent No. 6,848,370 (the "'370 Patent"), a true and correct copy of which is attached hereto as Exhibit B. The '872 and '370 Patents are collectively referred to herein as the "Asserted Patents."

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

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

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Infringement by Wok & Pan of the '872 Patent)

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

19. Lifetime alleges on information and belief that Wok & Pan is importing, making, selling and/or offering for sale within the United States folding plastic tables that fall within the scope of one or more of the claims of the '872 Patent.

20. Lifetime alleges on information and belief that, by at least the activities alleged in the foregoing paragraph, Wok & Pan has infringed, continues to infringe and, unless and until enjoined by this Court, will continue to infringe the '872 Patent.

21. The conduct of Wok & Pan as set forth hereinabove gives rise to a cause of action for infringement of the '872 Patent, pursuant to 35 U.S.C. §§ 271(a) and 281.

22. Lifetime alleges on information and belief that Wok & Pan is infringing the '872 Patent in willful and deliberate disregard of Lifetime's rights.

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

SECOND CAUSE OF ACTION

(Inducement of Infringement by Wok & Pan of the '872 Patent)

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

25. Lifetime alleges on information and belief that Wok & Pan is actively inducing others to make, use, sell and/or offer for sale, within the United States, without authority or license to do so from Lifetime, folding plastic tables that fall within the scope of one or more of the claims of the '872 Patent.

26. The conduct of Wok & Pan as set forth hereinabove gives rise to a claim for relief for inducement of infringement of the '872 Patent, pursuant to 35 U.S.C. §§ 271(b) and 281.

27. Lifetime alleges on information and belief that Wok & Pan is inducing infringement of the '872 Patent in willful and deliberate disregard of Lifetime's rights.

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

THIRD CAUSE OF ACTION

(Infringement by Banquet of the '872 Patent)

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

30. Lifetime alleges on information and belief that Banquet is importing, making, selling and/or offering for sale within the United States folding plastic tables that fall within the scope of one or more of the claims of the '872 Patent.

31. Lifetime alleges on information and belief that, by at least the activities alleged in the foregoing paragraph, Banquet has infringed, continues to infringe and, unless and until enjoined by this Court, will continue to infringe the '872 Patent.

32. The conduct of Banquet as set forth hereinabove gives rise to a cause of action for infringement of the '872 Patent, pursuant to 35 U.S.C. §§ 271(a) and 281.

33. Lifetime alleges on information and belief that Banquet is infringing the '872 Patent in willful and deliberate disregard of Lifetime's rights.

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

FOURTH CAUSE OF ACTION

(Inducement of Infringement by Banquet of the '872 Patent)

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

36. Lifetime alleges on information and belief that Banquet is actively inducing others to make, use, sell and/or offer for sale, within the United States, without authority or license to do so from Lifetime, folding plastic tables that fall within the scope of one or more of the claims of the '872 Patent.

37. The conduct of Banquet as set forth hereinabove gives rise to a claim for relief for inducement of infringement of the '872 Patent, pursuant to 35 U.S.C. §§ 271(b) and 281.

38. Lifetime alleges on information and belief that Banquet is inducing infringement of the '872 Patent in willful and deliberate disregard of Lifetime's rights.

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

FIFTH CAUSE OF ACTION

(Infringement by Wok & Pan of the '370 Patent)

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

41. Lifetime alleges on information and belief that Wok & Pan is importing, making, selling and/or offering for sale within the United States folding plastic tables that fall within the scope of one or more of the claims of the '370 Patent.

42. Lifetime alleges on information and belief that, by at least the activities alleged in the foregoing paragraph, Wok & Pan has infringed, continues to infringe and, unless and until enjoined by this Court, will continue to infringe the '370 Patent.

43. The conduct of Wok & Pan as set forth hereinabove gives rise to a cause of action for infringement of the '370 Patent, pursuant to 35 U.S.C. §§ 271(a) and 281.

44. Lifetime alleges on information and belief that Wok & Pan is infringing the '370 Patent in willful and deliberate disregard of Lifetime's rights.

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

SIXTH CAUSE OF ACTION

(Inducement of Infringement by Wok & Pan of the '370 Patent)

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

47. Lifetime alleges on information and belief that Wok & Pan is actively inducing others to make, use, sell and/or offer for sale, within the United States, without authority or license to do so from Lifetime, folding plastic tables that fall within the scope of one or more of the claims of the '370 Patent.

48. The conduct of Wok & Pan as set forth hereinabove gives rise to a claim for relief for inducement of infringement of the '370 Patent, pursuant to 35 U.S.C. §§ 271(b) and 281.

49. Lifetime alleges on information and belief that Wok & Pan is inducing infringement of the '370 Patent in willful and deliberate disregard of Lifetime's rights.

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

SEVENTH CAUSE OF ACTION

(Infringement by Banquet of the '370 Patent)

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

52. Lifetime alleges on information and belief that Banquet is importing, making, selling and/or offering for sale within the United States folding plastic tables that fall within the scope of one or more of the claims of the '370 Patent.

53. Lifetime alleges on information and belief that, by at least the activities alleged in the foregoing paragraph, Banquet has infringed, continues to infringe and, unless and until enjoined by this Court, will continue to infringe the '370 Patent.

54. The conduct of Banquet as set forth hereinabove gives rise to a cause of action for infringement of the '370 Patent, pursuant to 35 U.S.C. §§ 271(a) and 281.

55. Lifetime alleges on information and belief that Banquet is infringing the '370 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 Banquet, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

EIGHTH CAUSE OF ACTION

(Inducement of Infringement by Banquet of the '370 Patent)

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

58. Lifetime alleges on information and belief that Banquet is actively inducing others to make, use, sell and/or offer for sale, within the United States, without authority or license to do so from Lifetime, folding plastic tables that fall within the scope of one or more of the claims of the '370 Patent.

59. The conduct of Banquet as set forth hereinabove gives rise to a claim for relief for inducement of infringement of the '370 Patent, pursuant to 35 U.S.C. §§ 271(b) and 281.

60. Lifetime alleges on information and belief that Banquet is inducing infringement of the '370 Patent in willful and deliberate disregard of Lifetime's rights. By reason of the foregoing, Lifetime is entitled to injunctive and monetary relief against Banquet, pursuant to 35 U.S.C. §§ 283-85, as more fully set forth herein below.

PRAYER FOR RELIEF

WHEREFORE, Lifetime prays for judgment against Defendants as follows:

A. A judgment finding Defendants liable for infringement and inducement of infringement of the Asserted Patents;

B. An Order of this Court temporarily, preliminarily and permanently enjoining Defendants, their agents and servants, and any and all parties acting in concert with any of them, from directly or indirectly infringing in any manner the Asserted Patents, whether by making, using, selling, offering to sell or importing into the United States any table or other product falling within the scope of any of the claims of the

Asserted Patents, or inducing others to engage in any of the aforementioned acts or otherwise, pursuant to at least 35 U.S.C. § 283;

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

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

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

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

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

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


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

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

DEMAND FOR JURY

Plaintiff demands TRIAL BY JURY of all causes so triable.

DATED this 10th day of January, 2006.



WORKMAN NYDEGGER
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