

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

LENTRADE, INC. d/b/a
CHANTAL CORP.,
a Texas corporation,
Plaintiff,

C.A. _____

v.

PLAINTIFF'S ORIGINAL COMPLAINT

ALFAY DESIGNS, INC.,
a New York corporation,
Defendant

NOW COMES Plaintiff Lentrade, Inc. d/b/a Chantal Corp. and complains as follows:

1. Plaintiff Lentrade, Inc. d/b/a Chantal Corp. (hereinafter "Plaintiff") is a Texas corporation having its principle place of business at
2. Defendant Alfay Designs, Inc. (hereinafter "Defendant") is a New York corporation having its principle place of business at 4099 Ocean Avenue, Brooklyn, New York 11235.
3. Defendant may be served with process in this action by serving its Chief Executive Officer, Al Smaldone, at his place of business, 4099 Ocean Avenue, Brooklyn, New York 11235.
4. This Court has exclusive jurisdiction over this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1338 because Plaintiff's cause of action against Defendant arises under the patent laws of the United States, and because Plaintiff's cause of action against Defendant arises under the Declaratory Judgments Act, 28 U.S.C. 2201, et seq.

5. Proper venue of this action resides in the Southern District of Texas, Houston Division, because Defendant owns patents which it alleges are infringed by Plaintiff in Houston, Texas and because Defendant has directed its allegations of infringement against Plaintiff to this District.

6. Plaintiff is in the business of producing, importing, marketing and selling cookware including kettles.

7. Plaintiff produces, markets and sells a certain kettle (hereinafter "Plaintiff's accused kettle") in the U.S. which Defendant claims infringes one or more of U.S. Patents No. D529,328, which issued on October 3, 2006, and U.S. Patent No. D573,397, which issued on July 22, 2008.

8. Both U.S. Patents Nos. D529,328 and D573,397 are owned by Defendant.

9. Defendant's U.S. Patent No. D529,328 is invalid and unenforceable because, had the patent examiner known of prior art kettle designs that are substantially similar and/or identical to the designs covered by the claims of U.S. Patents No. D529,328, the claim of U.S. Patent No. D529,328 would not have been allowed and U.S. Patent No. D529,328 would not have issued.

10. Defendant's U.S. Patent No. D573,397 is invalid and unenforceable because, had the patent examiner known of prior art kettle designs that are substantially similar and/or identical to the designs covered by the claims of U.S. Patents No. D573,397, the claim of U.S. Patents No. D573,397 would not have been allowed and U.S. Patent No. D529,328 would not have issued.

11. Plaintiff's accused kettle does not infringe the claim of U.S. Patent No. D529,328 because Plaintiff's accused kettle does not embody or comprise certain ornamental features and required elements that are necessary parts of the claim of U.S. Patent No. D529,328.

12. Plaintiff's accused kettle does not infringe the claim of U.S. Patent No. D573,397 because Plaintiff's accused kettle does not embody or comprise certain ornamental features and required elements that are necessary parts of the claim of U.S. Patent No. D573,397.

13. Defendant alleges that Plaintiff's accused kettle infringes Defendant's U.S. Patent Nos. D529,328 and D573,397, and these allegations have been directed to Plaintiff's supplier as part of an effort by Defendant to disrupt Plaintiff's supply of the accused kettle and to prevent Plaintiff's supplier from filling orders made by Plaintiff.

14. Plaintiff has by the actions by Defendant listed above been placed Plaintiff in a condition of uncertainty as to legal obligations and/or to rights associated with Plaintiff's potential future courses of action relating to the Plaintiff's kettle.

15. Plaintiff seeks the declaration of this Court, under 28 U.S.C. § 2201 et seq., that Defendant's U.S. Patents Nos. D529,328 and D573,397, and all other patents which Defendant may allege are infringed by Plaintiff through its importation, marketing and sale of Plaintiff's accused kettle, are invalid and unenforceable.

16. In the alternative, and should either of Defendant's U.S. Patents Nos. D529,328 and D573,397 be adjudged valid and/or enforceable, Plaintiff seeks the declaration of this Court, under 28 U.S.C. § 2201 et seq., that Plaintiff does not and has not, by its importation, marketing and sale of Plaintiff's accused kettle, infringe either claim of

Defendant's U.S. Patent Nos. D529,328 and D573,397, or any claim of any other patent which Defendant may allege is infringed by Plaintiff through its importation, marketing and sale of Plaintiff's kettle.

17. Plaintiff seeks an equitable order of this Court enjoining Defendant from further efforts to disrupt the stream of commerce as it relates to Plaintiff's importation, production, marketing and sale of the accused kettle such as, but not limited to, communications with and threats against others that supply components and/or embodiments of the accused kettle to Plaintiff for Plaintiff's use in producing, marketing and selling the accused kettle in the U.S.

WHEREFORE, premises considered, Plaintiff prays that the Court will, upon close of evidence at trial of this action:

- (a) declare that Plaintiff, by its importation, marketing and sale of the accused kettle, has not infringed and does not infringe Defendant's U.S. Patent No. D529,328;
- (b) declare that Plaintiff, by its importation, marketing and sale of the accused kettle, has not infringed and does not infringe Defendant's U.S. Patent No. D573,397;
- (c) declare Defendant's U.S. Patent No. D529,328 invalid and unenforceable;
- (d) declare Defendant's U.S. Patent No. D529,328 invalid and unenforceable;

- (e) enjoin Defendant from further attempts to unlawfully interrupt or delay shipments of articles used by Plaintiff in the production of the accused kettle; and
- (f) award Plaintiff judgment for all other and further relief to which it may show itself justly entitled.

Respectfully submitted,

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