

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Greene Le Consulting & Trade Corp.,	)	
	)	
Plaintiff,	)	Civil Action No.: 2:10-CV-2171-CWH
	)	
vs.	)	<b>COMPLAINT</b>
	)	
Joseph F. Renosky and Renosky Lure, Inc.,	)	
	)	Jury Trial Demanded
Defendants.	)	
	)	

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The Plaintiff complains of the Defendants as follows:

1. Plaintiff Greene Le Consulting & Trade Corp. (“GLC”) is a South Carolina corporation with a principal place of business located at 20 Japonica Place, Pawleys Island, South Carolina.
2. Defendant Joseph F. Renosky (“Renosky”) is an individual residing, upon information and belief, at 2120 Route 422 West, Indiana, Pennsylvania.
3. Defendant Renosky Lure, Inc. (“Renosky Lure”) is, upon information and belief, a corporation organized and existing under the laws of the State of Pennsylvania with a principal place of business located at 90 Christy Park Drive, Indiana, Pennsylvania. Upon information and belief, Renosky is the President of Renosky Lure.
4. The action alleged herein arises in part under the Patent Laws of the United States, 35 U.S.C. §§ 1 – 297, and includes an action for declaratory judgment of patent invalidity, unenforceability, and noninfringement under 28 U.S.C. §§ 2201 and 2202.
5. The Court has jurisdiction over this action under 28 U.S.C. §§ 1338, 1367 and 2201.

6. Venue is proper under *28 U.S.C. §§ 1391 and 1400*.

**FIRST CAUSE OF ACTION**

**Declaratory Judgment**

7. The allegations of the preceding paragraphs not inconsistent herewith are incorporated by reference herein as fully as if repeated verbatim.

8. Renosky claims to be the owner of U.S. Patent Nos. 7,621,068, D602,557, D608,410, D607,960, and D616,523 (together, “the Renosky patents”).

9. An actual case or controversy exists between GLC and Renosky, individually and as agent of Renosky Lure, regarding validity, enforceability, and infringement of the Renosky patents in part because Renosky has accused GLC of infringing the Renosky patents.

10. No product made, sold, offered for sale, or imported by GLC infringes any valid claim of any of the Renosky patents.

11. Each of the Renosky patents is invalid and/or unenforceable for one or more of the following reasons:

- a. failure to comply with the statutory requirements of novelty as set forth in *35 U.S.C. § 102*;
- b. failure to comply with the statutory requirement of nonobviousness as set forth in *35 U.S.C. § 103*; and/or
- c. failure to comply with the requirements and conditions of *35 U.S.C. § 112*, first and second paragraphs.

12. Of the Renosky patents, at least U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 are also invalid and/or unenforceable because of inequitable conduct, as follows:

- a. During the prosecution of the applications that led to the issuance of the Renosky patents, Renosky and every other individual associated with the filing and prosecution of the patent applications had a duty of candor and good faith in dealing with the United States Patent and Trademark Office (“USPTO”), which included a duty to disclose to the USPTO all information known to that individual to be material to patentability. This duty existed not only as to Renosky as the listed purported “inventor” on the applications, but also as to the attorneys and agents who prepared or prosecuted the application and as to every other person who was substantively involved in the preparation or prosecution of the application and who was associated with Renosky.
- b. Under the duty described in the preceding paragraph, a prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.
- c. The earliest of the applications filed that led to the issuance of the design patents of the Renosky patents was filed in February, 2009.
- d. Prior to the filing of the first of the applications that led to the issuance of the design patents of the Renosky patents, Renosky knew of the design of fishing lure skirts manufactured and commercialized by GLC.

- e. The GLC fishing lure skirts were of a design that was material to the patentability of the claims of the design patents of the Renosky patents in that they contain features claimed in by U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523. Accordingly, disclosure to the USPTO of the GLC fishing lure skirts would have invoked the prohibition of 35 U.S.C. § 102(a). Furthermore, disclosure to the USPTO of the GLC fishing lure skirts may have invoked the prohibition of 35 U.S.C. § 102(b). Additionally, disclosure to the USPTO of the GLC fishing lure skirts would have invoked the prohibition of 35 U.S.C. § 103, in that it showed that the inventions claimed U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 were obvious, in that the differences between the invention claimed by U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 and the GLC fishing lure skirts, if any, were such that the subject matter as a whole would have been obvious at the time Renosky's supposed inventions were made to a person having ordinary skill in the art to which said subject matter pertains.
- f. The GLC fishing lure skirts were of a design that was not cumulative to the information already of record in the prosecution of the applications that led to the issuance of U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523.
- g. Neither Renosky, nor any other person who was substantively involved in the preparation or prosecution of the applications that led to the issuance of U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 and

who was associated with Renosky disclosed to the USPTO the existence of the GLC fishing lure skirts during the prosecution of those applications.

h. The failure of Renosky and/or other persons substantively involved in the preparation or prosecution of the applications that led to the issuance of U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 was with specific intent to deceive the USPTO, as shown at least by the following:

- At the time such applications were filed, Renosky had already prosecuted several prior patent applications and thereby knew of the duty of candor and good faith in dealing with USPTO from those experiences.
- Renosky had motive not to disclose to the USPTO the existence of the GLC fishing lure skirt design. GLC was and is a competitor to Renosky's company, Renosky Lure. After U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 issued, Renosky, through his attorneys, accused GLC of infringing U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 by selling fishing lure skirts of the design that pre-existed the filing of the applications that led to the issuance of those patents. Had Renosky, or any other person substantively involved in the preparation or prosecution of such applications disclosed to the USPTO the existence of the GLC fishing lure skirt design during the prosecution of such applications, and had a patent nevertheless issued, Renosky could not thereafter have lodged its predatory

threat letter against his competitor GLC as any issued claim could not have covered the GLC fishing lure skirt design. To position himself to mount such a threat and thereby seek to dissuade competition by GLC, Renosky secreted and not disclose to the USPTO the existence of the GLC fishing lure skirt design.

- i. The foregoing facts show that Renosky and/or agents on his behalf committed fraud, with intent, on the United States Patent and Trademark Office.
- j. U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 are invalid and/or unenforceable due to the failure of each individual associated with the filing and prosecution of the patent applications that led to the issuance of such patents to disclose to the USPTO all information known to be material to patentability.

13. GLC is entitled to the decree and declaration of the Court that it has not infringed and does not infringe U.S. Patent Nos. 7,621,068, D602,557, D608,410, D607,960, and D616,523.

14. GLC is entitled to the decree and declaration of the Court that U.S. Patent Nos. 7,621,068, D602,557, D608,410, D607,960, and D616,523 are invalid and/or unenforceable.

15. GLC is entitled to the decree and declaration of the Court that U.S. Patent Nos. D602,557, D608,410, D607,960, and D616,523 are invalid and/or unenforceable for inequitable conduct.

**SECOND CAUSE OF ACTION**

**Interference with Prospective Advantage**

16. The allegations of the preceding paragraphs not inconsistent herewith are incorporated by reference herein as fully as if repeated verbatim.

17. In July, 2010, Renosky attended the International Convention of Allied Sportfishing Trades (“ICAST”) fishing trade show in Las Vegas, Nevada as a “manufacturers representative” sponsored by GLC, carrying credentials provided by GLC.

18. The ICAST fishing trade show was a convention of wholesalers, retailers, distributors, and others involved in the fishing tackle business.

19. While at the 2010 ICAST trade show, Renosky, individually and as agent of Renosky Lure, communicated with several other attendees, urging them to avoid and discontinue conducting business with GLC, accusing GLC’s products of infringing the Renosky patents. Since the ICAST fishing trade show, Renosky, individually and as agent of Renosky Lure, has continued and repeated such communications, with GLC’s customers.

20. GLC is known to others in the fishing tackle business as a provider of quality fishing tackle products and GLC enjoyed the expectation of receiving future purchases of its fishing equipment from future contractual relations from others in the fishing tackle business, thereby deriving future economic benefits.

21. Renosky knew that GLC was known to others in the fishing tackle business as a provider of quality fishing tackle products, that GLC enjoyed the expectation of receiving future purchases of its fishing equipment from future contractual relations from others in the fishing tackle business, that GLC would thereby derive future economic benefits.

22. Renosky's communications as described in Paragraph 19 had the predominant intention and purpose of interfering with GLC's potential contractual relations with such attendees.

23. Renosky's interference was without legitimate justification.

24. There existed a reasonable likelihood that those to whom Renosky made such communications would have entered into contractual relations with GLC for the purchase of fishing tackle, thereby providing future economic benefits to GLC absent the interference by Renosky.

25. As a direct and proximate result of such intentional interference by Renosky, GLC has suffered damage.

26. Plaintiff is entitled to judgment against Renosky and Renosky Lure for the damages proximately caused by their wrongful conduct.

### **THIRD CAUSE OF ACTION**

#### **Commercial Disparagement**

27. The allegations of the preceding paragraphs not inconsistent herewith are incorporated by reference herein as fully as if repeated verbatim.

28. The statements described in Paragraph 19 above were disparaging and false.

29. Renosky knew the disparaging statements described in paragraph 19 above were false.

30. The disparaging statements described in Paragraph 19 above were intended by Renosky to cause financial loss to Defendants.



31. Should the allegations in Paragraph 30 not be the case, alternatively Renosky should have recognized that the disparaging statements described in Paragraph 19 above would result in financial loss.

32. As a direct and proximate result of this publication, certain customers and vendors of GLC have refused to do business with GLC, resulting in financial loss to GLC.

33. The actions of Renosky in disparaging GLC and its products were intentional, willful, and with reckless disregard for truth. GLC is entitled to recover punitive damages as a result of these actions.

34. Plaintiff is entitled to judgment against Renosky and Renosky Lure for the damages proximately caused by their wrongful conduct.

#### **FOURTH CAUSE OF ACTION**

##### **Commercial Disparagement**

35. The allegations of the preceding paragraphs not inconsistent herewith are incorporated by reference herein as fully as if repeated verbatim.

36. Renosky, individually and as agent of Renosky Lure, through the actions as alleged in Paragraphs 17 through 25 above, has engaged in unfair methods of competition and unfair or deceptive acts or practices in violation of the South Carolina Unfair Trade Practices Act

37. Renosky's knowing, willful, and reckless disparagement of GLC and its products in an attempt to dissuade purchasers from doing business with GLC is offensive to public interest, unethical, oppressive and shows Renosky's tendency to deceive.

38. As a result of Renosky's knowing, willful and reckless disparagement of GLC and its products, certain customers and vendors have refused to do business with GLC, causing it financial loss, as well as a loss of goodwill and damage to its reputation.

39. As alleged in Paragraphs 17 through 25 above, Renosky has disparaged GLC and its products on one more than one occasion; as a result it is likely Renosky's already repetitive conduct will be repeated again in the future.

40. Because Renosky's conduct constitutes an unfair and deceptive trade practice in violation of the South Carolina Unfair Trade Practices Act, GLC is entitled to damages. Furthermore, GLC is entitled to treble damages and attorneys fees as a result of Renosky's willful violation of the South Carolina Unfair Trade Practices Act pursuant to *S.C. Code § 39-5-20*.

#### **FIFTH CAUSE OF ACTION**

##### **Breach of Contract**

41. The allegations of the preceding paragraphs not inconsistent herewith are incorporated by reference herein as fully as if repeated verbatim.

42. Renosky Lure contracted with GLC for the purchase of certain fishing tackle. Pursuant to such contract, GLC was to deliver that certain fishing tackle to GLC in return for which Renosky Lure would pay money to GLC.

43. GLC has performed its duties pursuant to such contract.

44. Renosky Lure has failed and refused to fulfill its duties pursuant to such contract and has failed and refused to pay GLC for such fishing tackle.

45. Renosky Lure has breached its contract with GLC, by reason of which GLC has been damaged.

46. As a result of Renosky Lure's failure and refusal to pay for the fishing tackle delivered by GLC, GLC is entitled to judgment against Renosky Lure plus interest and costs incurred in this action.

**SIXTH CAUSE OF ACTION**

**Conversion**

47. The allegations of the preceding paragraphs not inconsistent herewith are incorporated by reference herein as fully as if repeated verbatim.

48. Renosky Lure has converted GLC's fishing tackle to its own use.

49. By reason of Renosky Lure's conversion, GLC is entitled to actual and punitive damages against Renosky Lure.

**WHEREFORE**, GLC prays:

1. That the Court order and decree that no product made, sold, offered for sale, or imported by GLC infringes U.S. Patent Nos. 7,621,068, D602,557, D608,410, D607,960, or D616,523;
2. That the Court order and decree that U.S. Patent Nos. 7,621,068, D602,557, D608,410, D607,960, and D616,523 are invalid;
3. That the Court order and decree that U.S. Patent Nos. 7,621,068, D602,557, D608,410, D607,960, and D616,523 are unenforceable;
4. That the Court find and hold that GLC has not infringed U.S. Patent Nos. 7,621,068, D602,557, D608,410, D607,960, and D616,523;
5. That this case be found to be exceptional within the meaning of 35 *U.S.C.* § 285;
6. That the Court award to GLC its reasonable attorneys' fees and costs in connection with this action;
7. That GLC be awarded actual and punitive damages against Renosky and Renosky Lure; and
8. Such other and further relief as the Court may deem appropriate.

August 19, 2010  
Greenville, South Carolina

TURNER, PADGET, GRAHAM & LANEY, PA

s/ Timothy D. St. Clair  
Timothy St. Clair (Fed. ID # 4270)  
tstclair@turnerpadget.com  
P. O. Box 1509  
Greenville, SC 29602  
864-552-4600  
ATTORNEYS FOR PLAINTIFF