

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ORIGINAL  
FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

JAN 15 2010

JAMES N. HATTEN, Clerk  
By *[Signature]* Deputy Clerk

POLYTREE (H.K.) CO., LTD.

Plaintiff,

v.

FORESTS MANUFACTURING, LTD.

Defendant.

Civil Action File No.:

**1 10-CV-0121**

**WSD**

**COMPLAINT AND DEMAND FOR JURY TRIAL**

**Introduction**

1. This is an action for infringement of United States Patent No. 6,572,068 ("the '068 Patent") under 35 U.S.C. § 271. The technology at issue in this action relates to tree stands, such as those used with artificial Christmas trees.

### **Parties**

2. Plaintiff Polytree (H.K.) Co. Ltd. (“Polytree”) is a Hong Kong corporation with a principal place of business at 8/F Enterprise Square 3, 39 Wang Chiu Road, Kowloon Bay, Hong Kong. Polytree owns the ‘068 Patent.

3. Defendant Forests Manufacturing, Ltd. (“Forests”) is, upon information and belief, a Hong Kong corporation with a principal place of business at Flat A, 7/F, Wing Tai Centre, 12 Hing Yip Street, Kwun Tong, Kowloon, Hong Kong.

4. Upon information and belief, and according to Forests’ web site located at: [www.forests.com.hk/](http://www.forests.com.hk/), Forests has a three thousand square foot showroom in this judicial district at AmericasMart, Suite 18D7, 9, 240 Peachtree St., N.W., Atlanta, Georgia 30303.

### **Jurisdiction and Venue**

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action arises under the patent laws of the United States.

6. This court has personal jurisdiction over Forests because, upon information and belief, Forests has transacted business, maintains a showroom, and

committed acts of infringement in this district, and this action arises from that transaction of business, showroom activities, and infringement.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and 1400(b). Upon information and belief, Forests has transacted business, maintains a showroom, and committed acts of infringement in this district, and this action arises from that transaction of business, showroom activities, and infringement.

#### **Plaintiff and the '068 Patent**

8. Polytree is a private company headquartered in Hong Kong. Polytree and its affiliates have been doing business for over twenty-five years.

9. Polytree and its affiliates collectively make up the world's largest designer and manufacturer of artificial Christmas trees and seasonal lighting.

10. Polytree is the owner of the '068 Patent entitled "Tree Stand." Through a written assignment executed on or around October 27, 2001, Polytree acquired the '068 Patent from the sole inventor.

11. The written assignment was corrected on January 5, 2010, to identify Polytree (H.K.) Co. Ltd. as the owner of the '068 Patent.

12. A true and correct copy of the '068 Patent is attached hereto as Exhibit A.

13. Polytree and/or its licensed affiliates manufacture, sell, offer for sale, or import into the United States tree stands covered by the '068 Patent.

14. Polytree and/or its licensed affiliates manufacture, sell, offer for sale, or import into the United States tree stands marked with the '068 Patent.

#### **Forests' Sales of Tree Stands**

15. Upon information and belief, Forests manufacturers, sells, offers for sale, and/or imports into the United States artificial Christmas trees with infringing tree stands to one or more retailers in the United States.

16. Forests did not seek, obtain, or purchase an assignment or license from Polytree for the '068 Patent.

#### **Forests' Admissions When Communicating With Polytree**

17. On or around September 21, 2009, Polytree, through counsel, contacted Forests via written correspondence and formally put Forests on notice of the '068 Patent, and informed Forests of Polytree's patents rights.

18. On or around September 24, 2009, Forests received the mailed correspondence, and thus was notified of the '068 Patent, as well as Polytree's ownership of same. Upon information and belief, however, Forests had actual knowledge of Polytree's ownership rights prior to September 24, 2009.

19. In response to Polytree's correspondence, Forests contended that it had no knowledge that the tree stands it made, used, sold, offered for sale, and/or imported into the United States involved any patent rights belonging to Polytree.

20. In response to Polytree's correspondence, Forests alleged it was warranted and had received express authorization by an entity it referred to as a "Seller" named "Boji" that "(1) [Forests'] tree stand can be used for production of [sic] any kinds [sic] of Christmas tree; and (2) all Christmas trees which comprise the tree stand can be exported to any other country."

21. In response to Polytree's correspondence, Forests promised to immediately stop making and selling any products which comprise its tree stands to any third party in the future, and to immediately destroy all its existing inventory. To date, however, Polytree has been unable to confirm that Forests has complied with its promises.

22. After receiving Forests' response, Polytree has tried on multiple occasions to reach Forests requesting additional information regarding the sales on Forests' tree stands, but Forests has failed to respond.

23. Upon information and belief, Forests has made, used, sold, offered for sale, and/or imported into the United States, and continues to make, use, sell, offer for sale, and/or import into the United States artificial Christmas trees with tree stands covered by the '068 Patent to many retailers in the United States, including but not limited to Hobby Lobby Stores, Inc.

24. Forests is infringing and has infringed and contributed to and induced infringement of the '068 Patent, including by making, using, selling, offering to sell, and/or importing into the United States its artificial Christmas trees with a tree stand, including without limitation item number F099-09-T6091 (A).

**COUNT I**  
**Infringement of the '068 Patent**

25. Polytree repeats each allegation of paragraphs 1 through 24 as if fully set forth herein.

26. Forests has committed and continues to commit acts of infringement with respect to the '068 Patent.

27. Upon information and belief, Forests' infringement of the '068 Patent has been and continues to be willful and deliberate.

28. As a result of Forests' infringement of the '068 Patent, Polytree has suffered substantial monetary damages, although a monetary award is inadequate to fully compensate Polytree for the harm it has suffered.

29. As a result of Forests' infringement of the '068 Patent, Polytree has suffered irreparable harm, and will continue to suffer irreparable harm unless that infringement is enjoined by this Court.

WHEREFORE, Polytree requests that the Court enter an order and judgment:

A. Finding that Forests has infringed the '068 Patent and that such infringement has been willful and deliberate;

B. Preliminarily and permanently enjoining Forests, its officers, directors, employees, agents, licensees, successors, and assigns, and all persons acting in concert with them, from further infringement of the '068 Patent;

C. Finding that Forests' actions as alleged herein constitute an exceptional case, as that term is used in 35 U.S.C. § 285.

D. Awarding Polytree compensatory damages for Forests infringement;

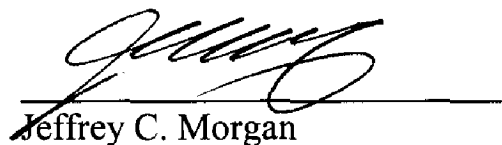
E. Trebling the damages assessed for Forests infringement;

- F. Awarding Polytree costs and reasonable attorneys' fees; and
- G. Awarding Polytree such other relief as the Court deems just and proper.

**PLAINTIFF CLAIMS A TRIAL BY JURY ON ALL ISSUES SO TRIABLE.**

Respectfully submitted this 15th day of January, 2010.

TROUTMAN SANDERS LLP



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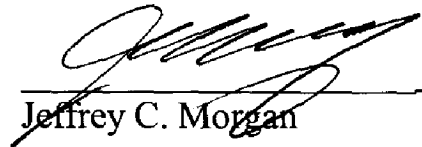
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ATTORNEYS FOR PLAINTIFF  
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**FONT CERTIFICATION**

I hereby certify that this document is presented in Times New Roman 14.

  
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Jeffrey C. Morgan