

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

_____)	
NIFTY HOME PRODUCTS, INC.)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
KRAFT FOODS, INC.)	
Defendant)	
_____)	

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Nifty Home Products, Inc (“Plaintiff” or “Nifty”), as and for its Complaint against Defendants, Kraft Foods, Inc. (“Kraft” or “Defendant”), alleges that:

PARTIES

1. Plaintiff Nifty is a Minnesota corporation with its principal place of business in Madison Lake, MN. Nifty designs and sells a variety of kitchen accessories.
2. Defendant Kraft Foods, Inc. (“Kraft”), on information and belief, is a Virginia corporation having its principal place of business located at 3 Lakes Drive, Winnetka, Illinois 60093-2754.

JURISDICTION AND VENUE

3. This is a claim for patent infringement under 35 U.S.C. §§ 271 and 281-285. This Court has jurisdiction over the subject matter by virtue of 28 U.S.C. §§ 1331 and 1338(a) and (b).
4. This Court has personal jurisdiction over Kraft Foods Inc., whereas Kraft has engaged in acts of patent infringement in the United States and in the District of Minnesota.

Specifically, Defendant Kraft has purposely and intentionally subjected themselves to the privileges of doing business in the State of Minnesota by placing their goods in the stream of commerce with the intent that they would be sold in Minnesota. Kraft has offered for sale and sold products in the State of Minnesota which infringe Nifty's patents. Venue is proper under 28 U.S.C. §§ 1391(b) and 1400(b), as Kraft has committed acts of infringement in this district.

PATENTS IN SUIT

5. On or about July 28, 2006 Frank R. Tiemann filed an application for a United States Design Patent on a Coffee Disc Carousel. On or about June 12, 2007 the United States Patent and Trademark Office granted to Frank R. Tiemann patent rights to United States Design Patent Number 544,308 ('308 patent) for a Coffee Disc Carousel. The '308 patent has since been assigned to Nifty Home Products, Inc. ("Nifty"). A copy of the '308 patent is attached as Exhibit A.

NATURE OF INFRINGEMENT

6. Since 2006, Nifty has been selling the patented coffee disc carousel directly to consumers and wholesalers. Nifty marked the coffee disc carousels with the '308 patent number.

7. In January 2007, Kraft became interested in the product covered by the '308 patent and contacted Nifty in an effort to further examine the product for a potential license agreement.

8. In January 2007, Kraft requested samples of the product covered by the '308 patent so that Kraft's research and development team could examine Nifty's coffee disc carousel.

9. Nifty mailed to Kraft samples of the Nifty product covered by the '308 patent for Kraft's review in January 2007.

10. Communications between Kraft and Nifty continued from January 2007 until June 2007 regarding Nifty's product covered by the '308 patent and a possible re-design of the product covered by the '308 patent to enlarge certain features.

11. Kraft decided not to move ahead with a license agreement for the product covered by the '308 patent in June 2007.

12. In March 2008 Nifty became aware Kraft was offering for sale an unauthorized coffee disc carousel which infringes the '308 patent.

13. Kraft has shipped the unauthorized coffee disc carousel into Minnesota.

COUNT I: PATENT INFRINGEMENT

13. The allegations of Paragraphs 1-13 of this Complaint are re-alleged and incorporated herein by reference.

14. Kraft has infringed and continues to infringe the '308 Patent by offering to sell and selling in the United States, without authorization, coffee disc carousels that are substantially the same as the design illustrated and described in Plaintiff's '308 Patent. The resemblance between the patented Nifty coffee disc carousel and Kraft's unauthorized coffee disc carousel is such as to permit an ordinary observer to purchase the unauthorized coffee disc carousel supposing it to be the Nifty coffee disc carousel.

15. Kraft's actions have caused, and will continue to cause, irreparable harm to Nifty unless enjoined.

16. Kraft's infringement of the '308 Patent has been willful and deliberate, and undertaken despite knowledge of the '308 Patent.

WHEREFORE, Plaintiff Nifty prays for judgment as follows:

- (a) in favor of Nifty and against Kraft on all Counts of the Complaint;
- (b) preliminarily and permanently enjoining and restraining Kraft, its officers, directors, agents, servants, employees, attorneys and all others acting under or through them, from directly infringing or inducing others to infringe United States Patent No. D544,308;
- (c) awarding Nifty damages under Title 35 U.S.C. §§ 284 and 289, including Kraft's profits and treble damages for willful infringement;
- (d) awarding Nifty reasonable attorneys' fees, costs, expenses and interest pursuant to 35 U.S.C. § 285 and any other applicable law; and
- (e) awarding Nifty such other relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Date: April 1, 2008

s/Peter G. Nikolai
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