

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MR. BAR-B-Q-, INC.,

Plaintiff,

Civil Action No. 07 CV 6412
JUDGE STEIN

-against-

M & F INTERNATIONAL INC.,
9143-7228 QUEBEC, INC. d/b/a
KLINQ.COM and
MENACHEM LICHTER,

COMPLAINT

Defendants.

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The Plaintiff, MR. BAR-B-Q-, INC., by its attorneys, Natter & Natter, for its complaint against the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, alleges as follows:

1. The Plaintiff, MR. BAR-B-Q-, INC. is a New York corporation having an office and principal place of business at 445 Winding, Old Bethpage, New York 11804.
2. The Defendant, M & F INTERNATIONAL INC. is a New York corporation having an office and place of business at 30 Westside Avenue, Spring Valley NY 10977 within this judicial district.

3. The Defendant, 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM is a Canadian corporation licensed to transact business in the State of New York having an office and place of business at 30 Westside Avenue, Spring Valley NY 10977 within this judicial district.

4. Defendant, MENACHEM LICHTER is a resident of the State of New York having an address at 30 Westside Avenue, Spring Valley, NY 10977 within this judicial district.

5. This action is for infringement under the patent laws of the United States, Title 35, United States Code.

6. Subject matter jurisdiction of this Court is based upon Title 28, United States Code §1331 and §1338(a).

7. Venue is proper in this district pursuant to Title 28 United States Code §1391 and §1400.

8. On August 10, 2004, United States Letters Patent No. Des. 494,006 was duly and legally issued to the Plaintiff, MR. BAR-B-Q-, INC., as assignee of Marc Zemel, for an invention pertaining to the ornamental design of an article of manufacture comprising a handle for a barbecue tool. A copy of said Letters Patent No. Des. 494,006 is attached hereto as EXHIBIT 1.

9. The Plaintiff, MR. BAR-B-Q-, INC., remains the owner of the entire right, title and interest in and to said Letters Patent No. Des. 494,006.

10. In violation of Title 35 United States Code §271, the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, within this judicial district and throughout the United States have infringed, induced others to infringe and contributorily infringed said Letters Patent No. Des. 494,006 by making, using, selling, offering to sell, importing into the United States or causing others to make, use, sell, offer to sell or import into the United States articles of manufacture which embody the patented design or a colorable imitation thereof without license of the Plaintiff including, but not limited to Item Nos. 109284, 109283 and 107676 and are still infringing said Letters Patent No. Des. 494,006. An image of some of said infringing articles of manufacture (Item No. 107676) is attached hereto as EXHIBIT 2.

11. In violation of Title 35 United States Code §271, the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER,, INC., within this judicial district and throughout the United States, without license of the Plaintiff, applied the patented design of U.S. Patent No. Des. 494,006 or a colorable imitation thereof, to said infringing articles of manufacture for the purpose of sale.

12. In violation of Title 35 United States Code §271, the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, within this judicial district and throughout the United States, without license of the Plaintiff, have sold, offered for sale or exposed for sale said infringing articles of manufacture to which the patented design or a colorable imitation thereof has been applied.

13. In violation of Title 35 United States Code §271, the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, within this judicial district and throughout the United States, without license of the Plaintiff, have caused others to sell, offer for sale or expose for sale said infringing article of manufacture to which the patented design or a colorable imitation thereof has been applied.

14. By Letters dated June 14, 2007 and June 26, 2007 Defendants were notified of said infringement and have failed to comply with Plaintiff's demand that such infringement cease.

15. The Defendants' infringement, contributory infringement and active inducement of infringement of Letters Patent No. Des. 494,006, upon information and belief, is willful, intentional and deliberate.

16. Upon information and belief, this is an exceptional case within the provisions of 35 United States Code §285 and the Plaintiff, MR. BAR-B-Q-, INC., is therefore entitled to the recovery of attorneys' fees.

17. The Defendants' infringement, contributory infringement and active inducement of infringement of Letters Patent No. Des. 494,006 has caused the Plaintiff, MR. BAR-B-Q-, INC. to suffer monetary damages, the full extent of which are as yet undetermined.

18. The Plaintiff has no adequate remedy at law and is presently suffering and will continue to suffer irreparable harm and damage if such infringement is allowed to continue.

WHEREFORE, the Plaintiff demands judgment against the Defendant as follows:

1. That, pursuant to 35 U.S.C. §283, preliminary and permanent injunctions be issued enjoining the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, their officers agents, servants, employees and all those persons in active concert or participation with said Defendants from further infringement of U.S. Patent No. Des. 494,006.

2. That pursuant to 35 U.S.C. §284, the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, account to the Plaintiff for damages for all past infringement of said U.S. Patent No. Des 494,006 including treble damages as appropriate;

3. That pursuant to 35 U.S.C. §289, the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, account to Plaintiff to the extent of their total profits for all past infringement of said U.S. Patent No. Des. 494,006 including treble damages as appropriate;

4. That pursuant to 35 U.S.C. §285, the Defendants, M & F INTERNATIONAL INC., 9143-7228 QUEBEC, INC. d/b/a KLINQ.COM and MENACHEM LICHTER, pay the Plaintiff's costs and attorneys' fees; and

5. For such other and further relief as this Court deems just and proper.

Dated: New York, New York
July 13, 2007

NATTER & NATTER
Attorneys for Plaintiff
501 Fifth Avenue, Suite 808
New York NY 10017
(212) 840-8300

By /Seth Natter/
Seth Natter (SN 4913)

(12) **United States Design Patent** (10) Patent No.: **US D494,006 S**
Zemel (45) Date of Patent: **** Aug. 10, 2004**

(54) **BARBECUE TOOL HANDLE WITH INSET GRIPS**

(75) Inventor: **Marc Zemel**, Old Bethpage, NY (US)

(73) Assignee: **Mr. Bar-B-Q-, Inc.**, Old Bethpage, NY (US)

(**) Term: **14 Years**

(21) Appl. No.: **29/189,113**

(22) Filed: **Aug. 29, 2003**

(51) LOC (7) Cl. **07-06**

(52) U.S. Cl. **D7/393**

(58) Field of Search D7/393, 395, 681-697;
16/110.1, 430, 431, 436; D8/107

(56) **References Cited**

U.S. PATENT DOCUMENTS

D250,080 S * 10/1978 Kavalaris D7/686
D254,767 S * 4/1980 Christen, Jr. D7/686
D392,848 S * 3/1998 Zeller D7/683
D444,041 S * 6/2001 Thuma D7/686

* cited by examiner

Primary Examiner—Terry A. Wallace

(74) Attorney, Agent, or Firm—Seth Natter; Natter & Natter

(57) **CLAIM**

The ornamental design for a barbecue tool handle with inset grips, as shown and described.

DESCRIPTION

FIG. 1 is a front elevation view of a barbecue tool handle with inset grips showing my new design;

FIG. 2 is a side view thereof;

FIG. 3 is front elevation view of a first alternate embodiment of FIG. 1;

FIG. 4 is an end view of FIG. 1;

FIG. 5 is a front elevation view of a second alternate embodiment of FIG. 1;

FIG. 6 is a side view of FIG. 5;

FIG. 7 is a front elevation view of a third alternate embodiment of FIG. 1; and,

FIG. 8 is an end view of FIG. 5.

The rear and side views not shown are identical to the front and side views illustrated; the side and end views of the embodiments illustrated in FIG. 3 and FIG. 7 are identical to the side and end views illustrated in FIG. 2, FIG. 4, FIG. 6 and FIG. 8, except that the inset grips are wood grained; the end views not illustrated are identical to the end views illustrated in FIG. 4 and FIG. 8 respectively and the rivet fasteners and barbecue tool shank portions shown in dashed lines do not form part of the claimed design.

1 Claim, 2 Drawing Sheets

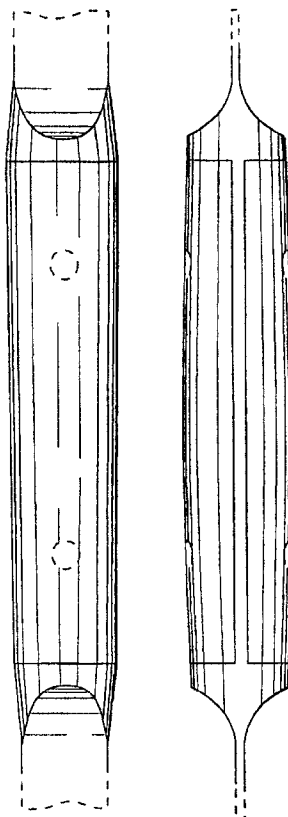


EXHIBIT 1

U.S. Patent

Aug. 10, 2004

Sheet 1 of 2

US D494,006 S

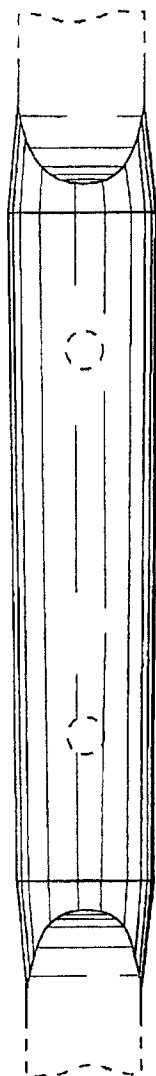


Fig. 1

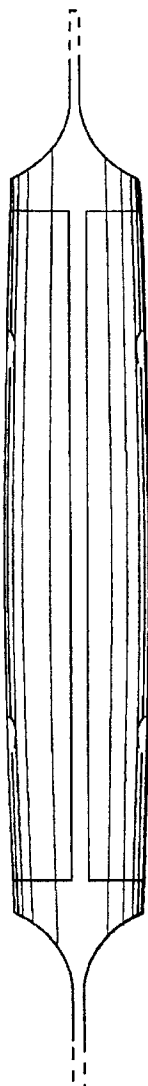


Fig. 2

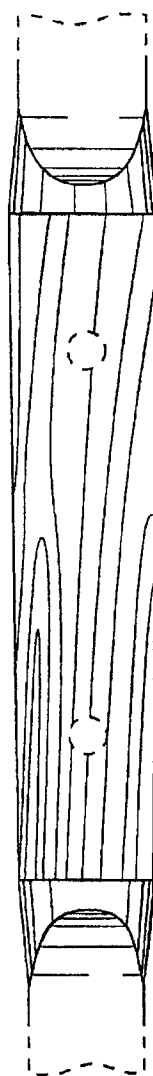


Fig. 3

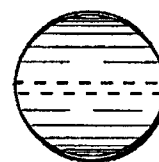


Fig. 4

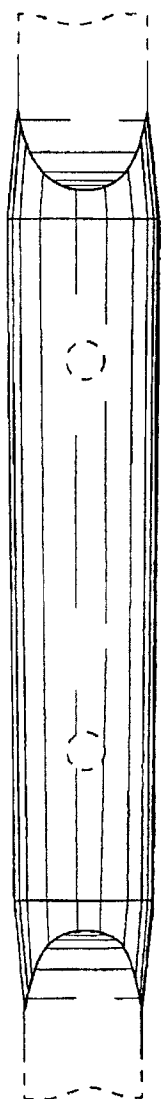


Fig. 5



Fig. 6

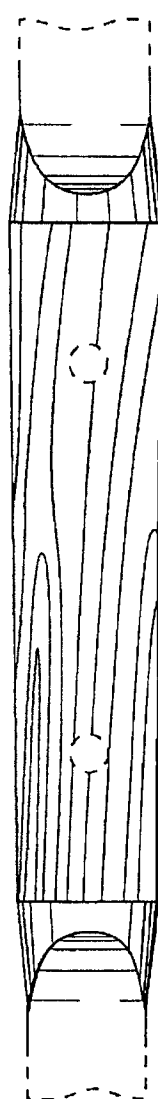


Fig. 7

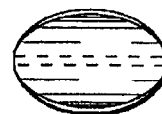


Fig. 8



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5 year warranty.

Product Characteristics:

All tools - Approx. 18 inches long

: May We Suggest... :

Good Grips Silicone
BBQ Mitt by Oxo8 pc. BBQ Tools Set by
Danesco**EXHIBIT 2**

\$29.95

» Details

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» Details



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