

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

FLIP FACE U.S.A., LLC,  
a Florida Corporation,

Plaintiff,

v.

THE HOME DEPOT U.S.A., INC.,  
a Delaware Corporation,  
WOODGRAIN MILLWORK, INC.,  
an Oregon Corporation, and  
WOODGRAIN DISTRIBUTION, INC.,  
an Idaho Corporation,

Defendants.

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**COMPLAINT FOR WILLFUL PATENT INFRINGEMENT**

Plaintiff, FLIP FACE U.S.A., LLC, a Florida corporation, by and through the undersigned, hereby files this Complaint for Willful Patent Infringement against THE HOME DEPOT U.S.A., INC., a Delaware Corporation, WOODGRAIN MILLWORK, INC., an Oregon Corporation, and WOODGRAIN DISTRIBUTION, INC., an Idaho Corporation, and, in so doing, states as follows:

**JURISDICTION, VENUE AND THE PARTIES**

1. This is an action brought pursuant to the Patent Laws of the United States, 35 U.S.C. §§ 271, *et. seq.*

2. This Court has original jurisdiction pursuant to Title 28, United States Code, Section 1331, as this case involves a federal question arising under the Constitution, laws or treaties of the United States.

3. Plaintiff, FLIP FACE U.S.A., LLC (hereinafter “FLIP FACE USA”) is a Florida corporation with its principle address located in Broward County, Florida.

4. At all times material hereto, THE HOME DEPOT U.S.A., INC., a Delaware Corporation (hereinafter “HOME DEPOT”), was engaged in the conduct of interstate commerce, and regularly conducted business in this judicial district, and is otherwise *sui juris*.

5. At all times material hereto, WOODGRAIN MILLWORK, INC., an Oregon Corporation, and its affiliate WOODGRAIN DISTRIBUTION, INC., an Idaho Corporation (collectively “WOODGRAIN”), have been engaged in the conduct of interstate commerce, and have regularly conducted business in this judicial district, and is otherwise *sui juris*.

6. This action arises as a result of the conspiratorial and willful infringing conduct between HOME DEPOT and WOODGRAIN, which implicated interstate commerce.

7. Venue is proper in the Southern District of Florida pursuant to Title 28, United States Code, Section 1391(b) and (c) as Defendant “resides” in this judicial district, as the term “reside” is interpreted under Chapter 87, United States Code, and because a substantial part of the events giving rise to the infringement claims at issue occurred within this judicial district. Venue is also appropriate pursuant to Title 28, United States Code, Section 1400(b), which provides, in part, that “[a]ny civil action for patent infringement may be brought in the judicial district where the defendant resides”.

8. All conditions precedent have been met, waived, or satisfied to bring this lawsuit.

#### **GENERAL ALLEGATIONS**

9. The United States Patent and Trademark Office (“PTO”) issued several design patents on a two sided crown molding invention to Assignee Flip Face, Inc., a Canadian company. The issued U.S. Patents include Patent Nos. D620,136; D620,137; D620,138; D620,139; D620,140;

D620,141; D620,142; D620,143; D621,966; D623,771; and D623,772. There also currently exists a pending utility patent application before the PTO, which published on January 27, 2011 under Application Number 2011/0016810.

10. Further, several sister patents were also issued by the Canadian Intellectual Property Office covering the same subject matter. This additional portfolio of patents includes Canadian Patent No. 2,696,099, and Canadian Industrial Design Registration Nos. 131,361; 131,362; 131,363; 131,392; 131,394; 131,435; 131,436; 131,437; 131,454; 131,456; 131,457; 131,715; 138,456; and 138,545.

11. Flip Face, Inc. thereafter transferred *via* assignment all of the rights and causes of action associated with the U.S. issued patents to Plaintiff, FLIP FACE U.S.A., and FLIP FACE U.S.A. is currently the holder of all said U.S. issued patents.

12. HOME DEPOT and WOODGRAIN were both made fully aware of the pending patent applications prior to the issuance of the above mentioned patents during discussions had with HOME DEPOT and WOODGRAIN concerning the licensing of the rights to produce, market and sell the inventions claimed in the patents.

13. Nevertheless, despite efforts to negotiate a licensing agreement with WOODGRAIN and HOME DEPOT, both WOODGRAIN and HOME DEPOT ultimately rejected the offer.

14. Shortly thereafter, however, it was learned that HOME DEPOT started to market two sided crown molding as being “available exclusively at The Home Depot.” HOME DEPOT marketed the Flip Face crown moulding product under a different name, Perfect Cut Crown.

15. Through an instructional and promotional video contained on their website, HOME DEPOT advertises that the two sided crown moulding will “cut install time in half”, and touts the invention as being the “latest innovation in moulding”, and as “such a breakthrough” due to its

“unique reversible design”. See [www.homedepot.com](http://www.homedepot.com) (“Perfect Cut Crown Two-Sided Moulding” Video).

16. It has also recently been learned that HOME DEPOT is also featuring a two sided crown moulding product under the name Finished Elegance. A copy of a photograph of an in-store advertisement is attached hereto as Exhibit “A”.

17. Through information and belief, both the Perfect Cut Crown and Finished Elegance two sided crown moulding products are being supplied to HOME DEPOT by WOODGRAIN.

18. The known profiles of the two sided crown moulding products that are being supplied by WOODGRAIN and sold to consumers by HOME DEPOT infringe at least all of the claims of U.S. Patent No. D623,771 (“the ‘771 Patent”), and will also infringe U.S. Application No. 2011/0016810 (“the ‘810 Application”) once the utility patent issues as is expected. A copy of the ‘771 Patent is attached hereto as Exhibit “B”, and a copy of the ‘810 Application is attached as Exhibit “C”.

19. Despite their unmistakable knowledge of the patents identified herein, HOME DEPOT and WOODGRAIN continue to infringe on the claims of the aforementioned patents.

20. Thus, as a result of HOME DEPOT’S and WOODGRAIN’S willful infringing conduct, FLIP FACE USA was required to retain the undersigned counsel to pursue its interests in this matter, and is obligated to pay the undersigned a reasonable attorneys’ fee for their services, and to reimburse the undersigned for any costs incurred in connection with said representation.

21. This lawsuit followed.

**COUNT I:**  
**TEMPORARY AND PERMANENT INJUNCTIVE RELIEF**

22. Plaintiff realleges and revers paragraphs one (1) through twenty-one (21) as if fully set forth herein.

23. This is an action for temporary and permanent injunctive relief pursuant to Title 35, United States Code, Section 283, of the United States Patent Act.

24. Said section provides that this Court may “grant injunctions in accordance with the principles of equity to prevent the violations of any right secured by patent, on such terms as the court deems reasonable.”

25. As alluded to in more detail above, HOME DEPOT and WOODGRAIN have infringed, and continue to infringe, on at least the ‘771 Patent.

26. HOME DEPOT and WOODGRAIN continue to infringe the claims of the ‘771 Patent.

27. Such refusal to honor Plaintiff’s exclusive patent rights has caused, and will continue to cause, irreparable harm. Each day that Plaintiff is deprived of its earned intellectual property rights causes irreparable injury.

28. Plaintiff has no adequate remedy at law, especially because the property at issue is intellectual property and patented work that is being deprived.

29. There is no remedy at law that can fully compensate Plaintiff for the deprivation of said patent rights, and, in light of the facts of this case, there is a substantial likelihood that Plaintiff will succeed on the merits of the instant case.

WHEREFORE, Plaintiff, FLIP FACE U.S.A., LLC, a Florida corporation, by and through the undersigned, hereby respectfully requests that the Court enter a temporary and permanent injunction enjoining Defendants THE HOME DEPOT U.S.A., INC., a Delaware Corporation, WOODGRAIN MILLWORK, INC., an Oregon Corporation, and WOODGRAIN DISTRIBUTION, INC., an Idaho Corporation, and all those in active concert and participation with said Defendants, from using, making, selling, marketing, distributing, transferring, or

otherwise infringing on the claims of the '771 Patent as more fully set forth above, together with costs, attorneys' fees, and such other and further relief as this Court deems just and proper.

**COUNT II:**  
**WILLFUL PATENT INFRINGEMENT**

30. Plaintiff realleges and revers paragraphs one (1) through twenty-one (21) as if fully set forth herein.

31. This is an action for patent infringement pursuant to Title 35, United States Code, Section 271, of the United States Patent Act.

32. As more fully set forth above, HOME DEPOT and WOODGRAIN have infringed, and continue to infringe, the claims of the '771 Patent by, *at least*, making and using infringing technology.

33. All such infringing conduct of HOME DEPOT and WOODGRAIN has occurred and was committed by HOME DEPOT and WOODGRAIN in a willful manner, irrespective of and despite demands that HOME DEPOT and WOODGRAIN cease their infringing conduct and recognize the rights under the '771 Patent.

34. HOME DEPOT'S and WOODGRAIN'S actions have been committed and performed in a willful, knowing and bad faith manner.

35. HOME DEPOT'S and WOODGRAIN'S actions have caused, and continue to cause, irreparable harm to Plaintiff to which there is no adequate remedy at law.

WHEREFORE, Plaintiff, FLIP FACE U.S.A., LLC, a Florida corporation, by and through the undersigned, hereby respectfully demands judgment against Defendants THE HOME DEPOT U.S.A., INC., a Delaware Corporation, WOODGRAIN MILLWORK, INC., an Oregon Corporation, and WOODGRAIN DISTRIBUTION, INC., an Idaho Corporation, for the

full amount of damages sustained, including, but not limited to, any and all remedies available pursuant to the Patent Laws of the United States, 35 U.S.C. §§ 271, *et. seq.*, which include, but are not limited to, lost profits, a reasonable royalty award, disgorgement of the profits received by Defendants, treble damages, costs, pre and post judgment interest at the maximum allowable rate, attorneys' fees, and such other and further relief this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, FLIP FACE U.S.A., LLC, a Florida corporation, hereby demands trial by jury of all issues so triable as a matter of law.

**Dated this 18th day of May, 2011.**

Respectfully Submitted,

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