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10 UNITED STATES DISTRICT COURT
11 FOR THE SOUTHERN DISTRICT OF TEXAS
12 HOUSTON DIVISION

13 CAJUN CHICKCAN OF TEXAS, LLP

14 Plaintiff,

15 vs.

16 BIG LOTS STORES, INC.

17 Defendant.

Civil Action No.

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**

18 NOW COMES Plaintiff, CAJUN CHICKCAN OF TEXAS, LLP (“Texas Chickcan”)
19 through its attorney, and files this Complaint for Patent Infringement and Demand for Jury Trial
20 against BIG LOTS STORES, INC. (“Big Lots”), and in support thereof Plaintiff Texas Chickcan
21 states as follows:

THE PARTIES

- 22 1. Plaintiff, Texas Chickcan, is a Texas limited liability partnership with its principal
23 place of business at 1803 Cottage Landing Lane, Houston, TX 77077.
- 24 2. Defendant, Big Lots, is a for profit corporation organized and existing under the
25 laws of the State of Ohio, with a principal office at 300 Phillipi Road, Columbus,
26 Ohio 43228-6800.

CAUSES OF ACTION FOR PATENT INFRINGEMENT

3. On May 6, 2003, U.S. Patent No. 6,557,460 entitled, “Apparatus for Roasting Fowl” (“the ‘460 Patent”) issued to inventor Kevin R. Hester, and subsequently, the ‘460 Patent was assigned entirely to the Plaintiff, Texas Chickcan.
4. On January 7, 2003, U.S. Patent No. 6,503,551 entitled, “Method for Roasting Fowl” (“the ‘551 Patent”) issued to inventor Kevin R. Hester, and subsequently, the ‘551 Patent was assigned entirely to the Plaintiff, Texas Chickcan.
5. Both ‘460 Patent and ‘551 Patent relate to a popular device for cooking chickens and have acquired the simple name “beer can chicken cooker” and the like.
6. The ‘460 Patent and the ‘551 Patent relate to a wire frame and stand capable of holding a partially filled with beer. The chicken to be cooked is placed on the beer can with the beer can projecting into the chicken. During the baking process, the beer soften and flavors the chicken, and after the baking of the chicken, the beer can be disposed of, thereby minimizing the clean up to only the frame. Only the wire frame requires cleaning.

JURISDICTION AND VENUE

7. This is an action for patent infringement of United States Patent No. 6,503,551 (“‘551 Patent”), and United States Patent No. 6,557460 (“‘460 Patent”) pursuant to the laws of the United States of America as set forth in Title 35 Sections 271 and 281 of the United States Code. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Sec. 1338(a) and 28 U.S.C. Sec. 1331.
8. On information and belief, Big Lots operates 21 stores under the name “Big Lots” within 50 miles of the Court House for the Southern District of Texas and 117 stores in the State of Texas.
9. Many of the stores operated by Big Lots within 50 miles of the Court House for the Southern District of Texas stock and sell products infringing the ‘551 Patent and the ‘460 Patent.

1 10. Venue is proper in this judicial district under 28 U.S.C. § 1391, and 28 U.S.C.
2 §1400(c).

3 **COUNT ONE**

4 11. Plaintiff, Texas Chickcan, repeats and incorporates herein the allegations
5 contained in paragraphs 1 through 10 above.

6 12. Defendant Big Lots is engaged in direct infringement of at least claim 1 of the
7 ‘551 Patent pursuant to 35 U.S.C. § 271(a), in its importing, manufacturing, and
8 sale of its product, “Beer Can Chicken Cooker”.

9 **COUNT TWO**

10 13. Plaintiff, Texas Chickcan, repeats and incorporates herein the allegations
11 contained in paragraphs 1 through 10 above.

12 14. Defendant, Big Lots is engaged in direct infringement of at least claim 1 of the
13 ‘460 Patent pursuant to 35 U.S.C. § 271(a), in its use, development and testing of
14 its product, “Beer Can Chicken Cooker”.

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JURY DEMAND

15. Pursuant to Fed. R. Civ. P. 38, Plaintiff hereby demands a jury trial as to all issues in this lawsuit.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court to:

- a. enter judgment for Plaintiff on this Complaint;
- b. order that an accounting be had for the damages caused to the Plaintiff by the infringing activities of the Defendant;
- c. award Plaintiff interest and costs;
- d. enter a permanent injunction to enjoin the Defendant and those in privity with or acting in concert with Defendant from further infringement of the '551 Patent and the '460 Patent during the remainder of respective terms for which the patents have been granted; and
- e. award Plaintiff such other and further relief as this Court may deem just and equitable.

THE PLAINTIFF
CAJUN CHICKCAN OF TEXAS, LLP

/s/ David Fink
David Fink