

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**RED CARPET STUDIOS DIVISION OF
SOURCE ADVANTAGE LTD.**)
4325 Indeco Court)
Cincinnati, Ohio 45241)

Plaintiff,)

v.)

MIDWEST TRADING GROUP INC.)
905 S. Westwood Ave.)
Addison, Illinois 60101;)

and)

WALGREEN COMPANY)
200 Wilmot Road)
Deerfield, Illinois 60015;)

and)

CVS PHARMACY, INC.)
One CVS Drive)
Woonsocket, Rhode Island 02895)

Defendants.)

Case No. 1:12-cv-501
Dlott

Judge:

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Red Carpet Studios Division of Source Advantage Ltd. ("Red Carpet") complains against the Defendants Midwest Trading Group Inc. ("MTG"), Walgreen Company ("Walgreens"), and CVS Pharmacy Inc. ("CVS") (collectively, "the Defendants") as set forth below.

NATURE OF THE ACTION

1. This is an action for patent infringement and arises under the patent laws of the United States, codified in Title 35 of the United States Code.

THE PARTIES

2. Plaintiff Red Carpet Studios is a Division of Source Advantage Ltd. ("Red Carpet"). Red Carpet is an Ohio corporation having its principal place of business at 4325 Indeco Court, Cincinnati, Ohio 45241.

3. Upon information and belief, MTG is an Illinois corporation having its principal place of business at 905 S. Westwood Ave., Addison, Illinois 60101.

4. Upon information and belief, Walgreens is an Illinois corporation having its principal place of business at 200 Wilmot Road, Deerfield, Illinois 60015.

5. Upon information and belief, CVS is a Rhode Island corporation having its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895.

JURISDICTION AND VENUE

6. This is a patent infringement case, and this Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

7. Venue in this judicial district is appropriate based on 28 U.S.C. §§ 1391(b)-(c), and 1400(b), in that the Defendants do business in this district and have sold infringing products in this district.

BACKGROUND FACTS

8. Red Carpet is a privately owned business that, among other things, creates, originates, offers for sale, and sells unique products in the home and garden markets, throughout the United States. Red Carpet primarily sells its products via distribution, or on-line. One of Red Carpet's product lines is sold under the trademark COSMIX. This product line includes a number of different types of kinetic sculptures which are covered by Red Carpet's U.S. and non-U.S. design patents. These COSMIX products include, as a common feature, a quadruple helix structure.

9. Several of Red Carpet's COSMIX kinetic sculptures are within the scope of United States Design Patent No. D487,034, entitled "Kinetic Sculpture" ("the '034 Patent"), which issued from the United States Patent and Trademark Office ("USPTO") on February 24, 2004, to inventor Robert L. Lach. Mr. Lach assigned the '034 Patent to Red Carpet, which at all times relevant to this action has been the owner of the '034 Patent. A copy of the '034 Patent is attached to this Complaint as Exhibit A. Red Carpet marks its COSMIX product line with the patent number of the '034 patent.

10. On information and belief, MTG commercializes the same types of products as Red Carpet, namely decorative products in the home and garden markets, in direct competition with Red Carpet. Specifically, and particularly relevant to this action, MTG has engaged in the creation, the use, the importing, the offering for sale, and the sale of a product line that has a quadruple helix structure. This product line can be commonly described as a Solar Powered Spinning light, and is reflected by products marketed under the names "Solar Mate" and "Journey's Edge," as shown in Exhibits B and C, respectively (collectively "Infringing Products"). Upon further information and belief, MTG's activities with respect to these Infringing Products, and possibly other products, infringe Red Carpet's rights under the '034 Patent. Upon further information and belief, MTG distributes, produces, sells, and/or offers for sale these Infringing Products in this judicial district, has substantial and continuous contacts with this judicial district, and conducts systematic business in this judicial district.

11. Upon information and belief, Walgreens has sold and continues to sell, and has offered for sale and continues to offer for sale Infringing Products, including the Solar Mate product shown in Exhibit B. Upon information and belief, Walgreens' activities in this respect infringe Red Carpet's rights under the '034 Patent. Upon further information and belief, Walgreens sells and offers

for sale the Infringing Products in this judicial district, has substantial and continuous contacts with this judicial district, and conducts systematic business in this judicial district.

12. Upon information and belief, CVS has sold and continues to sell, and has offered for sale and continues to offer for sale Infringing Products, including the Journey's Edge product shown in Exhibit C. Upon information and belief, CVS's activities in this respect infringe Red Carpet's rights under the '034 Patent. Upon further information and belief, CVS sells and offers for sale the Infringing Products in this judicial district, has substantial and continuous contacts with this judicial district, and conducts systematic business in this judicial district.

COUNT I – PATENT INFRINGEMENT

13. Red Carpet expressly incorporates by reference the allegations of paragraphs 1-12, as though fully set forth herein.

14. On information and belief, MTG has infringed and continues to infringe, and has induced others to infringe and/or contributed to the infringement of the '034 Patent, by its manufacture, use, offering for sale, sale and/or importation into the United States of the above-described Infringing Products.

15. On information and belief, Walgreens has infringed and continues to infringe, and has induced others to infringe and/or contributed to the infringement of the '034 Patent, by its use, offering for sale, and/or sale within the United States of the above-described Infringing Products, including the Solar Mate product.

16. On information and belief, CVS has infringed and continues to infringe, and has induced others to infringe and/or contributed to the infringement of the '034 Patent, by its use, offering for sale, and/or sale within the United States of the above-described Infringing Products, including the Journey's Edge product.

17. Red Carpet has notified MTG that this activity infringes Red Carpet's patent rights, but MTG's response did not indicate that the infringing activity would be stopped. For these and other reasons, the Defendants' acts of patent infringement complained of herein are being carried out willfully and with full knowledge of Red Carpet's rights in the '034 Patent.

18. As a result of Defendants' actions, Red Carpet has suffered and continues to suffer substantial injury, including irreparable injury and monetary damage, including but not limited to the loss of sales and profits, which Red Carpet would have made but for the acts of infringement by the Defendants. Such injury and damage to Red Carpet will continue unless the Defendants are enjoined by this Court from further infringement.

PRAYER FOR RELIEF

WHEREFORE, Red Carpet prays for the following relief against Defendants.

A. That a judgment be entered against each Defendant, that the Defendant has infringed, induced others to infringe, and/or contributed to the infringement of United States Design Patent No. D487,034.

B. That each Defendant, its agents, sales representatives, servants and employees, associates, attorneys, parents, successors and assigns, and any and all persons or entities acting at, through, under or in active concert or participation with any or all of them, be enjoined and permanently restrained from further infringing United States Design Patent No. D487,034.

C. That a judgment be entered requiring each Defendant to pay to Red Carpet monetary damages sustained by Red Carpet due to such acts of infringement, including lost profits or reasonable royalty under 35 U.S.C. § 284, or alternatively, the Defendant's total profit under 35 U.S.C. § 289.

D. If Red Carpet's monetary recovery occurs under 35 U.S.C. § 284, that such damages payable to Red Carpet be trebled under 35 U.S.C. § 284 for willful infringement.

E. That this case be adjudged and decreed exceptional under 35 U.S.C. § 285, and that Red Carpet be awarded its reasonable attorney fees.

F. That Red Carpet be awarded its costs and prejudgment interest on all damages.

G. And that Red Carpet be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Red Carpet hereby demands and requests trial by jury of all issues raised that are triable by jury.

Respectfully submitted,

RED CARPET STUDIOS DIVISION OF
SOURCE ADVANTAGE LTD.

Dated: June 29, 2012

s/ Thomas J. Burger

Thomas J. Burger (0037338)

tburger@whe-law.com

Paul J. Linden (0083699)

plinden@whe-law.com

Jason D. Sopko (0080802)

jsopko@whe-law.com

WOOD, HERRON & EVANS, L.L.P.

441 Vine Street, 2700 Carew Tower

Cincinnati, Ohio 45202-2917

Telephone: (513) 241-2324

Facsimile: (513) 241-6234

***Attorneys for Plaintiff - Red Carpet Studios
Division of Source Advantage Ltd.***