

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

Civil Action No. _____

STARR PRODUCTS, LLC, a Colorado limited liability company,

Plaintiff,

v.

THE BETESH GROUP HOLDING CORPORATION, a New York corporation, doing business as FUNHOUSE,

SESAME WORKSHOP CORPORATION, a New York non-profit organization, and

VIACOM INTERNATIONAL, INC. a Delaware corporation, doing business as Nickelodeon,

Defendant.

COMPLAINT AND JURY DEMAND

COMES NOW Plaintiff, Starr Products, LLC, a Colorado limited liability company, by and through its undersigned counsel, for its Complaint against The Betesh Group Holding Corporation, a New York corporation, doing business as Funhouse, Sesame Workshop Corporation, a New York non-profit organization, and Viacom International Inc., a Delaware corporation, doing business as Nickelodeon, Defendants, states and alleges as follows:

INTRODUCTION

Plaintiff, Starr Products, LLC, manufactures, markets, and sells a child's travel snack tray in which it holds patent and other rights. Recently, it came to Plaintiff's attention that Defendants, The Betesh Group Holding Corporation, doing business as Funhouse, Sesame Workshop Corporation and Viacom International, Inc. produces and/or sells a similar product which infringes upon Plaintiff's patent rights, trade dress rights and constitutes unfair

competition. This action is brought to prevent Defendants from continuing to infringe on Plaintiff's rights. Starr Products, LLC is seeking damages and injunctive relief from Defendants' continuing and willful infringement.

I. PARTIES

1. Plaintiff Starr Products, LLC ("Starr") is a Colorado limited liability company having its principal place of business at 10123 E. 29th Ave., Denver, CO 80238.

2. Defendant The Betesh Group Holding Corporation ("TBG") is, upon information and belief, a New York corporation, doing business as Funhouse, having a principal place of business at 1 E. 33rd Street New York, NY 10016. The name "The Betesh Group" appears on product packaging and the URL listed on the same packaging directs to a website, www.beteshgroup.com, titled The Betesh Group. A search of the New York Secretary of States business database did not produce any record for a company operating under the name "The Betesh Group." However, a record was found for The Betesh Group Holding Corporation listing an address of 1 East 33rd Street New York, NY 10016; the same address listed on the product packaging. The website lists the corporate headquarters of The Betesh Group as 250 Passaic Street Newark, NJ 07104. A search of the New Jersey Secretary of State business entity database has a record for The Betesh Group Holding Corporation, however it does not list any address as a principal place of business.

3. Defendant Sesame Workshop Corporation ("Sesame") is a New York non-profit organization with its principal place of business at 1 Lincoln Plaza #2 New York, NY 10023.

4. Defendant Viacom International, Inc. ("Viacom") is a Delaware corporation with its principal place of business at 1515 Broadway New York, NY 10036. Nickelodeon Inc. ("Nickelodeon") is a business unit of MTV Networks, a division of Viacom.

II. JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over these claims pursuant under 28 U.S.C. § 1338(a) and 35 U.S.C. § 271 in that it involves claims arising under the federal patent laws of the United States; supplemental jurisdiction over related claims pursuant to 28 U.S.C. § 1367 and/or diversity under 28 U.S.C. § 1332 in that there is diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00.

6. Venue is proper in this District because Starr is a resident of and has its only operating facility in this judicial district and this court has personal jurisdiction over the Defendants under Colorado's long arm statute C.R.S. § 13-1-124, due to the fact that TBG, Sesame, and Viacom have sold products or services in the jurisdiction and/or actively offer their products for sale within the jurisdiction and therefore transacts business within the jurisdiction.

III. GENERAL ALLEGATIONS

7. On October 31st 2003, Alyson Probst ("Probst") filed United State Utility Patent Application # 10/698,776 ("776 Application") with the United States Patent and Trademark Office ("USPTO") for a "Child's Travel Tray." A design patent application # 29/256,462 ("462 Application") was filed on March 20, 2006 claiming benefit to the '776 Application. The '462 application issued on September 11, 2007 as United States Design Patent # D550,477 ("Starr Patent").

8. Beginning in or about December of 2005, Starr began to market and sell its Snack & Play™ Travel Tray ("Starr Tray").

9. Starr was and still is the lawful owner of unregistered yet valid trade dress in the Starr Tray. The particular design of the Starr Tray creates an overall impression that consumers associate with Starr, thus making the trade dress famous. The trade dress is not functional.

10. On August 17, 2006, the '462 Application and any patents that might issue therefrom was assigned to Starr. The Assignment was recorded with the USPTO on September 29, 2006.

11. On information and belief, Defendant TBG produces and sells various child travel trays ("Betesh Tray(s)") including a tray featuring Elmo, a character from the Sesame Street Television show, and a tray featuring Dora the Explorer from the similarly entitled Television show. The packaging in which these products are sold includes logos, words and pictures instantly recognized as related to either Sesame or Nickelodeon. These marketing displays on the packaging convey to a consumer that these products are endorsed, and even manufactured by Defendants Sesame or Viacom respectfully.

12. Defendant TBG began selling the Betesh trays in the United States after the Starr Tray was in the market.

13. On information and belief, Defendants have knowledge of the existence of the Starr Patent.

14. The Betesh Trays absent indicia and graphics printed thereon are substantially similar in design to both (i) the trays claimed in the Starr Patent and (ii) the Starr Tray.

IV. CLAIMS FOR RELIEF

First Claim for Relief

(Patent Infringement)

15. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 14 above as though fully set forth herein.

16. The Defendants have and continue to infringe the claims of the Starr Patent by making, using and /or selling Betesh Trays that are substantially similar to those claimed in the Starr Patent.

17. As a direct result of the Defendants' actions, Starr has been injured through the loss of sales of its products, which it would have otherwise have made.

18. Defendants are liable to Starr for lost profits and/or a reasonable royalty for sales of the Betesh Trays.

19. Defendants willfully and intentionally infringed the Starr Patent entitling Starr to enhanced damages and other statutory penalties.

Second Claim for Relief

(Trade Dress Infringement)

20. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 19 above as though fully set forth herein.

21. Defendants have infringed and continue to infringe the trade dress associated with the famous Starr Tray by producing and selling Betesh Trays that are confusingly similar to the Starr Tray deceiving customers into purchasing Betesh Trays believing that they are produced by or associated with Starr. The Starr Tray trade dress is non-functional.

22. The acts of Defendants alleged herein constitute unfair competition in violation of Section 1125(a) of the Lanham Act.

23. Unless restrained and enjoined, the acts of trade dress infringement alleged herein will cause Starr irreparable injury.

24. As direct and foreseeable results of the infringement alleged herein, Starr has sustained damages in an amount to be proven at trial.

25. Starr has incurred and will continue to incur attorney's fees and costs associated with the acts of Defendants, and accordingly, Starr seeks recovery of these fees and costs.

Third Claim for Relief

(Unfair Competition)

26. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 25 above as though fully set forth herein.

27. Defendants are unfairly competing with Starr by selling Betesh Trays that are confusingly similar to the trade dress of the Starr Tray.

28. The unfair competition by Defendants is willful and intentional with knowledge of the existence of the Starr Tray in the marketplace.

29. As a direct and proximate result of Defendants' actions, Starr has suffered damages in an amount to be determined at trial.

Fourth Claim for Relief

(Accounting)

30. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 29 above as though fully set forth herein.

31. Defendants' have manufactured, imported, sold and/or distributed the Betesh Trays, which directly infringe the Starr patent, thereby (i) depriving Starr of sales and/or royalties it would have otherwise made and (ii) unjustly enriching Defendants to the detriment of Starr. Starr is rightfully entitled to reimbursement from Defendants.

32. Starr does not know the exact number of infringing Betesh Trays sold by Defendants or the amount of revenue and profits realized through these sales.

33. Starr is entitled to an accounting at the Defendant's expense to determine the amount of revenues and profits the Defendant has unjustly obtained as a result of its infringing acts.

Fifth Claim for Relief

(Injunction)

34. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 33 above as though fully set forth herein.

35. Starr has and will continue to suffer irreparable harm as a result of Defendants' improper conduct as alleged above.

36. Starr has no adequate remedy at law for damages it will suffer should Defendants be permitted to continue the improper conduct.

37. Starr is entitled to injunctive relief enjoining Defendants from infringing the Starr patent and Starr's trade dress.

Sixth Claim for Relief

(Unjust Enrichment)

38. Plaintiff realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 37 above as though fully set forth herein.

39. The actions of Defendants and their agents and employees as described above have resulted in Defendants gaining revenues from customers as a result of selling Betesh Trays that are confusingly similar to the trade dress of the Starr Tray.

40. Defendants have been unjustly enriched by the receipt of such revenues in competition with Starr and are liable jointly and severally to Starr for such unjust gain.

PRAYER FOR RELIEF

WHEREFORE, for all the reasons stated above, Starr respectfully prays for judgment as follows:

- (i) That Defendants have infringed the Starr Patent;
- (ii) That Defendants have infringed Starr's trade dress in its Starr Tray;
- (iii) That Defendants unfairly competed against Starr;
- (iv) That Defendants have been unjustly enriched as to Starr;
- (v) That Defendants be permanently enjoined from continued patent and trade dress infringement;
- (vi) That the Court order an accounting of Defendants' revenues, profits and other pertinent financial information pertaining to the Betesh Trays;
- (vii) That Starr be awarded actual damages including lost profits and a reasonable royalty in an amount to be determined adequate to compensate Starr for infringement;
- (viii) That Starr be awarded an additional sum as enhanced statutory damages;
- (ix) That Starr be awarded reasonable attorney fees and costs
- (x) That Starr be awarded interest at the maximum legal rate on all damages from the date uncured until paid; and
- (xi) That Starr be granted all other legal and equitable relief for which Starr is entitled.

JURY DEMAND

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

Respectfully submitted this 10th day of November, 2010.

s/ Kurt P. Leyendecker

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ATTORNEYS FOR

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