

**IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION**

JANE DIAMANTIS)	
)	
Plaintiff,)	Civil Action No. 2:12-cv-01108-TMP
)	
v.)	
)	
SAFDIE INTERNATIONAL, INC.)	JURY TRIAL DEMANDED
)	
Defendant.)	

PLAINTIFF’S FIRST AMENDED COMPLAINT

Plaintiff Jane Diamantis (hereinafter, “Plaintiff”), by and through her undersigned counsel, files this First Amended Complaint for patent infringement against Defendant Safdie International, Inc. (hereinafter, “Defendant”).

NATURE OF THE ACTION

1. This is a patent infringement action to stop Defendant’s infringement of Plaintiff’s United States Patent No. 7,481,491 entitled “*Reversible Chair Pad*” (hereinafter, the “491 patent”; a copy of which is attached hereto as Exhibit A). Plaintiff is the owner of all right, title and interest in the ‘491 patent. Plaintiff seeks injunctive relief and monetary damages.

PARTIES

2. Plaintiff Diamantis is an individual residing in Madison County, Alabama.
3. Upon information and belief, Defendant Safdie International, Inc. is a corporation duly organized and existing under the laws of the State of New York, having a place of business located at 7 West 34th Street, Suite 815, New York, NY 10001.

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 271, 281, 283, 284, and 285. This Court has subject matter jurisdiction over this case for patent infringement under 28 U.S.C. §§ 1331 and 1338(a).

5. The Court has personal jurisdiction over Defendant because: Defendant has minimum contacts within the State of Alabama and the Northern District of Alabama; Defendant has purposefully availed itself of the privileges of conducting business in the State of Alabama and in the Northern District of Alabama; Defendant has sought protection and benefit from the laws of the State of Alabama; Defendant regularly conducts business within the State of Alabama and within the Northern District of Alabama; and Plaintiff's causes of action arise directly from Defendant's business contacts and other activities in the State of Alabama and in the Northern District of Alabama.

6. More specifically, Defendant, directly and/or through their intermediaries, ships, distributes, offers for sale, sells, and/or advertises its products and services in the United States, the State of Alabama, and the Northern District of Alabama. Upon information and belief, Defendant has committed patent infringement in the State of Alabama and in the Northern District of Alabama. Defendant solicits customers in the State of Alabama and in the Northern District of Alabama. Defendant has many paying customers who are residents of the State of Alabama and the Northern District of Alabama and who use Defendant's products and services in the State of Alabama and in the Northern District of Alabama.

7. Venue is proper in the Northern District of Alabama pursuant to 28 U.S.C. §§ 1391 and 1400(b).

COUNT I – PATENT INFRINGEMENT OF U. S. PATENT NO. 7,481,491

8. Plaintiff re-alleges and incorporates by reference each of Paragraphs 1-9 above.

9. The '491 was duly and legally issued by the United States Patent and Trademark Office on November 27, 2007 after full and fair examination. Plaintiff is the owner of all rights, title and interest in and to the '491 patent, and possesses all rights of recovery under the '491 patent, including the right to sue Defendant for infringement and recover past damages.

10. Plaintiff is informed and believes that Defendant owns, uses, advertises, sells, imports, and offers for sale a "reversible chair pad", specifically, Federal RN#80078, that infringes the '491 patent either literally or under the doctrine of equivalents. Upon information and belief, Defendant has infringed and continues to infringe one or more claims of the '491 patents by making, using, providing, offering to sell, and selling (directly or through intermediaries), in this district and elsewhere in the United States, reversible chair pads.

11. Defendant's aforesaid activities have been without authority and/or license from Plaintiff.

12. Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of the Defendant's wrongful acts in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

13. Defendant's infringement of Plaintiff's exclusive rights under the '491 patent will continue to damage Plaintiff, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

JURY DEMAND

14. Plaintiff demands a trial by jury on all issues.

PRAYER FOR RELIEF

Plaintiff respectfully requests the following relief:

- A. An adjudication that one or more claims of the '491 patent have been infringed, either literally and/or under the doctrine of equivalents, by the Defendant and/or by others to whose infringement the Defendant has contributed and/or by others whose infringement has been induced by Defendant;
- B. An award to Plaintiff of damages adequate to compensate Plaintiff for the Defendant's acts of infringement together with prejudgment interest;
- C. A grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendant from further acts of (1) infringement, (2) contributory infringement, and (3) actively inducing infringement with respect to the claims of the '491 patent;
- D. That this Court declare this to be an exceptional case and award Plaintiff its reasonable attorneys' fees and costs in accordance with U.S.C. § 285; and,
- E. Any further relief that this Court deems just and proper.

Dated: August 7, 2012

Respectfully submitted,

/s/ M. Blair Clinton

M. Blair Clinton

Alabama Bar Number: ASB-1369-A51C

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