

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MARYLAND**

BTL INDUSTRIES, INC., a
Delaware corporation,

Plaintiff

v.

TEKYARD LLC, a Minnesota
limited liability company.

Civil Action No. _____

Jury Trial Demanded

COMPLAINT

Plaintiff BTL Industries, Inc. (hereinafter “BTL”), by and through its undersigned counsel, files this Complaint against Tekyard LLC (hereinafter “Tekyard”) and alleges as follows:

NATURE OF THIS ACTION

1. This is a civil action by BTL against Tekyard for trademark infringement, unfair competition, false designation of origin, false advertising under the Lanham Act, 15 U.S.C. §§ 1114, 1125(a), unfair and deceptive trade practices under the Maryland Code §13-301, trademark infringement and unfair competition under the common laws of Maryland, and patent infringement under the patent laws of the United States, 35 U.S.C. § 1 et seq.

2. BTL and its affiliates pioneered the use of high-intensity electromagnetic energy for non-invasive aesthetic muscle toning. BTL launched the popular EMSculpt aesthetic body-contouring device in the United States in June 2018. EMSculpt has been cleared by the U.S. Food and Drug Administration (FDA) for non-invasive toning and strengthening of

muscles in the abdomen, buttocks, legs, and arms. BTL and its affiliates have since protected the ground-breaking EMSCUPLT device with numerous patents and federally registered trademarks.

3. According to their website, Tekyard is a U.S. “based business specializing in marketing and sales of technology and medical related equipment.” To that end, Tekyard offers for sale, and sells, various medical related equipment, including devices advertised as BTL’s popular EMSCULPT device.

4. Through its false and misleading representations, Tekyard has sold counterfeit devices purporting to be authentic BTL EMSCULPT devices to unknowing consumers. Tekyard’s false and misleading representations as to the authenticity of the devices mislead consumers into believing they were purchasing devices manufactured by BTL. Tekyard did this in part through advertising for sale counterfeit devices on its website that contained BTL’s EMSCULPT trademarks, as well as through emails and communications with customers representing that the counterfeit devices for sale were BTL’s EMSCULPT devices.

5. As detailed below, Tekyard’s actions violate BTL’s federal and common law trademark rights, constitute unfair competition, false advertising, and deceptive practices under federal, state, and common law.

6. Furthermore, on information and belief, Tekyard’s actions violate BTL’s federal patent rights and constitute patent infringement.

7. Tekyard’s infringing, misleading, and fraudulent conduct irreparably harmed BTL’s EMSCULPT brand, the goodwill associated with the EMSCULPT brand, and the quality and goodwill of BTL’s EMSCULPT device. Importantly, the counterfeit devices,

which unlike BTL's EMSCULPT device, are not FDA cleared, may pose serious health and safety risks to the public as the counterfeit devices are of unknown quality and condition.

Customers who bought the counterfeit devices and ultimately the patients treated using those devices were misled into believing they were purchasing and using BTL's FDA-cleared EMSCULPT device to their potential health detriment.

8. BTL has filed this action to protect itself and the public against Tekyard's unauthorized use of BTL's trademarks and promotion and sale of counterfeit devices that infringe BTL's patent rights.

PARTIES

9. BTL is a privately held corporation organized and existing under the laws of Delaware with a principal place of business at 362 Elm Street, Marlborough, Massachusetts 01752. BTL is the owner or the exclusive U.S. licensee of U.S. Patent Nos. 10,695,576, 10,478,634, and D874009, as well as the owner or exclusive licensee of the trademarks at issue in this instant action.

10. On information and belief, Tekyard is a limited liability company organized and existing under the laws of the State of Minnesota, with a corporate offices at 3709 Park Overlook Ct, Ellicott City, MD 21042 and at 8620 Old Dorsey Run Rd, Suite B, Jessup, MD 20794. On information and belief, Tekyard has a warehouse located at 8264 Preston Court, Suite E, Jessup, MD 20794. On information and belief, Tekyard has also registered to do business in Maryland with the Maryland Secretary of State as a foreign LLC.

JURISDICTION AND VENUE

11. This Court has subject-matter jurisdiction over BTL's claims arising under the Lanham Act, 15 U.S.C. § 1121, and 15 U.S.C. § 1501, BTL's claims arising under the patent

laws of the United States, 35 U.S.C. § 1 et seq, pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a)-(b).

12. This Court has supplemental jurisdiction over BTL's claims arising under the laws of Maryland, pursuant to 28 U.S.C. § 1367(a) because the state-law claims are so related to BTL's federal law claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

13. This Court has personal jurisdiction over Tekyard because Tekyard has at least three regular and established places of business (two permanent offices and a warehouse) in Maryland and committed acts of trademark infringement, patent infringement, and false, misleading and deceptive advertising under the Lanham Act and Maryland Code §13-301 in Maryland.

14. Tekyard's Founder and CEO, Imran Choudhry, lists Tekyard's Ellicott City, Maryland address as his location with the Minnesota Secretary of State. Tekyard is also registered with the Maryland Secretary of State as a "Foreign LLC" and lists Imran Choudhry and 3709 Park Overlook Ct, Ellicott City, MD 21042 as the registered agent. Tekyard also has a second office and a warehouse in Maryland, both in Jessup.

15. Venue is proper in the District under 28 U.S.C §1400(b) because Tekyard has a regular and established place of business in this District and has committed acts of infringement in the District. Venue is also proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events that gave rise to the claims occurred in this District, and Tekyard is subject to personal jurisdiction in this District.

FACTUAL ALLEGATIONS

16. BTL specializes in the innovation, development, and implementation of equipment and treatments for non-invasive body contouring. A true and correct copy of BTL's press release entitled "BTL Continues to Make Waves With Its Revolutionary HIFEM® Technology" is attached hereto as Exhibit 1. BTL and its affiliates developed proprietary and patent-protected HIFEM technology that uses high-intensity electromagnetic stimulation to tone and strengthen muscles in targeted areas. BTL applied its proprietary technology to develop a series of new FDA-cleared devices and developed protocols for using the technology for aesthetic therapies.

17. BTL tracks its devices through a unique serial number that ensures BTL can guarantee the quality and performance that BTL's EMSCULPT device has come to embody in the industry and to consumers. BTL also offers customers purchasing its EMSCULPT device additional options, such as extra warranty protection, that are tracked through a device's unique serial number.

18. BTL's EMSCULPT device and treatments use high-intensity electromagnetic energy to induce powerful muscle contractions not achievable through voluntary contractions. The EMSCULPT device is currently cleared by the FDA as a non-invasive treatment for the abdomen, buttocks, arms, calves and thighs. A true and correct copy of BTL's EMSCULPT webpage is attached hereto as Exhibit 2.

19. A representative picture of an EMSCULPT device is shown below:



20. BTL markets and distributes its non-invasive aesthetic body-contouring EMSCULPT device to healthcare professionals, and licenses these healthcare professionals to provide associated treatment services administered via authentic EMSCULPT devices that incorporate its proprietary technology, muscle toning protocols, and applicators in the United States.

21. The aesthetic industry has recognized BTL and its innovations, praising BTL's EMSCULPT device as a "pioneer or trailblazer throughout the aesthetic enhancement world," and identifying BTL's EMSCULPT device as "unparalleled in the industry." A true and correct copy of the article entitled "How Does EMSCULPT Work? Your EMSCULPT

Questions Answered” by Holden Timeless Beauty is attached hereto as Exhibit 3. The EMSCULPT device has been renowned as a “breakthrough in non-invasive body shaping,” with The Bend Magazine noting that EMSCULPT “is not a different version of an existing device. It’s a totally new technology.” True and correct copies of the articles “Why is Emsculpt a Breakthrough in Non-Invasive Body Shaping?” by DC Derm Docs and “Emsculpt: A Muscle Builder and a Fat Burner” by The Bend Magazine are attached hereto as Exhibits 4 and 5, respectively.

22. Indeed, commentators have recognized the technology’s significant departure from prior body-contouring procedures, comparing EMSCULPT to an iPhone or Botox, and describing the EMSCULPT device as a “revolutionary advance in non-surgical body contouring.” A true and correct copy of the article entitled “EmSculpt Changing the Rules” by Health Life Magazine is attached hereto as Exhibit 6.

THE PATENTS-IN-SUIT

23. As a result of BTL’s efforts and technological advances over the prior body-contouring devices, BTL applied for and was awarded U.S. Patents No. 10,695,576 (“the ’576 patent”), 10,478,634 (“the ’634 patent”), and D874009 (“the ’009 patent”).

24. The ’576 patent, entitled “Aesthetic Method of Biological Structure Treatment by Magnetic Field” was duly and legally issued on June 30, 2020. A true and correct copy of the ’576 patent is attached as Exhibit 7.

25. The ’576 patent names Thomás Schwarz and Ondra Prouza as co-inventors.

26. The ’576 patent relates to, among other things, a novel device that uses magnetic and induced electric fields for muscle toning a patient. The claimed devices “produce a time varying magnetic field for patient treatment which has a unique hardware components

topology, provide effective treatment protocols and provide a new treatment.” *See* Exhibit 7, ’576 patent, col. 3, lines 14-17.

27. As noted above, the inventions claimed in the ’576 patent represent an advancement over what was then the existing available body-contouring devices and procedures.

28. The ’576 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the ’576 patent and owns the right to seek damages for past, current, and future infringement thereof.

29. The ’634 patent, entitled ““Aesthetic Method of Biological Structure Treatment by Magnetic Field” was duly and legally issued on Nov. 19, 2019. A true and correct copy of the ’576 patent is attached as Exhibit 8

30. The ’634 patent names Thomás Schwarz and Ondra Prouza as co-inventors.

31. The ’634 patent relates to, among other things, methods for toning muscles of a patient using time-varying magnetic fields. *See* Exhibit 8, Claim 1.

32. As noted above, the inventions claimed in the ’634 patent represent an advancement over what was then the existing available body-contouring devices and procedures.

33. The ’634 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the ’634 patent and owns the right to seek damages for past, current, and future infringement thereof.

34. The ’009 patent, entitled “Medical Device” was duly and legally issued on Jan. 28, 2020. A true and correct copy of the ’009 patent is attached as Exhibit 9.

35. The ’009 patent names Ivan Dlabáč as the inventor.

36. The '009 patent is a design patent that relates to an ornamental design for a medical device. *See* Exhibit 9, Claim 1.

37. The '009 patent has been in full force and effect since its issuance. BTL is the exclusive licensee of the '009 patent and owns the right to seek damages for past, current, and future infringement thereof.

38. BTL's EMSCULPT device has also received numerous awards and accolades from well-respected media outlets and aesthetic industry organizations. For example, RealSelf identified BTL's EMSCULPT device as one of the 2019 and 2020 "Most Worth It Procedures." True and correct copies of RealSelf, Inc.'s 2019 and 2020 rankings are attached hereto as Exhibits 10 and 11, respectively. Harper's Bazaar named EMSCULPT the "Best Body-Firming Treatment" in its 2020 Anti-Aging Awards. A true and correct copy of the article entitled "BAZAAR's 2020 Anti-Aging Awards" is attached hereto as Exhibit 12. BTL's EMSCULPT device earned the American Health & Beauty 2018 Readers' Choice Award for "Most Innovative Device." A true and correct copy of the article entitled "Emsculpt Awarded 'Most Innovative Device'" by American Health & Beauty is attached hereto as Exhibit 13. And NewBeauty named BTL's EMSCULPT device one of the "Best Innovations" in its NewBeauty 2019 Awards. A true and correct copy of the article entitled "NewBeauty 2019 Award Winners: Best Innovations" by NewBeauty Editors is attached hereto as Exhibit 14.

39. BTL's market success and superior performance are by-products of technological innovations. BTL continues to implement these innovations today, for example, by continuing to obtain additional FDA indications for use of its non-invasive aesthetic body-contouring devices.

BTL'S TRADEMARKS

40. BTL uses and licenses registered and unregistered trademarks and trade dress, to market its aesthetic equipment and treatments in the U.S. (the "BTL Trademarks"), including the following federally registered marks:

Reg. No.	Mark	Reg. Date	First Use in Commerce or Priority Date	Goods/Services
5,572,801	EMSCULPT	Oct. 2, 2018	Sept. 29, 2017	Class 10: Medical apparatus and instruments for the treatment of cellulite; medical apparatus and instruments for body toning and body shaping; medical apparatus and instruments for the removal of fat, circumference reduction, tightening of skin, reduction of wrinkles, reduction of scars, reduction of stretch marks, rejuvenation of skin, and treatment of pigmentation spots; above medical apparatuses with exception for the treatment of the nasopharynx including inhalers and nasal irrigators; massage apparatus; medical apparatus and instruments for aesthetic skin treatment procedures; medical apparatus generating electromagnetic, magnetic, electrical, mechanical or thermal energy for use in skin treatment procedures; medical apparatus particularly apparatus for pain management, elimination of muscle spasms; gynaecological and urological apparatus and instruments, namely, for genital rejuvenation, treatment sexual dysfunction, gynecological treatment and pelvic floor treatment
6,069,279	EMSCULPT	Jun. 2, 2020	Sept. 29, 2017	Class 44: medical services; gynecology services; medical equipment rental; cosmetic and plastic surgery; beauty salons; liposuction services; removal of body cellulite
4,750,101	BTL (figurative)	Jun. 09, 2015	Apr. 03, 2014	Class 10: Physiotherapy apparatus in the nature of apparatus for electrotherapy, laser therapy, ultrasound therapy, magnetotherapy, and shockwave therapy, all for electrical nerve and

				muscle stimulation, infrared heat, wound healing, pain therapy, and treatment of inflammation; body rehabilitation apparatus for medical purposes; esthetic massage apparatus; hydrotherapy massage apparatus; medical and veterinary diagnostic apparatus and instruments, namely, electrocardiographs, heart monitors, spirometers, and blood pressure monitors; Medical devices for nonsurgical cosmetic treatments; medical devices for body toning and body shaping, tightening of skin, treatment of skin laxity, wrinkles, rhytides, and cellulite, and fat removal; lymphatic drainage equipment, namely, massage apparatus and lasers for medical use
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41. The BTL Trademarks have been used exclusively and continuously by BTL and have never been abandoned. The above U.S. registrations are valid and subsisting in full force and effect. True and correct “status” copies of these registrations, obtained from the Trademark Status Document Retrieval (“TSDR”) database of the United States Patent and Trademark Office, are attached hereto as Exhibit 15. These registrations constitute *prima facie* evidence of their validity and of BTL’s exclusive right to use the trademarks pursuant to 15 U.S.C. § 1057(b).

42. The BTL Trademarks perform an important source-identifying function for BTL’s aesthetic body-contouring devices and associated treatment services, signifying to purchasers that the devices come from BTL, and that the services are rendered by BTL devices and administered by BTL trained and authorized service providers. The BTL Trademarks are inherently distinctive, and have acquired considerable brand loyalty through BTL’s sales and

promotion, and via direct word-of-mouth promotion by consumers. In addition, BTL has expended significant time, money, and resources in developing, marketing, advertising, promoting, and selling its products and services under the BTL Trademarks in the United States. The market reputation and consumer goodwill associated with the BTL Trademarks are of incalculable and inestimable value to BTL.

TEKYARD'S UNLAWFUL CONDUCT

43. Upon information and belief, Tekyard promoted on its website and through emails directly to customers that several devices, items 282968, 282969, 286152, and 286153 (the "Accused Devices"), for sale were purported to be BTL EMSCULPT devices. Each device was promoted and offered for sale as a "BTL EMSCULPT System" and included use of BTL's EMSCULPT Trademark. True and correct copies of a representative of Tekyard's website offering for sale each device are attached as Exhibits 16, 17, 18, and 19.

44. Upon information and believe, each of the Accused Devices is counterfeit.

45. As shown in the below picture from one of the Accused Devices Tekyard offered for sale and sold, Tekyard's counterfeit devices used BTL's EMSCULPT Trademark:



46. Below is a side-by-side view of the same Accused Devices above (on the left) next to an authentic EMSculpt® device:



47. Upon information and belief, Tekyard was aware that each of the Accused Devices is a counterfeit. Tekyard nevertheless offered for sale and subsequently sold the Accused Devices to unsuspecting customers while making liberal use of BTL's Trademarks and patented technology to mislead consumers into believing they were purchasing an authentic BTL EMSCULPT device.

48. Upon information and belief, Tekyard was aware the devices it was promoting as BTL's EMSCULPT devices were not authentic EMSCULPT devices and misrepresented that fact to its customers. The Accused Devices had missing or different components necessary to properly operate an authentic EMSCULPT device, had missing serial numbers (unlike an authentic device), had different user interfaces, and listed a fake manufacturing site. Indeed,

the listed manufacturing site on at least one of the Accused Devices does not even exist. For at least those reasons, Tekyard was aware or should have been aware that the Accused Devices were not authentic BTL EMSCULPT devices.

49. Upon information and belief, on at least one occasion, Tekyard supplied to a customer a fraudulent serial number for one of the sold Accused Devices. Upon information and belief, Tekyard was aware the serial number was fraudulent and was sent to portray an Accused Device as an authentic EMSCULPT device.

50. Upon information and belief, the serial numbers for each Accused Device was fraudulent and supplied in an attempt to portray an Accused Device as an authentic EMSCULT device to the detriment of the customer.

51. Upon information and belief, Tekyard used its Maryland offices and warehouse to house, ship, and promote the Accused Devices.

52. Upon information and belief, Tekyard's sales executive, Mubariz Ahmed, operates out of Tekyard's Ellicot City office, including offering for sale and selling the Accused Devices out of Tekyard's Ellicott City office.

53. Upon information and belief, Mr. Ahmed used Tekyard's Ellicot City office and Tekyard's Jessup warehouse to promote and sell the Accused Devices.

54. Upon information and belief, Tekyard was aware of and hid from its customers that the Accused Devices were not authentic EMSCULPT devices. Indeed, after spending upwards of \$40,000 to purchase one of the Accused Devices, a Tekyard customer stated that “[n]one of this makes any sense. Why there was not serial plate on the system? How you were able to use [the device] without having a card? Someone is lying about all this.”

55. Furthermore, upon information and belief, Tekyard intended for and thus induced its customers to use the Accused Devices to treat patients.

BTL HAS BEEN HARMED BY TEKYARD'S CONDUCT

56. Tekyard's use of BTL's trademarks on counterfeit devices has injured and, if done again, will continue to irreparably harm BTL's business and goodwill associated with its brand, as well as BTL's reputation for providing high-quality and safe body-contouring aesthetic devices, which are subject to strict quality control standards.

57. Furthermore, Tekyard's offer for sale and sale of devices using BTL's Trademarks and holding those devices out to be authentic BTL EMSCULPT devices risks exposing consumers and patients to unnecessary safety and health risks because these devices are not FDA cleared and have an unknown level of quality or quality control.

58. Tekyard's actions are likely to and/or have caused confusion, mistake, or deception as to the source and origin of the devices offered for sale and sold by Tekyard. These actions are likely to and do falsely suggest that the devices are authentic BTL EMSCULPT machines. Tekyard's actions have also diverted profits from BTL.

FIRST CLAIM FOR RELIEF

(TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114)

59. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

60. BTL owns exclusive rights to enforce the EMSCULPT trademarks in the U.S. The United States trademark registrations for the EMSCULPT trademarks are in full force and effect. Upon information and belief, Tekyard had knowledge of BTL's rights in its EMSCULPT trademarks and willfully infringed those trademarks. Tekyard's willful,

intentional, and unauthorized use of the BTL Trademarks likely caused confusion, mistake, and deception as to the origin and quality of the Tekyard Accused Devices among the general public.

61. Tekyard's actions constitute willful trademark infringement under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

62. The injuries and damages BTL sustained have been directly and proximately caused by Tekyard's wrongful promotion, marketing, offering for sale, and sale of the Accused Devices that infringe BTL's brand.

63. As a result of Tekyard's infringement, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of Tekyard's wrongful acts in an amount yet to be determined, plus the cost of this action.

SECOND CLAIM FOR RELIEF

(FALSE ADVERTISING UNDER 15 U.S.C. § 1125)

64. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

65. Tekyard's promotion, marketing, offering for sale, and sale of the Accused Devices using BTL's Trademarks constitute false advertising and created a likelihood and/or caused actual confusion, mistake, and deception among the general public as to the affiliation, connection, or association between the Accused Devices and BTL.

66. By using BTL's Trademarks within its promotion, marketing, offering for sale, and sale of the Accused Devices, Tekyard engaged in false advertising and created the false impression that the Accused Devices are genuine BTL EMSCULPT devices.

67. Tekyard's actions constitute a willful violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

68. Tekyard's false advertising practices constitute misleading descriptions and misrepresentations of fact in commerce that, in commercial advertising and promotion, mispresent the nature, characteristics, and quality of the Accused Devices in violation of the Lanham Act, 15 U.S.C. § 1125.

69. The injuries and damages BTL sustained have been directly and proximately caused by Tekyard's wrongful promotion, marketing, offering for sale, and sale of the Accused Devices that infringe BTL's brand.

70. As a result of Tekyard's infringement, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of Tekyard's wrongful acts in an amount yet to be determined, plus the cost of this action.

THIRD CLAIM FOR RELIEF

(UNFAIR AND DECEPTIVE PRACTICES UNDER MARYLAND CODE §13-301)

71. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

72. This claim arises under Maryland Code §13-301.

73. Tekyard engaged in unfair and deceptive practices through its misrepresentation to consumers that the Accused Devices were legitimate and actual BTL EMSCULPT products.

74. Tekyard further engaged in unfair and deceptive practices through its deliberate use of BTL's Trademarks on or in connection with the promotion, offering for sale, and sale of the Accused Devices as BTL's EMSCULPT product.

75. Tekyard's intentional acts constitute unfair and deceptive practices under Maryland Code §13-301.

76. The injuries and damages BTL sustained have been directly and proximately caused by Tekyard's wrongful promotion, marketing, offering for sale, and sale of the Accused Devices.

77. As a results of Tekyard's actions, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of Tekyard's wrongful acts in an amount yet to be determined, plus the cost of this action.

FOURTH CLAIM FOR RELIEF

(COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION)

78. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

79. This claim arises under the common law of the State of Maryland.

80. Tekyard engaged in unfair competition through its reliance and exploitation of consumer mistake and confusion, and its deliberate efforts to exploit the goodwill of BTL's Trademarks in connection with the marketing and sale of the Accused Devices.

81. Tekyard's intentional acts constitute trademark infringement and unfair competition in violation of Maryland common law.

82. The injuries and damages BTL sustained have been directly and proximately caused by Tekyard's wrongful promotion, marketing, offering for sale, and sale of the Accused Devices that infringe BTL's brand.

83. As a results of Tekyard's actions, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of Tekyard's wrongful acts in an amount yet to be determined, plus the cost of this action.

FIFTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 10,695,576)

84. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

85. BTL is informed and believes, and on this basis alleges, that Tekyard has committed and may commit in the future acts of direct infringement of the '576 patent by making, using, selling, offering for sale, and/or importing into the United States the Accused Devices.

86. BTL is informed and believes, and on this basis alleges, that Tekyard has and currently is intentionally aiding and encouraging third parties (including Tekyard customers and end users) to use the Accused Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '576 patent, with the specific intent that those using the Accused Devices infringe the '576 patent.

87. BTL is informed and believes, and on this basis alleges, that Tekyard has intentionally aided and encouraged third parties (including Tekyard's supplier) to import into the United States the Accused Devices, having known that the acts it was causing would infringe or have a high probability of infringing the '576 patent and with the specific intent that those performing the acts infringe the '576 patent.

88. As a result of Tekyard's infringement of the '576 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of Tekyard's wrongful acts in an amount yet to be determined, plus the cost of this action.

SIXTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. 10,478,634)

89. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

90. BTL is informed and believes, and on this basis alleges, that Tekyard has committed and may commit in the future acts of induced infringement of the '634 patent by inducing others to use in the United States the Accused Devices.

91. BTL is informed and believes, and on this basis alleges, that Tekyard has and currently is intentionally aiding and encouraging third parties (including Tekyard customers and end users) to use the Accused Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '634 patent, with the specific intent that those using the Accused Devices infringe the '634 patent.

92. As a result of Tekyard's infringement of the '634 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of Tekyard's wrongful acts in an amount yet to be determined, plus the cost of this action.

SEVENTH CLAIM FOR RELIEF

(Infringement of U.S. Patent No. D874,009)

93. BTL realleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

94. BTL is informed and believes, and on this basis alleges, that Tekyard has committed and may commit in the future acts of direct infringement of the '009 patent by by making, using, selling, offering for sale, and/or importing into the United States the Accused Devices.

95. BTL is informed and believes, and on this basis alleges, that Tekyard has and currently is intentionally aiding and encouraging third parties (including Tekyard customers and end users) to use the Accused Devices in the United States in a manner that it knows would infringe or has a high probably of infringing the '009 patent, with the specific intent that those using the Accused Devices infringe the '009 patent.

96. BTL is informed and believes, and on this basis alleges, that Tekyard has intentionally aided and encouraged third parties (including Tekyard's supplier) to import into the United States the Accused Devices, having known that the acts it was causing would infringe or have a high probability of infringing the '009 patent and with the specific intent that those performing the acts infringe the '009 patent.

97. As a result of Tekyard's infringement of the '009 patent, BTL has been damaged. BTL is entitled to recover for damages sustained as a result of Tekyard's wrongful acts in an amount yet to be determined, plus the cost of this action.

PRAYER FOR RELIEF

WHEREFORE, BTL requests that this Court enter judgement against Tekyard as follows:

- A. That Tekyard has violated the Lanham Act, 15 U.S.C. § 1114 by committing acts of trademark infringement;

- B. That Tekyard has violated the Lanham Act, 15 U.S.C. § 1125 by committing acts of federal unfair competition, false designation of origin, and false advertising;
- C. That Tekyard has violated the Maryland Code §13-301 by committing acts of unfair and deceptive practices;
- D. That Tekyard has violated Maryland common law;
- E. That Tekyard pay damages to BTL adequate to compensate BTL for Tekyard's unlaw, unfair, and deceptive acts;
- F. That Tekyard is liable for treble damages for its willful acts;
- G. That Tekyard has infringed the '576 patent;
- H. That Tekyard pay damages adequate to compensate BTL for Tekyard's infringement of the '576 patent, together with interest and costs under 35 U.S.C. § 284;
- I. That Tekyard has infringed the '634 patent;
- J. That Tekyard pay damages adequate to compensate BTL for Tekyard's infringement of the '634 patent, together with interest and costs under 35 U.S.C. § 284;
- K. That Tekyard has infringed the '009 patent;
- L. That Tekyard pay damages adequate to compensate BTL for Tekyard's infringement of the '009 patent, together with interest and costs under 35 U.S.C. § 284;
- M. That Tekyard be ordered to pay pre-judgment and post-judgement interest on the damages assessed;

- N. That Tekyard's infringement is willful and that the damages awarded to BTL should be enhanced up to three times the actual damages awarded;
- O. That this is an exception case under 35 U.S.C. § 284 and that Tekyard pay BTL's attorney's fees and costs in this action; and
- P. That BTL be awarded any such other and further relief, including equitable relief, as this Court deems just and proper.

JURY DEMAND

BTL hereby demands a trial by jury on all issues so triable.

Dated: July 19, 2022

The Law Office of Rami Bardenstein, LLC

By /s/ Rami Bardenstein

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