

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Contego Spa Designs, Inc., a California corporation,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 2:22-cv-00144
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
MR SPA Inc, a Pennsylvania corporation; and S3 SPA INC, a Georgia corporation,	)	
	)	
Defendants.	)	
	)	

**COMPLAINT**

Plaintiff Contego Spa Designs, Inc. (hereafter “Plaintiff”), for its Complaint against Defendant MR SPA Inc (hereafter “MR SPA”) and Defendant S3 SPA INC (hereafter “S3”), (collectively, “Defendants”) alleges as set forth herein.

**NATURE OF THE ACTION**

1. This is an action for patent infringement under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

**THE PARTIES**

2. Plaintiff is a California corporation with a regular and established place of business in the Central District of California, at 12856 Brookhurst Street, Garden Grove, California 92840.

3. Plaintiff is in the business of designing, manufacturing, importing, and selling salon spa chairs and related furniture, equipment, accessories, parts, and supplies, and has been for approximately ten years.

4. Upon information and belief, MR SPA is a Pennsylvania corporation with a regular and established place of business in this judicial district at 1709 Washington Avenue, Philadelphia, Pennsylvania 19146.

5. Upon information and belief, S3 is a Georgia corporation with a regular and established place of business in this judicial district at 1709 Washington Avenue, Philadelphia, Pennsylvania 19146.

6. Upon information and belief, MR SPA owns and controls the Facebook page for @mrspainc (hereafter “MR SPA’s Facebook Page”).

7. Upon information and belief, S3 owns and controls the Facebook page @s3spain (hereafter “S3’s Facebook Page”).

#### **JURISDICTION AND VENUE**

8. . This Court has original jurisdiction over all causes of action herein pursuant to 28 U.S.C. §§ 1331 and 1338.

9. Venue is proper in this District with respect to MR SPA pursuant to 28 U.S.C. § 1400(b) because: i) MR SPA resides in this judicial district; and ii) MR SPA has committed acts of infringement in this judicial district and has a regular and established place of business in this judicial district.

10. Venue is proper in this District with respect to S3 pursuant to 28 U.S.C. § 1400(b) because S3 has committed acts of infringement in this judicial district and has a regular and established place of business in this judicial district.

**FACTUAL BACKGROUND**

11. On August 10, 2021, United States Patent No. 11,083,668 (“the ‘668 Patent”), titled “FLEXIBLE LINER WITH INNER AND OUTER LAYERS FOR USE WITH A LIQUID-RECEIVING BASIN” was issued to Plaintiff.

12. Attached hereto as Exhibit 1 is a true and correct copy of the ‘668 Patent.

13. The ‘668 Patent is presumed valid pursuant to 35 U.S.C. § 282.

14. Plaintiff is currently the owner of the full and exclusive rights, title, and interest in and to the ‘668 Patent, including the right to sue for past royalties and past infringement.

15. The ‘668 Patent describes generally a double-layer liner with an air conduit, typically used to line a foot basin during a pedicure.

**FIRST CAUSE OF ACTION AGAINST MR SPA: DIRECT PATENT INFRINGEMENT  
OF U.S. PATENT NO. 11,083,668**

16. The allegations set forth in paragraphs 1-15 above are hereby incorporated herein by reference.

17. In violation of 35 U.S.C. § 271(a), MR SPA has, without authority from Plaintiff, made, used, offered to sell, and/or sold in the United States, and/or imported into the United States, within this District and other Districts, products (hereafter “Accused Products”) that include each and every limitation of at least one claim of the ‘668 Patent.

18. The manufacture, use, sale, offer to sell, and/or importation of Accused Products by MR SPA infringe at least Claims 1-9 and 12-18 of the ‘668 Patent (hereafter “Currently Asserted Claims”).

19. Attached hereto as Exhibit 2 is a photo of an Accused Product generally referred to as a spa liner. The spa liner shown in Exhibit 2 was purchased from MR SPA.

20. Attached hereto as Exhibit 3 is a close-up photo of the Accused Product shown in Exhibit 2.

21. Attached hereto as Exhibit 4 is a photo obtained from MR SPA's Facebook Page under the "photos" tab, showing a pedicure basin with an Accused Product (liner) installed therein, and showing a corporate logo for both MR SPA and a corporate logo for S3.

22. Attached hereto as Exhibit 5 is a photo obtained from MR SPA's Facebook Page under the "photos" tab, showing a pedicure basin with an Accused Product (liner) installed therein, and an air supply connected to a liner, also showing a corporate logo for both MR SPA and a corporate logo for S3.

23. Attached hereto as Exhibit 6 is a partial screenshot from MR SPA's Facebook Page under the "posts" section showing four separate photos, one of which includes an image of an Accused Product.

24. The Accused Product includes a first body of flexible plastic forming a base and a wall extending from the base which forms a receptacle when placed in a pedicure basin. The Accused Product also has a second body of flexible plastic joined to the inner face of the base of the first body of plastic which forms an air conduit along the base. The second body of plastic has a plurality of air holes for allowing air to bubble into the receptacle formed by the liner. A flexible tube is attached to the second body of flexible plastic such that it can supply air to the air conduit. *See, e.g.*, Exhibits 2, 3.

25. The Accused Product meets all of the limitations of at least claims 1-9 and 12-18 of the '668 Patent. For example, regarding Claim 1, the Accused Product includes a first body of flexible plastic having an inner face and an opposing outer face, the first body of flexible plastic having a base and a wall extending from the base configured to form a receptacle to be placed in a basin for

containing a liquid such that the outer face of the first body of flexible plastic rests against an inside surface of the basin thereby delimiting an interior volume of the receptacle for containing liquid in the basin and isolating the liquid from the basin; a second body of flexible plastic joined to the inner face of the base of the first body of flexible plastic, the second body of flexible plastic forming an air conduit along the base, the second body of flexible plastic having a plurality of openings therethrough which provide a fluid pathway from the air conduit to the interior volume of the receptacle; and a flexible tube having a first end and a free end, the first end attached to the second body of flexible plastic such that the first end is in fluid communication with the air conduit, and the free end configured to be coupled to a source of pressurized air.

26. MR SPA's Facebook Page includes over 50 images that include a corporate logo for both MR SPA and S3.

27. Plaintiff has been and continues to be damaged by the acts of infringement of the '668 Patent by MR SPA as alleged herein. Plaintiff is entitled to recover for damages sustained as a result of MR SPA's wrongful acts in an amount subject to proof at trial, in excess of \$150,000.

28. Plaintiff has been and continues to be irreparably harmed by the acts of infringement of the '668 Patent by MR SPA as alleged herein.

29. Upon information and belief, the acts of infringement of the '668 Patent by MR SPA alleged herein have been willful, with full knowledge of the existence of the '668 Patent.

**SECOND CAUSE OF ACTION AGAINST S3: DIRECT PATENT INFRINGEMENT OF  
U.S. PATENT NO. 11,083,668**

30. The allegations set forth in paragraphs 1-29 above are hereby incorporated herein by reference.

31. In violation of 35 U.S.C. § 271(a), S3 has, without authority from Plaintiff, made, used, offered to sell, and/or sold in the United States, and/or imported into the United States, within this

District and other Districts, Accused Products that include each and every limitation of at least one claim of the '668 Patent.

32. The manufacture, use, sale, offer to sell, and/or importation of Accused Products by S3 infringe at least the Currently Asserted Claims.

33. S3's Facebook Page includes numerous posts listing a showroom at:

1709 Washington Avenue

Philadelphia, Pennsylvania 19146.

34. Plaintiff has been and continues to be damaged by the acts of infringement of the '668 Patent by S3 as alleged herein. Plaintiff is entitled to recover for damages sustained as a result of S3's wrongful acts in an amount subject to proof at trial, in excess of \$150,000.

35. Plaintiff has been and continues to be irreparably harmed by the acts of infringement of the '668 Patent by S3 as alleged herein.

36. Upon information and belief, the acts of infringement of the '668 Patent by S3 as alleged herein have been willful, with the full knowledge of the existence of the '668 Patent.

#### **JURY DEMAND**

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

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment against Defendants as follows:

- A. Pursuant to 35 U.S.C. § 283, the Court enjoin Defendants, their subsidiaries, divisions, agents, servants, and employees, and those persons in concert or active participation with any of them, from further acts of infringement of the '668 Patent.

- B. Pursuant to 35 U.S.C. § 284, Plaintiff be awarded damages, interest, and costs, including treble damages, in excess of \$150,000.
- C. Pursuant to 35 U.S.C. § 285, the case be declared exceptional, and Plaintiff be awarded reasonable attorney fees.
- D. Plaintiff be awarded pre-judgment and post-judgment interest according to law.
- E. Plaintiff be awarded such other relief as this Court deems appropriate.

Dated: January 12, 2022

Respectfully,

Of Counsel:

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