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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF WASHINGTON

10 GLACIO, INC.,

11 Plaintiff,

12 v.

13 DONGGUAN SUTUO  
14 INDUSTRIAL CO., LTD.,

15 Defendant.

Case No: \_\_\_\_\_

VERIFIED COMPLAINT FOR  
DECLARATORY JUDGMENT OF  
PATENT NON-INFRINGEMENT,  
DECLARATORY JUDGMENT OF  
PATENT INVALIDITY, AND FOR  
TORTIOUS INTERFERENCE

JURY TRIAL DEMANDED

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17  
18 Plaintiff Glacio, Inc., for its complaint against Defendant Dongguan Sutuo  
19 Industrial Co., Ltd., hereby alleges as follows:

20 **NATURE OF THE ACTION**

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22 1. This is an action for declaratory judgment of patent non-infringement,  
23 unenforceability, and invalidity under the patent laws of the United States and for  
24 tortious interference with the Plaintiff’s business. Plaintiff is a successful online

1 seller of ice-molds and related products, and Defendant is a competitor. After  
2 Plaintiff had sold products for many years, the Defendant filed for patents on those  
3 same products. The Defendant did not tell the United States Patent and Trademark  
4 Office (“USPTO”) about Plaintiff’s products and wrongfully obtained patent  
5 protections, which the Defendant then used to interfere with Plaintiff’s online  
6 product sales. The Defendant knew its patents were invalid and asserted them  
7 anyway. Plaintiff seeks redress for the Defendant’s wrongful acts and the  
8 invalidation of Defendant’s wrongfully obtained patents.  
9

### 10 **THE PARTIES**

11 2. Plaintiff Glacio, Inc. (“Glacio”) is a Wyoming corporation with a  
12 principal place of business in the Eastern District of Washington in this judicial  
13 district. Glacio is a successful online retailer of products related to ice and ice molds,  
14 including products sold at its online store [www.Glacio.store](http://www.Glacio.store) and on Amazon.com.  
15

16 3. Defendant Dongguan Sutuo Industrial Co., Ltd. (“Defendant” or  
17 “Dongguan”) is a Chinese corporation based in Dongguan, China. Dongguan is an  
18 online retailer that competes with Glacio. Defendant Dongguan is the owner of U.S.  
19 Design Patent Nos. D931,914 and D918,970, and has asserted claims of patent  
20 infringement against Glacio’s products and online product listings.  
21

### 22 **JURISDICTION**

23 4. This is an action for declaratory judgment of patent non-infringement,  
24 unenforceability, and invalidity arising under the patent laws of the United States,

1 35 U.S.C. §§ 1 et seq, and for tortious interference arising under the laws of the State  
2 of Washington. This Court has subject matter jurisdiction under 28 U.S.C. § 1331  
3 (federal question); 28 U.S.C. § 1338(a) (patents or trademarks); and 28 U.S.C. §  
4 1367 (supplemental jurisdiction).

5  
6 5. This Court has personal jurisdiction over the Defendant because it  
7 targeted Glacio in this judicial district both for its theft of intellectual property rights  
8 and for its assertion of its wrongfully obtained patents, 35 U.S.C. §§ 1 et seq, and  
9 because Defendant intentionally targeted Glacio, its products, and its business in this  
10 judicial district. Defendant's acts were targeted to cause commercial injury to  
11 Glacio in this judicial district. In addition, on information and belief, the Defendant  
12 derives substantial revenue from its sale of related products within this judicial  
13 district, in the State of Washington through Amazon.com, and in the United States;  
14 Defendant expects its actions to have consequences within this judicial district and  
15 derives substantial revenue from interstate and international commerce directed to  
16 this judicial district. An exercise of personal jurisdiction over the Defendant is  
17 proper under Washington's Long Arm Statute, Wash. Rev. Code § 4.28.185. In  
18 addition, an exercise of personal jurisdiction is proper under Federal Rule of Civil  
19 Procedure 4(k)(2) (the "federal long-arm statute") which allows this Court to "look  
20 to the aggregate contacts of a defendant with the United States as a whole instead of  
21 a particular state forum . . . ." *See Glencore Grain Rotterdam B.V. v. Shivnath Rai*  
22 *Harnarain Co.*, 284 F.3d 1114, 1126 (9th Cir. 2002) (citing FRCP 4(k)(2).)  
23  
24





<https://www.amazon.com/glacio-Cube-Trays-Silicone-Combo/dp/B010KPESWU>

(Exhibit A (“Combo Mold”)).

9. Glacio’s Combo Mold has been a popular and best-selling Glacio product on Amazon at ASIN B010KPESWU since at least **June 28, 2015**. (*See* Exhibit A.)

10. Dongguan competes with Glacio in the sale of ice mold products. Incredibly—*after Plaintiff had been selling its product online for at least 5 years*—the Defendant filed a new patent application on **September 30, 2020**<sup>1</sup> for design patent protection on Plaintiff’s product. (*See* Exhibit B.)

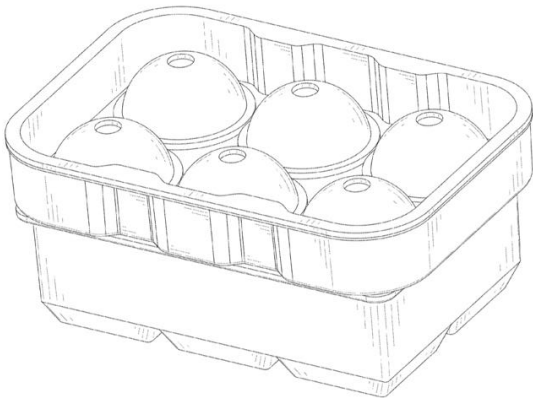
11. Dongguan’s design patent application contains drawings identical to Glacio’s product. Defendant failed to inform the USPTO of the Glacio’s products

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<sup>1</sup> 35 U.S.C. § 102(a) provides that “[a] person shall be entitled to a patent unless . . . the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention . . . .”

1 in violation of its duty of candor to the USPTO. Glacio’s products were identical to  
2 the design patent protections sought by Defendant. Defendant was aware of Glacio’s  
3 products and intended to deceive the USPTO in obtaining its design patent.

4  
5 12. Without knowledge of the prior art, the USPTO granted Defendant U.S.  
6 Design Patent No. D931,914 (the “D914 Patent”) which is indistinguishable from  
7 Glacio’s prior art product.



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FIG. 1

'D914 Patent, Fig. 1



Combo Mold

(See Exhibit B (“D914 Patent”))

[glacio.store/products/combo-mold](https://glacio.store/products/combo-mold)

13. Dongguan then used the patented designs of the 'D914 Patent—which  
*it had stolen from Glacio*—against Glacio. Dongguan used the 'D914 Patent to  
interfere with Glacio’s product listings on Amazon, and to cause the “takedown” of  
Glacio’s products.

14. Dongguan’s actions were taken in bad faith because Defendant had  
actual knowledge of Glacio’s products, failed to disclose such products to the

1 USPTO, and knew its 'D914 Patent was invalid at the time it was asserted against  
2 Glacio.

3 15. Plaintiff Glacio sells another popular product:  
4



12  
13 <https://www.amazon.com/dp/B07GXB7BYB>

14 (Exhibit C (“Four Sphere Mold”)).

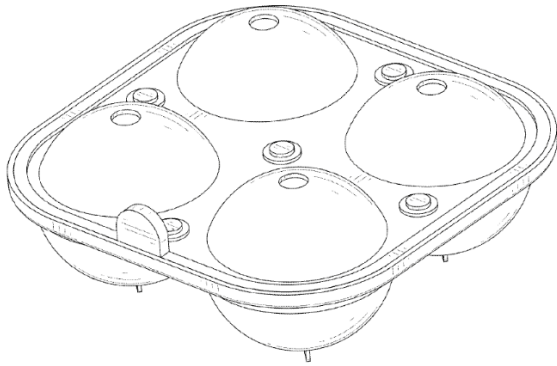
15 16. Glacio’s Four Sphere Mold has been a popular and best-selling product  
16 on Amazon at ASIN B07GXB7BYB since at least **August 28, 2018**. (See Exhibit  
17 C.)  
18

19 17. Dongguan—*after Glacio had been selling its product online for at least*  
20 *2 years*—filed for design patent protection on Plaintiff’s product on September 30,  
21 2020. (See Exhibit D.)  
22

23 18. Dongguan’s design patent application containing drawings identical to  
24 Glacio’s prior art product. The Defendant did not inform the USPTO of the Glacio’s

1 products. Defendant was aware of Glacio’s products and intended to deceive the  
2 USPTO in obtaining its design patent.

3 19. Without the knowledge of the prior art, the USPTO granted Dongguan  
4 U.S. Design Patent No. D918,970 (the “D970 Patent”) which is indistinguishable  
5 from of Glacio’s prior art product.  
6



12  
13 'D970 Patent, Fig. 1



14 Four Sphere Mold

15 (See Exhibit D (“D970 Patent”)) [glacio.store/products/large-sphere-tray](https://glacio.store/products/large-sphere-tray)

16 20. Dongguan’s actions in obtaining the ’D970 Patent were in bad faith  
17 because Defendant had actual knowledge of Glacio’s products, failed to disclose  
18 such products to the USPTO, and wrongfully obtained the ’D970 Patent.

19 21. On or about February 16, 2022, the Defendant asserted the ’D914  
20 Patent against Glacio’s Amazon product listings, including ASIN B010KPESWU  
21 with Complaint ID 9625924531 filed with Amazon. (See Exhibit E (“Amazon  
22 Infringement Complaint”)).

23 22. Before the filing of Dongguan’s wrongful complaint, Glacio was  
24



1 selling thousands of dollars of ice mold products each day. However, because of  
2 Dongguan's wrongful complaint (*see* Exhibit E) Amazon has delisted and removed  
3 Glacio's product listing.

4 23. Because of the Defendant's wrongful acts, Glacio is losing thousands  
5 of dollars per day in online sales.

6  
7 **FIRST CAUSE OF ACTION**

8 **Declaratory Judgment of Invalidity of the 'D914 and 'D970 Patents**

9 24. Glacio incorporates and realleges each and every allegation in  
10 Paragraphs 1 through 23 as if fully set forth herein.

11 25. Dongguan is the owner of the 'D914 and 'D970 Patents.

12 26. The 'D914 and 'D970 Patents are invalid at least under 35 U.S.C.  
13 §§ 102 and 103 in view of the prior art, including but not limited to, Glacio's own  
14 products which were sold on Amazon as early as 2015 and 2018, respectively. (*See*  
15 Exhibits A, C.)

16 27. The 'D914 and 'D970 Patents were not filed until 2020. (*See* Exhibits  
17 B, D.) The 'D914 and 'D970 Patents are invalid in view of the prior art.

18 28. Glacio is entitled to a declaratory judgment that the 'D914 and 'D970  
19 Patents are invalid.

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21 **SECOND CAUSE OF ACTION**

22 **Declaratory Judgment of Unenforceability of the 'D914 and 'D970 Patents**

23 29. Glacio incorporates and realleges each and every allegation in  
24 Paragraphs 1 through 23 as if fully set forth herein.

1 30. Dongguan is the owner of the 'D914 and 'D970 Patents.

2 31. During the patent prosecution of the 'D914 and 'D970 Patents, the  
3 Defendant was aware of Glacio's products sold on Amazon. (*See* Exhibits A, C.)  
4 Such products—which were identical to the Defendant's design patents—were  
5 material to the patentability of the 'D914 and 'D970 Patents. Glacio's products were  
6 best-selling products on Amazon, of which the Defendant would have been aware,  
7 as a competitor; such knowledge may also be inferred from the *identical* copies of  
8 Plaintiff's products that were filed with the USPTO in seeking the 'D914 and 'D970  
9 Patents.  
10

11 32. In violation of its duty of candor to the USPTO, and with the intent to  
12 deceive the USPTO, the Defendant did not disclose Glacio's products during  
13 prosecution. “Inequitable conduct resides in failure to disclose material information,  
14 or submission of false information, with an intent to deceive . . .” *Kingsdown*  
15 *Medical Consultants Ltd. v. Hollister Inc.*, 863 F.2d 867, 872 (Fed. Cir. 1988) (en  
16 banc). The Defendant committed inequitable conduct by intentionally failing to  
17 disclose Glacio's products—which were prior art—to the USPTO.  
18

19 33. Glacio is entitled to a declaratory judgment that the 'D914 and 'D970  
20 Patents are unenforceable.  
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22 **THIRD CAUSE OF ACTION**

23 **Declaratory Judgment of Non-Infringement of the 'D914 and 'D970 Patents**

24 34. Glacio incorporates and realleges each and every allegation in

1 Paragraphs 1 through 23 as if fully set forth herein.

2 35. Dongguan is the owner of the 'D914 and 'D970 Patents.

3 36. The 'D914 and 'D970 Patents are invalid at least under 35 U.S.C.  
4 §§ 102 and 103 in view of the prior art, including but not limited to, Glacio's own  
5 products which were sold on Amazon as early as 2015 and 2018, respectively. (*See*  
6 Exhibits A, C.)

7  
8 37. The 'D914 and 'D970 Patents were not filed until 2020. (*See Exhibits*  
9 B, D.) The 'D914 and 'D970 Patents are invalid in view of the prior art. "It is  
10 axiomatic that one cannot infringe an invalid patent." *Commil USA, LLC v. Cisco*  
11 *Sys., Inc.*, 720 F.3d 1361, 1368 (Fed. Cir. 2013); *see also Richdel, Inc. v. Sunspool*  
12 *Corp.*, 714 F.2d 1573, 1580 (Fed.Cir.1983) ("The claim being invalid there is  
13 nothing to be infringed."). Because the 'D914 and 'D970 Patents are invalid and  
14 should never have issued, there is "nothing to be infringed" and Glacio is entitled to  
15 declaratory judgment that it does not infringe the 'D914 and 'D970 Patents.  
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17 **FOURTH CAUSE OF ACTION**  
18 **Tortious Interference**

19 38. Glacio incorporates and realleges each and every allegation in  
20 Paragraphs 1 through 23 as if fully set forth herein.

21 39. Through Glacio's Amazon store and its product listing at ASIN  
22 B010KPESWU, Glacio had a valid contractual relationship and business expectancy  
23 for the sale of its ice mold products, and were selling thousands of dollars in product  
24

1 each day.

2 40. On or about February 16, 2022, the Defendant asserted the 'D914  
3 Patent in a wrongful complaint against Glacio's Amazon listing. (*See* Exhibit E.)  
4 In order to wrongfully assert its 'D914 Patent in a complaint against Glacio's  
5 Amazon listing, Defendant necessarily had knowledge of those listings and Glacio's  
6 business relationship with Amazon.  
7

8 41. In wrongfully asserting its 'D914 Patent in a complaint against Glacio's  
9 Amazon listing, Defendant intended to induce or cause a breach or termination of  
10 that relationship.  
11

12 42. The assertion of the 'D914 Patent—*which Defendant knew to be*  
13 *invalid*—was an interference for an improper purpose using improper means.  
14 Because Defendant knew of Glacio's products and its inequitable conduct in  
15 obtaining the 'D914 Patent, Defendant's actions were undertaken in bad faith.

16 43. Before the Defendant's interference with its Amazon listing, Glacio  
17 was selling thousands of dollars each day of products through its product listing at  
18 ASIN B010KPESWU. The Defendant's interference with Glacio's business has  
19 caused substantial reputational and economic damages to Glacio through its (a)  
20 disabled product listing; (b) lost product sales; (c) reputational damage to its Amazon  
21 account, and (d) other damages to the product listing, inventory, and business.  
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**PRAYER FOR RELIEF**

Wherefore, Glacio respectfully prays that the Court enter judgment in its favor and against the Defendant and award the following relief:

A. A judgment in favor of Glacio and against Dongguan declaring that the 'D914 and 'D970 Patents are invalid.

B. A judgment in favor of Glacio and against Dongguan declaring that Defendant engaged in inequitable conduct before the USPTO and that the 'D914 and 'D970 Patents are unenforceable.

C. A judgment in favor of Glacio and against Dongguan declaring that Glacio has not and does not infringe the 'D914 and 'D970 Patents.

D. An order and judgment permanently enjoining Dongguan and its officers, directors, employees, agents, licensees, representatives, affiliates, related companies, servants, successors and assigns, and any and all persons acting in privity or in concert with any of them, from further acts of wrongful assertion of either of the 'D914 and 'D970 Patents.

E. A judgment that this is an exceptional case, pursuant to 35 U.S.C. § 285, together with an award to Glacio of its reasonable attorneys' fees.

E. A judgment that Defendants have tortiously interfered with Glacio's contract or business expectancy.

1 F. A judgment awarding Glacio all damages sustained by Glacio and/or  
2 all gains, profits, and advantages derived by the Defendants as a result of their  
3 wrongful acts and tortious interference.

4 G. A judgment awarding Glacio punitive damages as a result of the  
5 Defendants' willful and intentional acts of tortious interference.  
6

7 I. Any other relief the Court deems just and proper under all  
8 circumstances.

9 **Demand for Trial by Jury**

10 Glacio demands a jury trial on all matters triable to a jury.

11 DATED this 23rd day of February 2022.

12  
13 /s/ Brian N. Platt  
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17 *Counsel for Plaintiff Glacio, Inc.*  
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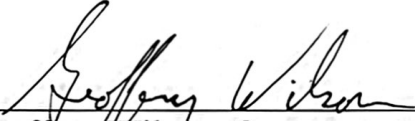
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**VERIFICATION**

I, Geoffrey Wilson, declare that I am an owner and operator of Glacio, Inc., Plaintiff in the case captioned Glacio, Inc. v. Dongguan Sutuo Industrial Co., Ltd., in the United States District Court for the Eastern District of Washington. I have authorized the filing of this Verified Complaint. I have reviewed the factual allegations made in this Verified Complaint, and to those allegations of which I have personal knowledge, I know them to be true. For those allegations of which I do not have personal knowledge, I believe them to be true based on the information and documents I have reviewed in connection with the preparation of this Verified Complaint, and which are attached to the Verified Complaint, including the Defendant's patents and complaints filed against Glacio, Inc.

Dated: February 22, 2022

Verified by:

  
\_\_\_\_\_  
Geoffrey Wilson, Owner  
Glacio, Inc.