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7 Attorneys for Plaintiffs  
 Travel Assets, Inc., d.b.a. Smokebuddy, and Gregg Gorski

8  
 9 **UNITED STATES DISTRICT COURT**  
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10  
 11 Travel Assets Inc., d.b.a.  
 Smokebuddy, a California  
 12 Corporation, and Gregg Gorski,  
 an individual,

13 Plaintiffs,

14 v.

15  
 16 ST & Company, LLC, a California  
 Limited Liability Company, and  
 17 Raheel Lakhany, an individual,

18 Defendants.

Case No. 2:22-cv-5068

**COMPLAINT FOR DAMAGES;  
 INFRINGEMENT OF U.S.  
 DESIGN PATENT NO. D685,131  
 UNDER 35 U.S.C. § 271 and  
 TRADE DRESS RIGHTS UNDER  
 15 U.S.C. § 1125(a)**

**DEMAND FOR JURY TRIAL**

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1 Plaintiff Gregg Gorski (hereinafter, “Gorski”) and Plaintiff Travel Assets,  
2 Inc. hereby complain against Defendant Raheel Lakhany (hereinafter, “Lakhany”)  
3 and Defendant ST & Company, LLC (hereinafter, “ST&C”) as follows:

4 1. This is a civil action for design patent infringement and trade dress  
5 infringement, arising under the Patent Laws of the United States, Title 35, United  
6 States Code, and arising under the Lanham Act of 1946, as amended, 15 U.S.C. §  
7 1051, *et seq.*

8 **I. THE PARTIES:**

9 2. Plaintiff Gorski is an individual, residing in the State of Nevada.  
10 Travel Assets, Inc., d.b.a. Smokebuddy (hereinafter, “Smokebuddy”) is a  
11 California corporation, formed and existing under the laws of the State of  
12 California and operates in Nevada and in the County of Los Angeles, State of  
13 California.

14 3. Gorski is the owner of all right, title, and interest in a United States  
15 Design Patent, No. D685,131 (hereinafter, the “‘131 Patent”) entitled “Exhale  
16 Smoke Filter.” A true and correct copy of the ‘131 Patent is attached hereto as  
17 Exhibit 1. Gorski, through an exclusive license with Smokebuddy, is the owner  
18 of the trade dress in the shape and overall appearance of the Smokebuddy Junior,  
19 which is a personal air filter sold under the Smokebuddy.

20 4. Plaintiff Smokebuddy is wholly owned by Gorski. Smokebuddy is

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1 the exclusive licensee of the ‘131 Patent and the Smokebuddy Junior Trade dress,  
2 both of which protect the intellectual property rights in the Smokebuddy Junior.  
3 Plaintiff has been selling the Smokebuddy Junior in interstate commerce since at  
4 least 2012. A true and correct copy of Plaintiffs’ current webpage showing the  
5 Smokebuddy® Junior for sale is attached hereto as Exhibit 2.

6 5. Defendant ST&C is a California LLC and maintains a principal place  
7 of business at 1813 East Washington Blvd, Los Angeles, CA 90021-3126 within  
8 the Central District of California and is engaged in the business within this District  
9 of designing, importing, distributing, advertising and/or selling smoking  
10 paraphernalia, including the infringing personal smoke filters alleged in this case  
11 sold by ST&C under the brand name, FLTR. ST&C does business as Smoke  
12 Tokes.

13 6. Defendant Lakhany is an individual residing within the Central  
14 District of California, and is the managing member of ST&C. Defendant Lakhany  
15 has personally authorized, orchestrated, and approved the design, manufacture,  
16 importation, promotion, and sale of the infringing FLTR smoke filter by ST&C.  
17 Defendant Lakhany is extremely familiar with Smokebuddy products because  
18 Lakhany has authorized and orchestrated the purchase by ST&C of wholesale  
19 quantities of Smokebuddy products for many years, including the well known  
20 Smokebuddy® Junior.



1 patent infringement claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2 11. This court has personal jurisdiction over Defendants because they  
3 have manufactured, used, imported, sold, and/or advertised products which  
4 infringe Plaintiffs’ ‘131 Patent and Plaintiffs’ trade dress rights within the Central  
5 District of California, and/or have approved, authorized, ratified, and/or provided  
6 material support for infringing activities within the Central District of California.

7 12. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391  
8 and 1400 because the acts complained of herein have been, and are being  
9 committed in this Judicial District under the pending jurisdictional authority of  
10 this Court. Furthermore, venue is proper in the Central District, based on this  
11 Court’s personal jurisdiction over the Defendants as a result of their infringing  
12 activities in the Central District.

13 **III. FIRST CLAIM FOR RELIEF FOR INFRINGEMENT OF**  
14 **UNITED STATES PATENT NO. D685,131**  
15 **AGAINST BOTH DEFENDANTS:**

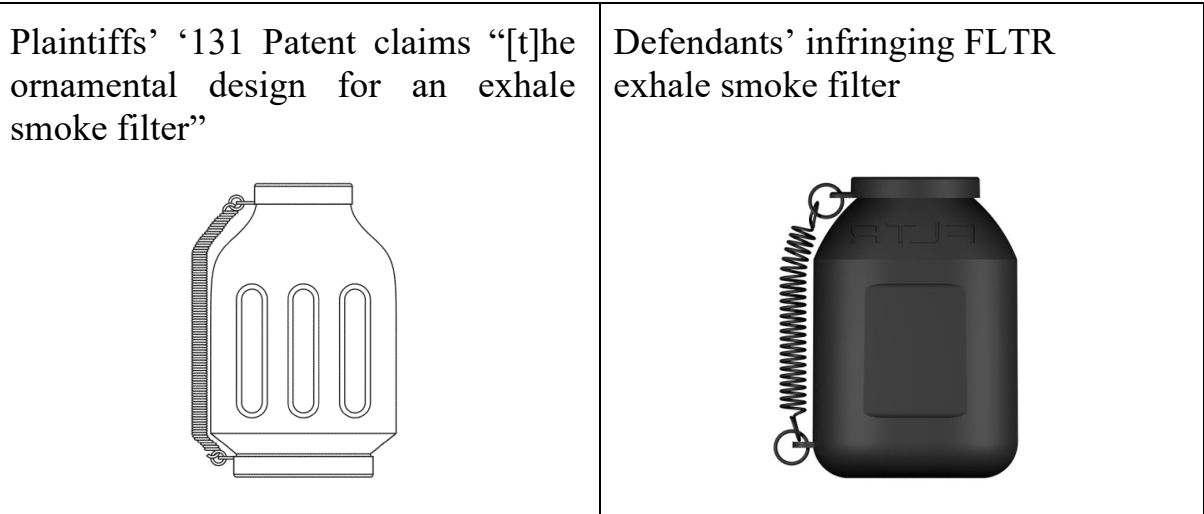
16 13. Plaintiffs hereby incorporate by reference the allegations contained  
17 in paragraphs 1 through 12.

18 14. Plaintiff Gorski owns the exclusive right to make, use, import and  
19 sell exhale smoke filters based on the ornamental design described and claimed in  
20 the ‘131 Patent. Plaintiff Smokebuddy is the exclusive licensee of the rights

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1 conferred by the ‘131 Patent.

2 15. At Lakhany’s direction, ST&C has designed, had manufactured,  
3 imported, marketed, and/or sold the infringing FLTR product, or aided and abetted  
4 in the same. Defendants’ FLTR smoke filter is shown below in comparison to  
5 Plaintiffs’ patented Smokebuddy Junior product:



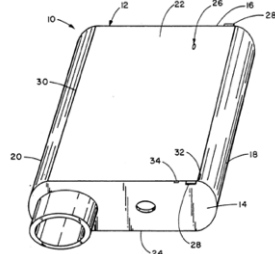
12  
13 Defendants have elected to copy Plaintiffs’ patented design as shown in the  
14 side-by-side comparison above.

15 16. 35 U.S.C. § 289 defines design patent infringement as the application  
16 of the patented design, or any colorable imitation thereof, to any article of  
17 manufacture for the purpose of sale or selling or exposing for sale any article of  
18 manufacture to which the design or colorable imitation has been applied. The  
19 test for design patent infringement is whether an ordinary observer, familiar with  
20 the prior art, would be deceived into thinking that the accused design was the same

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1 as the patented design. Specific differences in detail are not relevant to design  
 2 patent infringement if two products convey the same general appearance and  
 3 effect.

4 17. Prior to the August 6, 2012 filing date of Plaintiffs' '131 Patent,  
 5 many alternative designs for exhale smoke filters were known in the art. For  
 6 example:



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FIG. 1  
(U.S. Pat. No. 4,993,435)

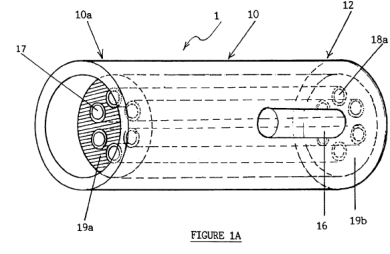


FIGURE 1A  
(U.S. Pat. No. 6,345,625)

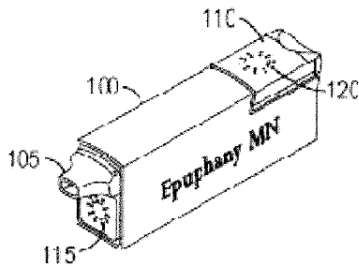


FIG. 1a  
(U.S. Pat. No. 9,167,849)

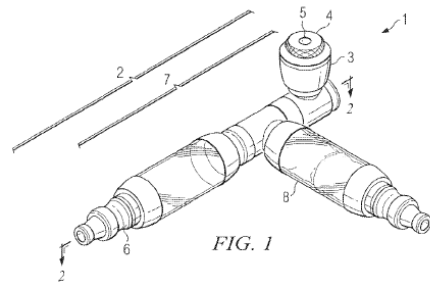


FIG. 1  
(U.S. Pub. No. 2008/0230077)

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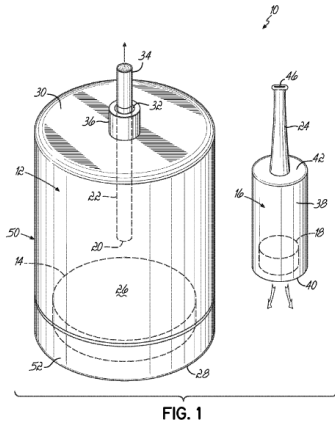


FIG. 1  
(U.S. Pub. No. 2008/0060664)

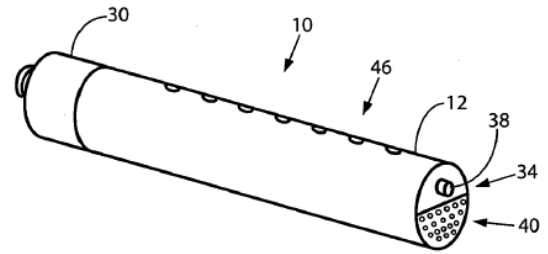


FIG. 2  
(U.S. Pub. No. 2009/0056728)

Considering the variety of other personal exhale smoke filter designs known prior to August 6, 2012 as exemplified by the above prior art, Defendants' infringing FLTR product meets the test for design patent infringement because an ordinary observer, familiar with the prior art above, would be deceived into thinking that the accused design was the same as the patented design because the two products convey the same general appearance and effect.

18. ST&C has violated Plaintiffs' patent rights by engaging in the manufacture, importation, use, sale, and/or offer for sale of the infringing FLTR smoke filter. Lakhany has violated Plaintiffs' patent rights by causing ST&C to engage in the manufacture, importation, use, sale, and/or offer for sale of the infringing FLTR smoke filter, which has the appearance of Plaintiffs' Smokebuddy Junior, and/or by aiding and abetting those actions.

19. The infringing FLTR product has not been authorized in any manner by Plaintiffs.

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1           20. As a legal consequence of Defendants’ infringement, Plaintiffs have  
2 been irreparably harmed and are entitled to disgorgement of Defendants’ profits  
3 under 35 U.S.C. § 289, pre-judgment interest, compensation for lost profits, price  
4 erosion, loss of market share, and a preliminary and permanent injunction.

5           21. Defendants had actual notice of Plaintiffs’ patent rights, yet  
6 defendants have failed to discontinue the manufacture, importation, use, sale,  
7 and/or offer for sale of the FLTR product without justification. These continued  
8 activities constitute willful infringement of Plaintiffs’ ‘131 Patent, thereby  
9 entitling Plaintiffs to treble damages and attorney fees under 15 U.S.C. §§ 284 and  
10 285.

11                           **IV. SECOND CLAIM FOR RELIEF FOR TRADE DRESS**

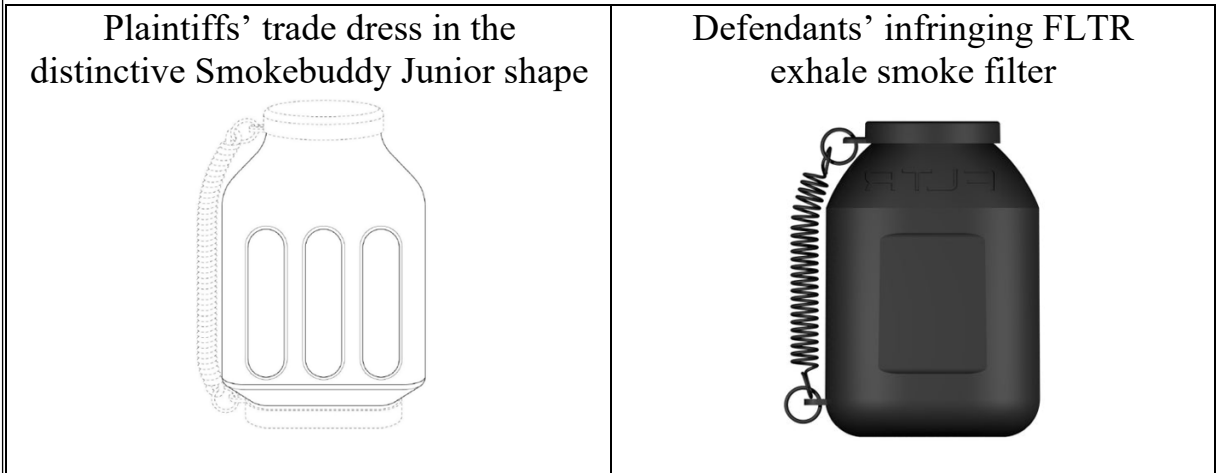
12   **INFRINGEMENT UNDER 15 U.S.C. § 1125(a)**

13   **AGAINST BOTH DEFENDANTS:**

14           22. Plaintiffs hereby incorporate by reference the allegations contained  
15 in paragraphs 1 through 21.

16           23. Plaintiffs’ Smokebuddy® Junior trade dress is non-functional,  
17 inherently distinctive, in commercial use, and has acquired substantial secondary  
18 meaning. Plaintiffs’ distinctive trade dress is recognized by Smokebuddy  
19 customers in the marketplace looking for Plaintiffs’ products based upon the  
20 overall three dimensional shape of the Smokebuddy® Junior

1 24. Trade dress is infringed when customers are likely to find an  
2 infringing product confusingly similar to another product for which the trade dress  
3 is claimed. Defendants' FLTR product has a three dimensional shape that makes  
4 it confusingly similar to Plaintiff's trade dress for the Smokebuddy<sup>®</sup> Junior.



14 Minor differences in trade dress will not avoid trade dress infringement. Trade  
15 dress is examined as a whole, rather than as individual constituent parts, and  
16 focuses on the overall visual impression trade dress in a product creates.

17 25. Plaintiff's trade dress is non-functional and inherently distinctive  
18 because there are many shapes that a personal smoke filter can take as represented  
19 by the variety of shapes of smoke filters on the market, each with a distinct shape  
20 creating a different overall impression. For example, other competitors have  
21 adopted their own unique trade dress for their smoke filters with all serving the  
same function without infringing upon each other's unique appearance:

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Philter Labs “Phrend” filter



Splooky “Splooky Pro” filter



Smoke Trap “Smoke Trap 2.0” filter



Headshop “Interceptor” filter



26. Considering the variety of shapes of personal exhale smoke filters currently on the market, it is clear that the Smokebuddy<sup>®</sup> Junior’s design is not the only shape available in order to create a functional smoke filter. As such, the overall shape is non-functional and inherently distinctive under the Lanham Act. Therefore, it is no surprise that consumers have come to rely upon the shape of the Smokebuddy<sup>®</sup> Junior as a sign of the quality and reputation of personal filter products originating from Plaintiffs.

27. When Defendants’ FLTR product and Plaintiffs’ Smokebuddy<sup>®</sup> Junior

1 are examined in a side by side comparison, as shown in Paragraph 24, the overall  
2 commercial impression of the two designs is the same, especially when viewed in  
3 the proper context of the variety of shapes of smoke filters on the market to which  
4 consumers are exposed. Therefore, defendants are liable to Plaintiffs under 35  
5 U.S.C. §1125(a) because the appearance of the infringing FLTR products  
6 constitute a device that is likely to cause confusion, or to cause mistake, or to  
7 deceive as to the affiliation, connection, or association of Defendants with  
8 Plaintiffs, or as to the origin, sponsorship, or approval of Defendants' FLTR  
9 products by Plaintiffs

10 28. Lakhany, acting as the managing member and decision maker at ST&  
11 C, caused ST&C to infringe Plaintiffs' trade dress and created a false designation  
12 of origin by having ST&C manufacture, distribute, offer for sale, sell, and/or  
13 promote in commerce the FLTR product without Plaintiffs' permission.  
14 Lakhany's intent was to unfairly compete against Plaintiffs, to trade upon  
15 Plaintiffs' reputation and goodwill by causing confusion and mistake among  
16 consumers and the public, and to deceive the public into believing that the  
17 infringing FLTR product is associated with, sponsored by or approved by  
18 Plaintiffs, when it is not.

19 29. Defendants' infringing acts have irreparably injured Plaintiffs. Such  
20 irreparable injury will continue unless Defendants are preliminarily and

1 permanently enjoined by this Court from continuing to engage in their ongoing  
2 infringement of Plaintiffs’ trade dress, for which Plaintiffs have no adequate  
3 remedy at law. Defendants’ acts of infringement also have economically injured  
4 Plaintiffs in an amount that is presently undetermined.

5       30. Plaintiffs are entitled to recover monetary damages from Defendants  
6 adequate to compensate Plaintiffs’ for damages and profits Defendants obtained  
7 by infringing Plaintiffs’ trade dress, according to proof at trial. Plaintiffs also  
8 request that this Court grant an injunction against Defendants to prevent future  
9 violations of Plaintiffs’ trade dress rights including Plaintiffs’ rights under Section  
10 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

11       31. Plaintiffs are informed and believe, and based thereon allege, that  
12 Lakhany and ST&C had actual knowledge of Plaintiffs’ prior use of Plaintiffs’  
13 Smokebuddy<sup>®</sup> Junior trade dress, and without Plaintiffs’ consent have willfully  
14 violated Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)), by using  
15 Plaintiffs’ trade dress in connection with the manufacture, import, offer for sale,  
16 advertisement and sale of Defendants’ infringing FLTR product. Accordingly, this  
17 is an exceptional case within the meaning of 15 U.S.C. § 1117(a) entitling  
18 Plaintiffs to treble damages and their reasonable costs, including attorneys’ fees.

19                               **V. PRAYER FOR RELIEF:**

20               WHEREFORE, Plaintiffs respectfully pray for the following relief:

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1 a. A preliminary injunction barring Defendants and all of their agents,  
2 officers, attorneys, successors, and assigns from manufacturing, importing, using,  
3 selling, and/or offering for sale any products that infringe the ‘131 Patent and the  
4 Smokebuddy Junior trade dress;

5 b. A permanent injunction barring Defendants and all of their agents,  
6 officers, attorneys, successors, and assigns from manufacturing, using, selling,  
7 and/or offering for sale any products that infringe the ‘131 Patent and the  
8 Smokebuddy® Junior trade dress;

9 c. A judgment of at least \$1,000,000, or according to proof, against  
10 Defendants for disgorgement of profits under 35 U.S.C. § 289 and under 15 U.S.C.  
11 § 1117(a), and actual compensatory damages, adequate to compensate Plaintiffs  
12 for all of their losses, including prejudgment interest, lost profits, loss of convoy  
13 sales, price erosion, and loss of market share;

14 d. Treble damages and attorney fees pursuant to 35 U.S.C. §§ 284 -285  
15 and 15 U.S.C. § 1117(a) for the willful infringement of the ‘131 Patent and the  
16 Smokebuddy Junior trade dress;

17 e. Costs of suit and prejudgment interest against Defendants; and

18 f. Any and all other relief that the Court deems proper.

19 **VI. DEMAND FOR JURY TRIAL:**

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1 Plaintiffs hereby exercise their right to a jury trial under the Seventh  
2 Amendment to the United States Constitution and hereby demand a jury trial in  
3 accordance therewith.

4 Respectfully submitted,

5 TROJAN LAW OFFICES  
6 by

7 Dated: July 21, 2022

8 /s/R. Joseph Trojan  
9 R. Joseph Trojan  
10 Attorney for Plaintiffs  
11 Travel Assets, Inc., d.b.a.  
12 Smokebuddy, and Gregg Gorski

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