

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CARLDANI ENTERPRISES LLC

Plaintiff,

v.

SHELTERLOGIC CORPORATION

Defendant.

Case No.: 7:22-cv-5876

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff Carldani Enterprises LLC (“Carldani” or “Plaintiff”), by and through its undersigned counsel, brings this Complaint for Declaratory Judgment and alleges as follows against Defendant ShelterLogic Corporation (“ShelterLogic” or “Defendant”):

THE PARTIES

1. Plaintiff Carldani is a limited liability corporation organized and existing under the laws of the State of New York, with its principal place of business at 534 Furnace Dock Road, Cortland Manor, NY 10567.

2. Upon information and belief, Defendant ShelterLogic is a corporation organized under the laws of the State of Delaware with a place of business at 150 Callender Rd, Watertown, CT 06795.

JURISDICTION AND VENUE

3. This is a civil action for declaratory judgment brought under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and arises under the Patent Laws of the United States, Title 35 of the United States Code (35 U.S.C. § 1 *et seq.*)

4. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

5. Upon information and belief, this Court has personal jurisdiction over the Defendant because Defendant is currently doing business in this judicial district, has purposefully availed itself of the privilege of conducting business with residents of this judicial district, has established sufficient minimum contacts with New York such that Defendant should reasonably and fairly anticipate being brought into court in New York, has conducted business relating to the licensing and enforcement of patents in New York, and/or has systematic and continuous business contacts with New York.

6. Venue is proper in this district under 28 U.S.C. § 1391(b) because Defendant is subject to personal jurisdiction in this judicial district and has directed its business, licensing, and enforcement activities at this judicial district, and a substantial part of the events giving rise to the claim occurred in this judicial district.

FACTS AND ALLEGATIONS GIVING RISE TO THIS ACTION

7. Carldani sells a variety of household products under its brand homevative®, including beach chairs, and specifically a beach chair model titled “Backpack Beach Chair with 5 Positions, Towel Bar, Cooler Pouch, Storage Pouch, Etc” (the “Carldani Beach Chair”).

8. The Carldani Beach Chair is available in four different fabric patterns, and is sold on Carldani’s own website (homevative.com) and several online shopping platforms, including amazon.com.

9. The Carldani Beach Chair is sold both under Carldani’s own name and under its registered assumed name, Park Slope Outlet.

10. On November 10, 2021, ShelterLogic, through its counsel, sent a cease and desist letter to the “President” of Homevative at the address of Plaintiff, a copy of which is attached hereto as **Exhibit B**. In the letter, ShelterLogic alleged ownership of United States Patent No. 8,197,000 (“the ’000 Patent”), alleged that the Carldani Beach Chair infringes the ’000 Patent,

and demanded, among other things, that sales of the Carldani Beach Chair cease. Attached as **Exhibit A** is a copy of the '000 Patent.

11. On June 17, 2022, ShelterLogic, through its counsel, sent a second cease and desist letter to Plaintiff, a copy of which is attached hereto as **Exhibit C**. In the letter, ShelterLogic realleged that the Carldani Beach Chair infringes the '000 Patent, and demanded that Carldani cease production of the Carldani Beach Chair, recall all units of the Carldani Beach Chair sold, and inform Plaintiff's importers, suppliers, and source(s) of the alleged infringement within ten (10) days.

12. On June 21, 2022, ShelterLogic initiated proceedings with Amazon.com Inc.'s ("Amazon") Amazon Patent Evaluation Express (APEX) Procedure for the evaluation of infringement of claim 11 of the '000 Patent by the Carldani Beach Chair, as well as unrelated products from other third-party sellers. A copy of the APEX Procedure agreement executed by ShelterLogic is attached hereto as **Exhibit D**.

13. Amazon's APEX Procedure allows for owners of United States utility patents to obtain an evaluation of their patent infringement claims against products offered by third-party sellers on amazon.com. The APEX Procedure uses a third-party evaluator to evaluate whether the utility patent has been infringed. Once the APEX Procedure has been initiated, the parties have a limited time to submit briefing. There is no discovery during the APEX procedure. If the patent owner receives a favorable decision from the evaluator, Amazon will remove the product from its website, effectively serving as an injunction. The product will remain on Amazon's website if the third-party seller prevails. Amazon's APEX Procedure does not allow for an appeal.

14. Under the APEX procedures, if Plaintiff does not respond to Defendant's request for evaluation within twenty-one (21) days of its initiation, then Plaintiff's products identified in Defendant's request will automatically be de-listed from the amazon.com website.

15. The Carldani Beach Chair does not infringe any valid independent claim of the '000 Patent.

16. The only independent claims of the '000 Patent, claims 1 and 11, are both directed to a chair assembly comprising many different components of a beach chair, including a backrest having first pocket and a second pocket, with a gap existing between them, and an auxiliary leg attached to the backrest and capable of being folded against the backrest and extended away from the backrest.

17. Claim 1 recites that the auxiliary leg includes a crossbar that "abuts against said rear surface of said backrest within said gap [between the two pockets]," while claim 11 recites that when folded, the auxiliary leg "extends around said first pocket, through said gap [between the two pockets], and abuts against said rear surface of said backrest." The Carldani Beach Chair does not infringe either claim 1 or claim 11 of the '000 Patent at least because it does not meet the requirements of the relationship between the auxiliary leg and the gap in these limitations.

An Actual Controversy Exists

18. Based on the foregoing, a justiciable controversy within the jurisdiction of this Court under 28 U.S.C. §§ 2201 and 2202 exists between Carldani and ShelterLogic as to whether the Carldani Beach Chair infringes the '000 Patent.

19. Absent a declaration of non-infringement, ShelterLogic will continue to wrongfully allege that the Carldani Beach Chair infringes the '000 Patent, and thereby cause Carldani irreparable injury and damage.

COUNT ONE
DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '000 PATENT

20. Carldani repeats and realleges each of the foregoing paragraphs of this Complaint.

21. As a result of the acts described in the preceding paragraphs, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of non-infringement.

22. A judicial declaration is necessary and appropriate so that Carldani may ascertain its rights regarding the Carldani Beach Chair and the '000 Patent.

23. Carldani is entitled to a declaratory judgment that the Carldani Beach Chair does not infringe and has not infringed, either directly or indirectly, any valid and enforceable claim of the '000 Patent under 35 U.S.C. § 271.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter the following relief pursuant to 28 U.S.C. §§ 2201 and 2202:

A. That a declaration be issued under 28 U.S.C. §§ 2201 that the manufacture, use, offer for sale, sale, and/or importation of the Carldani Beach Chair does not and will not infringe, either directly or indirectly, any valid and enforceable claim of the '000 Patent;

B. That an injunction be issued enjoining Defendant and each of its officers, directors, agents, counsel, servants, employees, and all persons in active concert or participation with any of them who receive actual notice here from threatening or initiating infringement litigation against Carldani or its customers, manufacturers, users, importers, or sellers of the Carldani Beach Chair, or charging them either orally or in writing with infringement of the '000 Patent;


C. That Carldani be declared the prevailing party and that this case be adjudged exceptional pursuant to 35 U.S.C. § 285;

D. That Carldani be awarded its reasonable attorneys' fees and all costs and expenses associated with this action; and

E. That the Court award all other and further relief as it deems just and proper.

Dated: July 11, 2022

Respectfully submitted,

By: 

John C. Re – JR7239
KURZMAN EISENBERG CORBIN &
LEVER, LLP
One North Broadway, 12th Floor
White Plains, NY 10601
Phone: (914) 285-9800
Fax: (914) 285-9855
jre@kelaw.com

Steven McMahon Zeller (*pro hac vice
forthcoming*)
DYKEMA GOSSETT PLLC
10 South Wacker Drive, Suite 2300
Chicago, Illinois 60606
Phone: (312) 876-1700
Fax: (312) 876-1155
szeller@dykema.com

*Attorneys for Plaintiff Carldani
Enterprises LLC.*

4857-4024-6055.3