

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. \_\_\_\_\_

MOBB HEALTH CARE LTD.,

Plaintiff,

vs.

FELIX GERSHGORIN,  
KLARA GERSHGORIN, and  
INNO MEDICAL, LLC.

Defendants.

\_\_\_\_\_ /

**COMPLAINT**

Plaintiff, MOBB Health Care Ltd. (“MOBB Health”), a Canadian corporation, sues Defendants, FELIX GERSHGORIN, KLARA GERSHGORIN, and INNO MEDICAL, LLC (collectively, “Defendants”), and alleges as follows:

**PARTIES**

1. MOBB Health is a corporation organized and existing under the laws Canada with a principal place of business at 116A Viceroy Rd. Unit 5-6 Concord, Ontario L4K 2M1.
2. Defendant Felix Gershgorin (“Felix”) is a Florida resident who resides at 241 188th Street, Sunny Isles Beach, FL 33160 and is otherwise *sui juris*.
3. Defendant Klara Gershgorin (“Klara”) is a Florida resident who resides at 241 188th Street, Sunny Isles Beach, FL 33160 and is otherwise *sui juris*.
4. Felix and Klara (collectively, the “Gershgorins”) are husband and wife.
5. Defendant Inno Medical, LLC (“Inno”) is a Florida limited liability company with a registered address at 16500 Collins Ave, Ste. 2353, Sunny Isles Beach, FL 33160.

6. Both the Gershgorins are managers of Inno and are key operators and contributors of Inno. The Gershgorins also exercise complete dominion and control over Inno. Specifically, the Gershgorins (i) are responsible for marketing, selling, and distributing the accused product; (ii) oversee, control, and manage all employees of Inno and others who distribute the infringing products; and (iii) are the major motivator of business decisions and activities at Inno.

7. Each Defendant is likewise liable in relation to the illegal activities described herein on the basis of that Defendant's material participation in the illegal activities.

### **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1338 because this action involves substantial claims arising under the Lanham Act and the patent laws of the United States.

9. Defendants are subject to personal jurisdiction in this Court because (i) Defendants are domiciled in Florida, doing business in Florida, and located in Florida; (ii) Defendants are operating, conducting, engaging in, and carrying on a business in Florida and maintain their offices in Florida; (iii) Defendants have committed, or aided, abetted, contributed to or participated in the commission of unfair competition, improper acts of unauthorized and unlicensed use of MOBB Health's federally registered patent, and other tortious acts that have led to foreseeable harm; and (iv) Defendants have systematic and continuous contacts with Florida.

10. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and § 1400 as a substantial part of the events giving rise to MOBB Health's claims occurred in this district, including the illegal sale of products that infringe the patent at issue in this lawsuit, and because this district is where Defendants reside and regularly transacts business.

## **COMMON ALLEGATIONS**

### ***MOBB Health***

11. MOBB Health is a Canadian company who has developed, manufactured, marketed, sold, and distributed durable medical equipment for more than 10 years, including in the United States.

12. MOBB Health has developed a line of award winning durable medical equipment that combine functionality, cutting edge design, and cost-conscious solutions while maintaining an emphasis on quality control. Many of those durable medical devices are protected by registered patents, including its “Swivel Shower Chair 2.0.”

13. MOBB Health completely and tightly controls the manufacturing and branding supply chain to ensure that it is able to tightly protect both its intellectual property and the quality of the products made and branded with the MOBB trademarks. To that end, MOBB Health uses a vetted manufacturer in China to manufacture its products.

14. Through these efforts and the investment of significant resources, MOBB Health has developed goodwill and a reputation for producing high-quality products with consumers and its retail partners.

15. To protect its reputation and goodwill, MOBB Health has aggressively pursued infringers of its branded and patented products, successfully shutting down counterfeit operations in China in the past.

### ***The Partnership Dispute***

16. In late 2015, after years of MOBB Health positioning itself in the industry in Canada and around the world, the Gershgorins approached Mr. Moshe Bodman (who is an officer

of MOBB Health), in an effort to pitch themselves to serve as a seller/distributor of MOBB products inside the United States.

17. The Gershgorins had no prior experience in durable medical equipment industry, including the development and manufacturing of durable medical equipment. However, the Gershgorins claimed to have relationships with big box retailers, like Sam's Club and Walmart, who could distribute MOBB products in the U.S. market.

18. After negotiations, Mr. Bodman, through a Canadian entity (2501712 Ontario), agreed to work with the Gershgorins as partners in an entity that would sell MOBB products to the United States market (the "Partnership").

19. At no time was the manufacturing, production, branding or licensing of products ever a part of the prospective or ultimate deal for the Gershgorins with respect to the Partnership. And at no point was the Partnership or the Gershgorins authorized to manufacture, brand, or patent any MOBB products. Instead, purchase orders were to be made by the Partnership to and through MOBB Health, and the Partnership would then sell the MOBB products in the U.S. market. And this is how the course of dealings continued for years.

20. A partnership dispute eventually arose between the Gershgorins and 2501712 Ontario, which was the subject of a lawsuit before the State of Florida's 11th Judicial Circuit in Miami-Dade County, Florida.

21. While the partnership dispute was pending, the Gershgorins surreptitiously created an entity called MedPlus Supply, Inc. The Gershgorins then used MedPlus Supply to compete with the Partnership based on their knowledge of MOBB Health's target market and customers with the specific intent to infringe upon MOBB Health's products through unauthorized sales of counterfeit products, including the Swivel Shower Chair 2.0.

22. The Gershgorins—without authorization or license—intentionally stole MOBB Health’s and MOBB Medical’s patents and trademarks, and then took them to an unauthorized producer in China, falsely represented to the Chinese facility they had authority from MOBB Health and MOBB Medical and caused counterfeit products to be made and shipped to the the Gershgorins in the United States in violation of the law and without authority, where they were marketed and sold.

23. MOBB Health was only made aware of the counterfeit products and violative actions of the Gershgorins by accident and happenstance. The unauthorized Chinese facility (who the Gershgorins hired and caused to produce counterfeit MOBB products), which infringed the MOBB Health’s and MOBB Medical’s marks and patents based on instructions from the Gershgorins, then marketed the counterfeit products for sale around the globe.

24. MOBB Health first learned on the unauthorized Chinese manufacturer’s sale of counterfeit products when one of its long-time customers in France called to advise that he was suspiciously offered products directly from an unfamiliar Chinese vendor, who was not known to the French customer and for whom the sales process was odd and curious compared to the course of dealing amongst the parties in the past. This French customer called Mr. Bodman, who was shocked to hear about the situation, the unauthorized proposition for the sale, and confirmed the purported seller was an unauthorized seller of MOBB products.

25. The Gershgorins’ infringement was subsequently confirmed when a shipper sent the Bills of Lading for counterfeit products set to be shipped from China to the Gershgorins in Florida to MOBB Health’s address—by accident—alerting MOBB Health that not only was the unauthorized Chinese facility marketing counterfeit MOBB products around the globe, but also

that the Gershgorins were going around the Partnership by not purchasing direct from MOBB Health and instead bringing in counterfeit MOBB products directly to the U.S.

26. MOBB Health then sought the help of the U.S. Customs and Border Patrol to prevent counterfeit products from being allowed into the country, but these shipments somehow evaded the agency and were entered into the U.S. where they were marketed and sold by the Gershgorins.

27. MOBB Health requested that the Gershgorins stop their infringement, but they refused. To combat their infringement, MOBB Health and its affiliate, MOBB Medical, filed a lawsuit in federal court for patent and trademark infringement against the Gershgorins and MedPlus Supply. *See MOBB Health Care Ltd., et al. v. Felix Gershgorin, et al.*, Case No. 20-CV-24589-ALTONAGA (S.D. Fla.).

28. MOBB Health also initiated proceedings in China against the Chinese manufacturer of counterfeit MOBB products. During those proceedings, the Chinese entity produced a false and fraudulent letter created by the Gershgorins in or around October 2018 and signed by Felix. The letter falsely represented to the Chinese manufacturer that MOBB Health and MOBB Medical approved the Chinese facility's production of MOBB products. This was false and the Gershgorins caused the Chinese manufacturer to produce and sell counterfeit MOBB patented and trademarked products without proper authorization.

29. Despite the pendency of the partnership dispute and the federal lawsuit, the Gershgorins continued to cause a Chinese manufacturer to produce counterfeit versions of MOBB Health's Swivel Shower Chair 2.0. The counterfeit version of the Swivel Shower Chair 2.0 was an inferior product that did not meet MOBB Health's high standards for the manufacturing process or the quality of materials used.

30. The Gershgorins then sold the inferior counterfeit Swivel Shower Chair 2.0 to consumers and retailers in the U.S. MOBB Health then received a complaint from a consumer about defects with the counterfeit Swivel Shower Chair 2.0. Such complaints damage the reputation and goodwill that MOBB Health has earned over the years. When MOBB Health brought this issue to the attention of the Gershgorins, they brushed it aside.

31. The partnership dispute and federal lawsuit eventually settled in March 2022. A material term of the settlement involved the Gershgorins' and their affiliated entities releasing any claims challenging the validity of MOBB Health's patents, including the patent protecting the Swivel Shower Chair 2.0.

### ***Defendants' Infringing Conduct***

32. Less than a month after the state court lawsuit settled, the Gershgorins, using the knowledge they gathered from the Partnership, formed Inno to unfairly compete against MOBB Health in the manufacture and distribution of durable medical equipment.

33. Inno is a direct competitor of MOBB Health. Inno sells similar products as MOBB Health through the same channels as MOBB Health. But Inno is doing so through improper means that violate the rights of MOBB Health.

34. The Gershgorins, through Inno, are selling copycat versions of products developed and sold by MOBB Health. Specifically, Defendants are marketing an "Inno Swivel Shower Chair" that infringes the design patent of the Swivel Shower Chair 2.0 and a "folding toilet safety frame" that is identical in design and appearance as the folding toilet safety frame designed and sold by MOBB Health.

35. Not only are Defendants' copying the products sold by MOBB Health, but they are also mimicking the means that MOBB Health uses to market its products, including copying

MOBB Health's website and stealing customer reviews of MOBB Health's products as if they were reviews of Inno's products.

36. Defendants' actions are causing the sale of inferior products in a manner that is substantially likely to confuse consumers as to the association between Defendants and MOBB Health, which has damaged and will continue to damage MOBB Health's reputation and goodwill.

**COUNT I**  
**Willful Infringement – '501 Patent**  
**(MOBB Health against all Defendants)**

MOBB Health hereby re-alleges and re-incorporates Paragraphs 1-33 and 36 as if fully set forth herein.

37. MOBB Health is the owner of United States Patent Number US D865,501 S (the "501 Patent"), which discloses a "swivel chair bearing" invented by Messrs. Moshe Bodman and Philip Wilcox, who assigned their rights to MOBB Health. The application for the '501 Patent was filed on December 2, 2016. The '501 Patent was granted to MOBB Health on November 5, 2019. A true and correct copy of the '501 Patent is attached as **Exhibit A**.

38. Defendants have been, and are currently, selling, offering to sell, and importing and/or exporting products that infringe on the '501 Patent.

39. Specifically, Defendants' "Inno Swivel Shower Chair" is identical in appearance to the visual design found in the '501 Patent, and at the very least, is substantially the same.

40. The infringing product, the Inno Swivel Shower Chair, has copied the overall ornamental appearance found in the '501 Patent, such that an ordinary observer with the knowledge of the prior art would purchase the infringing product believing it was the patented ornamental design disclosed in the '501 Patent. Its dimensions, shape, specifications, and overall



aesthetic embody, or are a colorable imitation of, the '501 Patent. The infringing product was intended to lead a purchaser to believe it was of the same MOBB Health design.

41. The infringing product is being sold through Defendants' distribution channels, including on [www.innomedicalsupply.com/collections/bathroom/products/inno-swivel-shower-chair](http://www.innomedicalsupply.com/collections/bathroom/products/inno-swivel-shower-chair) and [www.swivelshowerchair.com/products/swivel-shower-chair?variant=18095502262361](http://www.swivelshowerchair.com/products/swivel-shower-chair?variant=18095502262361).

42. By injecting their unlicensed, infringing product into the stream of interstate commerce with the intention of customers implementing and using this product, Defendants have been, and currently are, inducing infringement of the '501 Patent. There are no substantial, non-infringing uses for Defendants' products directly infringing the '501 Patent.

43. Defendants, or an agent of Defendants acting under Defendants' direction and control, have been, and currently are, infringing the '501 Patent by selling and offering to sell in this judicial district and elsewhere throughout the United States, and importing into, and exporting from, the United States, without license or authority from MOBB Health, products infringing on the '501 Patent, including at least the Inno Swivel Shower Chair, to the damage and injury of MOBB Health.

44. The Defendants' infringement has been, and continues to be, willful, intentional, and in conscious disregard of MOBB Health's rights in the '501 Patent.

45. Unless enjoined by the Court, Defendants will continue to infringe the '501 Patent.

46. As a direct and proximate result of Defendants' infringement of the '501 Patent, MOBB Health has suffered, and will continue to suffer, irreparable injury for which there is no adequate remedy at law. MOBB Health has incurred damages, and until an injunction issues, will continue to be damaged by the infringement in an amount yet determined.

**WHEREFORE**, MOBB Health requests entry of judgment in its favor and against Defendants, jointly and severally, finding that Defendants have infringed or have induced or contributed to infringement of the ‘501 Patent; finding that Defendants’ infringement of the ‘501 has been willful; preliminarily and permanently enjoining Defendants from further infringement of the ‘501 Patent; awarding damages sufficient to compensate MOBB Health for the infringement, together with pre- and post- judgment interest; awarding MOBB Health treble damages under 35 U.S.C. § 284; awarding MOBB Health attorney fees and costs under 35 U.S.C. § 285; and granting such other and further relief that is just and proper.

**COUNT II**

**Federal Unfair Competition - Lanham Act § 43(a), 15 U.S.C. § 1125(a)**

MOBB Health hereby re-alleges and re-incorporates Paragraphs 1-36 as if fully set forth herein.

47. Defendants are unfairly competing with MOBB Health by selling, offering, advertising, or promoting products through false advertising and other means that copy the methods employed by MOBB Health to sell, offer, advertise, or promote its products.

48. One of Defendants’ website, [www.innomedicalsupply.com](http://www.innomedicalsupply.com), is substantially identical in overall appearance and content to MOBB Health’s website. For example, Defendants’ website features the following descriptions of Defendants’ good and services:



**Innovative**

Award winning design, with a dedicated research & development team, we work to provide new, better products for you, our customers.



**Affordable**

High Quality products don't need to mean high prices, our prices reflect our commitment to creating ease of access to all customers.



**Reliable**

Your satisfaction is our guarantee, award winning design meets the comfort and durability you've come to expect with Inno Medical.

49. Defendants copied the descriptions featured on their website from MOBB Health’s website:



**INNOVATIVE**

With award winning design and a dedicated in house team to research and development, we work to provide new, better products for you, our customers.



**AFFORDABLE**

High quality products don't need to mean high prices; our prices reflect our commitment to creating ease of access to all customers.



**COMFORTABLE**

We put the customers first by producing quality products that lead with comfort.

50. Defendants’ “swivelshowerchair.com” website features the following description in the “About Us” section:

**About Us**

Swivelshowerchair.com distributes innovative solutions to enhance quality of life. Combining functionality, cutting edge design and a desire to better serve our customers, we are here for every step of the journey. With an expanding line of award winning products, and over 20 years of experience, our products meet the needs of consumers and our retailer partners by providing cost conscious solutions that don't sacrifice quality.

51. The description in paragraph 43 was also copied from MOBB Health’s website:

MOBB Home health care distributes innovative solutions to enhance quality of life. Combining functionality, cutting edge design and a desire to better serve our customers, MOBB Home Health care is there for every step of the journey. With an expanding line of award winning products, and over 20 years of experience, MOBB Home Health Care meets the needs of consumers and our retailer partners by providing cost conscious solutions that don't sacrifice quality.

52. Not only are the above descriptions from Defendants’ websites copied from MOBB Health’s website, but they are also materially false. Defendants’ claim that the Inno Swivel Shower Chair has an “award winning design” is false. The Inno Swivel Shower Chair has received no awards for its design. Defendants’ representation that they have “20 years of experience” is also false. Inno was formed in only April 2022 and the Gershgorins had no experience with medical products prior to the Partnership, which was formed in only 2015. Defendants featured these false

representations on their website with the intent of confusing customers into believing they and their products are associated with MOBB Health.

53. Defendants have also included on both their websites customer reviews of MOBB Health's "Swivel Shower Chair 2.0" from Amazon and MOBB Health's website. Defendants used these customer reviews with the intent to mislead potential customers into believing that the reviews are for their "Inno Swivel Shower Chair." This intent is reinforced by the fact that Defendants describe the "Inno Swivel Shower Chair" as their "new design" for a swivel shower chair.

54. Defendants' actions as described above are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval by MOBB Health of Defendants' products (including the Inno Swivel Shower Chair), services, and commercial activities, or as to the affiliation, connection, or association between MOBB Health and Defendants, and thus constitute unfair competition in violation of 15 U.S.C. § 1125(a)(1)(A).

55. The representations described on Defendants' websites are false and misleading representations of fact to customers and potential customers as to the nature, characteristics, qualities, or origin of the Inno Swivel Shower Chair and other products they are selling, offering, advertising, or promoting, in violation of 15 U.S.C. § 1125(a)(1)(B).

56. Defendants' actions have injured and, in the absence of injunctive relief are likely to continue to injure, MOBB Health's image, reputation, and goodwill by selling inferior products and creating consumer confusion and dissatisfaction, as well as diminution of the value of the reputation and goodwill associated with MOBB Health's "Swivel Shower Chair 2.0."

57. Defendants' willful and intentional activities constitute unfair competition in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

**WHEREFORE**, MOBB Health respectfully requests that this Court enter a final judgment in its favor and against Defendants, jointly and severally, enjoining Defendants from engaging in any further conduct that constitutes unfair competition with MOBB Health; awarding damages, costs, and fees pursuant to 15 U.S.C. § 1117; and granting such other and further relief that is just and proper.

**COUNT III**  
**Florida Common Law Unfair Competition**

MOBB Health hereby re-alleges and re-incorporates Paragraphs 1-36 and 47-57 as if fully set forth herein.

58. Defendants' conduct described herein constitutes deceptive and fraudulent conduct in their competition against MOBB Health for business.

59. Defendants' conduct described herein is likely to cause customer confusion as to the origin, sponsorship, or approval by MOBB Health of Defendants' products, services, and commercial activities, or as to the affiliation, connection, or association between MOBB Health and Defendants.

60. Defendants' actions have injured and, in the absence of injunctive relief are likely to continue to injure, MOBB Health's image, reputation, and goodwill by creating consumer confusion and dissatisfaction, as well as diminution of the value of the reputation and goodwill associated with MOBB Health's "Swivel Shower Chair 2.0."

61. Defendants' actions described above were done in bad faith; they were intentional, malicious, and willful, and were performed by Defendants with actual knowledge of both the wrongfulness of their conduct and the high probability that their conduct would injure MOBB Health, such that an award of punitive damages is appropriate.

62. MOBB Health is entitled to appropriate relief, including injunctive relief.

**WHEREFORE**, MOBB Health respectfully requests that this Court enter a final judgment in its favor and against Defendants, jointly and severally, enjoining Defendants from in any further conduct that constitutes unfair competition with MOBB Health; awarding compensatory and punitive damages and costs; and granting such other and further relief that is just and proper.

**DEMAND FOR JURY TRIAL**

MOBB Health is entitled to and demands a jury trial on all claims and issues.

Dated: August 9, 2022

Respectfully submitted,

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