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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHUANQI LIU, an individual of
China,

Plaintiff,

v.

FOUJOY, et al., the Individuals,
Partnerships and
Unincorporated Association identified
on Schedule A,

Defendants.

Case No. 2:22-cv-367

**(1) COMPLAINT FOR
PATENT INFRINGEMENT
[35 U.S.C. § 271 *et seq.*]**

(2) DEMAND FOR JURY TRIAL

For its Complaint against Defendants FOUJOY, et al., the Individuals, Partnerships and Unincorporated Associations identified on Schedule A, (collectively “Defendants”), Plaintiff CHUANQI LIU (“Plaintiff”) states the following:

I.

THE PARTIES

1. Plaintiff is a Chinese individual, having his residency at Suite 3001, Block 9, No. 1, Poly Bund, Xiaohuagpu Ronggui Town, Shunde District, Foshan City, Guangdong Province, China.

2. Plaintiff is informed and believes, and thereupon alleges, that Defendants are foreign-based companies that copy products and sell those products on Amazon.com and eBay.com without regard for the intellectual property rights of others, and who may be characterized as infringers and counterfeiters because of their disregard for the owners’ rights and/or for the damage they cause to legitimate businesses.

3. Plaintiff is informed and believes, and thereupon alleges, that sometimes the Defendants conduct their legitimate business in concert or connection with the other Defendants.

4. Upon information and belief, Defendants have substantial contacts and transact substantial business, either directly or through their agents, on an ongoing basis in this judicial district and elsewhere in the United States.

5. All allegations in this complaint referencing Defendants shall deemed to

mean acts of Defendants acting individually, jointly, severally, or any combination of them.

6. Unless specifically stated otherwise, the acts complained of herein were committed by, on behalf of, and/or for the benefit of Defendants.

II.

NATURE OF THE ACTION

7. This is an action for patent infringement.

8. Plaintiff is informed and believes, and thereupon alleges, that Defendants have been and are infringing, contributing to the infringement of, and/or actively inducing others to infringe claims of U.S. Patent No. D879,488S (“the ‘488 Patent”).

III.

JURISDICTION AND VENUE

9. This action arises under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. This Court has personal jurisdiction over Defendants because they have substantial contacts and conduct substantial business in the state of Pennsylvania, in this judicial district and have been infringing, contributing to the infringement of, and/or

actively inducing others to infringe the ‘488 Patent in this District and elsewhere. This Court may exercise personal jurisdiction over a non-resident of the state where the court sits to the extent authorized by state law. Fed R. Civ. Pro. 4e. Pennsylvania authorized personal jurisdiction over each Defendant pursuant to 42 Pa. Const. Statutes Section 5322(a) which provides: “A tribunal of this Commonwealth may exercise personal jurisdiction over a person...who acts...as to a cause of action...(1) Transacting any business in this Commonwealth.”

11. In the alternative, Fed R. Civ. Pro Rule 4(k) confers personal jurisdiction over the Defendants because, on information and belief, they regularly conduct, transact and/or solicit business in Pennsylvania and in this judicial district and/or derive substantial revenue from their business transactions in Pennsylvania and in this judicial district and or otherwise avail themselves of the privileges and protections of the laws of Pennsylvania such that this Courts assertion of jurisdiction over Defendants does not offend traditional notions of fair play and due process and/or Defendants infringing actions in Pennsylvania caused injury to Plaintiff in Pennsylvania and this judicial district such that Defendants should reasonably contemplate such actions to have consequences in Pennsylvania and this judicial district, for example:

(a) On information and belief, Defendants have directed or targeted their infringing activities toward consumers in the United States, including Pennsylvania through their online platforms via marketplace websites, including Amazon.com and

eBay.com under seller IDs held by or associated with Defendants. These marketplace websites are also known as “User Accounts” through which consumers in the United States, including Pennsylvania, can view the marketplace websites through which Defendants offer infringing products online and through which consumers can place orders for delivery of infringing products and Defendants can transact their illegal business.

(b) Defendants accept payment for infringing products in U. S. dollars and offer delivery of the illegal sales in the United States, including Pennsylvania.

(c) Defendants are currently and continuously targeting their illegal sales of infringing products toward consumers and causing harm in Allegheny County, Pennsylvania.

(d) Defendants are causing an illegal stream of infringing products to enter the United States, including this judicial district.

(e) Plaintiff is suffering irreparable harm and substantial damages due to Defendants’ wrongful sale of infringing goods in this judicial district.

12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 (a) (b) and (c) and /or 1400 (b) because

(a) a substantial part of the events giving rise to Plaintiff’s claims occurred in the Western District of Pennsylvania and because Defendants are subject to personal jurisdiction in the Western District of Pennsylvania.

(b) Defendants are known to transact business in this judicial district, and

(c) Defendants not resident in the United States may be sued in this judicial district because personal jurisdiction is proper in this district.

IV.

FACTUAL BACKGROUND

13. Plaintiff re-alleges and incorporates by reference Paragraphs 1 – 12 of its Complaint.

14. On March 31, 2020, the ‘488 Patent titled “SADDLE” was duly and legally issued to Chuanqi Liu.

15. The ‘488 Patent has remained in force since that time and continues to be in force.

16. A true and correct copy of the ‘488 Patent is attached as Exhibit “A” and incorporated herein by reference.

17. The ‘488 Patent is the result of substantial research into a unique design and commitment of innovative efforts and resources by the inventor, who is also the Plaintiff.

18. At all relevant times, the rights in the ‘488 Patent have been owned by its inventor who is also the Plaintiff.

19. The ‘488 Patent covers an ornamental design for a bike saddle. Plaintiff

has been commercially successfully with his distinctive saddle design providing differentiation to other competitors' saddle designs.

20. Plaintiff and company have engaged in research for the design of improved bicycle saddles for over ten years. Plaintiff's company has been manufacturing improved, comfortable saddles according to a unique design that was submitted to the United States Patent Office and granted patent protection.

21. Plaintiff first manufactured the patented products out of my home and then expanded our business to a manufacturing location.

22. The work to design and manufacture Plaintiff's products is costly and involves industrial design and tooling. It takes time to create, design, and retest prototypes. We introduce our products to retailers via tradeshow across the country. Today, Plaintiff's brand is well known and marketed under the brand YLG.

23. Plaintiff's patented bicycle saddles are widely legitimately advertised and promoted by online with visibility on the Internet, particularly via Internet search engines such as Google, Yahoo!, and Bing.

24. Such advertising has become increasing important to Plaintiff's company's overall marketing.

25. Plaintiff and company have spent significant monetary resources on Internet marketing, including search engine optimization ("SEO") strategies.

26. Those strategies allow us to educate consumers about the value associated

with our products.

27. Similarly, Defendants' seller's stores are indexed on search engines and compete directly with us for space in the search results.

28. As a result of Plaintiff's substantial advertising and promotional efforts, as well as the high quality of the saddle products associated with the design of the '488 Patent, such distinctive saddle design has earned valuable and residual goodwill and reputation for Plaintiff being the sole source for such saddle goods in the United States.

29. Plaintiff is informed and believe that the Defendants as listed in Schedule A each own, operate, or otherwise control an online store on Amazon.com ("Amazon"), or eBay.com, where they advertise and sell their products using the brand name listed on Schedule A.

30. Plaintiff is informed and believes, and thereupon alleges, that Defendants have previously, and continue to offer and provide products between each other that infringe the '488 Patent to the market under various names.

31. Defendants sell the products under the ordinary observer test. Under this test, an accused design infringes upon a patented design if, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, two designs are substantially the same in that the resemblance is such as to deceive such an observer, inducing him to purchase one supposing it to be the other.

32. A side-by-side comparison of the '488 Patent and the infringing products

that are sold by Defendants is shown below in the Claim Charts accompanying this Complaint, attached as Exhibits “**B**” and “**C**”.

33. Plaintiff has not granted a license or any other authorization to Defendants to make use, offer for sale, sell or import saddles that embody the design patented in the ‘488 Patent, which design is proprietary to Plaintiff.

34. On or about February 10, 2021, Plaintiff, through his counsel, sent a cease-and-desist letter to each of the Defendants.

35. A sample of these letters is attached as Exhibit “**D**”.

36. Despite the cease-and-desist letter, the Defendants continue to sell, offer to sell and/or promote the infringing products on online platforms at least on Amazon and/or eBay.

37. None of the Defendants have ceased selling the infringing products online.

38. None of the Defendants discouraged consumers from purchasing infringing products, despite knowing of Plaintiff’s rights.

39. Defendants have been willfully and knowingly infringing Plaintiff’s rights, including as to the ‘488 Patent, causing Plaintiff to suffer from substantial losses and damages.

40. Due to the success of Plaintiff’s products and their patented designs, Plaintiff and company have become the target of multiple infringers seeking to profit

from the excellent, patented design of Plaintiff's legitimate and protected products.

41. Plaintiff has been forced to police the various Internet marketplaces to identify and seek takedowns of unlawful listings for Defendant's infringing products, since they are causing substantial damage to Plaintiff.

42. Some Defendants sell their bicycles saddles at a fraction of Plaintiff's price, just to edge out Plaintiff's sales.

43. Because of the software provided by the various Internet Marketplaces, the lowest priced items are sorted to the top and/or promoted by the software. Defendant's infringing products, sold at lower prices, are often purchased by the consumers, ignoring Plaintiff's legitimate products.

44. Plaintiff has had varied success in identifying and requesting takedowns of the various unlawful listings. However, as soon as one listing is taken down another unlawful listing replaces it.

45. Defendants' wrongful conduct and infringing and damaging activities, including but not limited to the above, will continue unless enjoined by this Court.

46. In order to determine that each of the Defendants in this matter is subject to the jurisdiction of this judicial district, and specifically that each Defendant transacts online business aimed at Pennsylvania consumers, Plaintiff and counsel have explored the Internet and examined the online listings of each Defendant.

47. Plaintiff and counsel have confirmed that Defendants transact business in

this judicial district. This confirmation was done in part by actually ordering a product from each Defendant's online store to be shipped to an address within this judicial district.

48. Once the Defendants had engaged in such transactions and shipped the products to the address in this district, Plaintiff and counsel performed examinations to confirm that the shipped items are infringing as appeared in their online offerings. It was noted that Defendants charged Pennsylvania sales taxes on the sales.

49. Through these transactions Plaintiff and counsel learned that some of the Defendants were shipping products offered by other named Defendants.

50. Plaintiff and counsel therefore, in part based on these observations, believe that at least some of the Defendants may be connected or somehow working together.

51. Plaintiff and counsel have retained the record of the transactions, confirming that respectively, the Defendants has each engaged in transactions aimed at this judicial district, including offering, selling, shipping and accepting payment for infringing products to and from residents in this judicial district.

52. Plaintiff and counsel therefore believe that the above business activity conforms with requirements under law that would confer jurisdiction of this Court over the Defendants.

53. Plaintiff and counsel therefore believe that the sales of the infringing products by Defendants are in direct competition with Plaintiff, and to the extent they

are infringing the '488 Patent, every sale of the infringing products by Defendant is each unfairly replacing sales by Plaintiff.

V.

CLAIMS FOR RELIEF

COUNT 1

(Infringement of U.S. Design Patent No. D879,488S)

Under 35 U.S.C. § 271 *et seq.*)

54. Plaintiff incorporates by reference and reallege paragraphs 1 through 53 above as though fully restated here.

55. Plaintiff provided actual notice to Defendants of its infringement on repeated occasions, including without limitation, by the filing of this complaint.

56. Defendants have engaged in a pattern of conduct demonstrating: the '488 Patent is valid and enforceable; Defendants' awareness of the '488 Patent; the objectively high likelihood that Defendants' actions constitute infringement of the '488 Patent; and that this objectively-defined risk was so obvious that Defendants knew or should have known it.

57. Plaintiff is informed and believes, and thereupon alleges, that Defendants have infringed and continue to infringe the '488 Patent by, *inter alia*, making, using, offering to sell, or selling in the United States, including in the State of Pennsylvania and within this judicial district, products infringing the ornamental design covered by the

‘488 Patent in violation of 35 U.S.C. § 271, including but not limited to the infringing products

58. Defendants infringe the ‘488 Patent because, *inter alia*, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the design of the ‘488 Patent and the saddle design of Defendants’ products including are substantially the same, the resemblance being such as to deceive such an ordinary observer, inducing him to purchase one supposing it to be the other.

59. Defendants’ acts of infringement of the ‘488 Patent were undertaken without authority, permission or license from Plaintiff. Defendants’ infringing activities violate 35 U.S.C. § 271.

60. Defendants’ infringement has damaged and continues to damage the injure Plaintiff. The injury to Plaintiff is irreparable and will continue unless and until Defendants are enjoined from further infringement.

61. Plaintiff is entitled to a complete accounting of all relevant and profits derived by Defendants from the unlawful conduct alleged herein, including without limitation, Defendants’ total profit pursuant to 35 U.S.C. § 289.

62. Defendants have engaged and is engaged in willful and deliberate infringement of the ‘488 Patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable

attorney's fees pursuant to 35 U.S.C. § 285.

63. Plaintiff is entitled to a permanent injunction preventing Defendants from further infringing the '488 Patent.

VI.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks this Court to enter judgment in its favor against Defendants and grant the following relief:

A. An adjudication that Defendants have infringed and continue to infringe, directly and indirectly through contributory and/or induced infringement, the '488 Patent as alleged above.

B. An accounting of all damages sustained by Plaintiff as a result of Defendants' acts of infringement of the '488 Patent pursuant to 35 U.S.C. § 283.

C. An award to Plaintiff of actual damages adequate to compensate Plaintiff for Defendants' acts of infringement, together with pre-judgment and post-judgment interest.

D. An award to Plaintiff of enhanced damages, up to and including the trebling of Plaintiff's damages pursuant to 35 U.S.C. § 284 for Defendant's' willful infringement of the '488 Patent.

E. An award for Plaintiff's cost of suit and reasonable attorneys' fees

pursuant to 35 U.S.C. § 285 due to the exceptional nature of this case; or as otherwise permitted by law.

F. A grant of a temporary restraining order, preliminary and permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants and their agents, servants employees, principals, officers, attorneys, successors, assignees and all those in active concert with Defendants, including related individuals and entities, customers, representatives, OEM's, dealers and distributors, from further acts of (1) infringement, (2) contributory infringement, and (3) active inducement to infringe with respect to the claims of the '488 Patent, and;

G. Entry of an Order that, on Plaintiff's request any financial institutions, payment processors, billing agents, banks, escrow services, money transmitters or marketplace platforms and their related companies and affiliates, identify and restrain all funds in all financial accounts in connection with the Defendants and/or their seller ID's or ecommerce names or other identifiers used by Defendants now or in the future or any other account used in connection with funds processed from the sale of the infringing products, to be used in partial satisfaction of the judgement entered in this case.

H. Any further relief that this Court deems just and proper.

Dated: March 1, 2022

D&R I.P. LAW FIRM, APLC

s/Patricia Ray/

Attorneys for Plaintiff
CHUANQI LIU

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues triable as of right to a jury. FED.

R. CIV. P. 38(b).

Dated: March 1, 2022

D&R I.P. LAW FIRM, APLC

s/Patricia Ray/

Patricia Ray

Attorneys for Plaintiff
CHUANQI LIU