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10 Attorneys for Plaintiff

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 DRAIN AWAY, LLC, an Idaho limited liability company,

15 Plaintiff,

16 v.

17 FLORAFLEX CORP., a Delaware corporation, and 4D HOLDINGS, LLC, a Delaware limited liability company,

19 Defendants.

No. 2:22-cv-36622

COMPLAINT
FOR PATENT INFRINGEMENT
DEMAND FOR JURY TRIAL

21 Plaintiff, Drain Away LLC (“Plaintiff” or “Drain Away”), by and through its
22 undersigned counsel, for its Complaint against defendants FloraFlex Corp.
23 (“FloraFlex”) and 4D Holdings, LLC (“4D”) (jointly “Defendants”), states and alleges
24 as follows:

25 **THE PARTIES**

26 1. Plaintiff Drain Away, LLC, is an Idaho limited liability company with its
27 principal place of business in Coeur d'Alene, Idaho. Plaintiff owns the assert ‘981
28 Patent.



1 **THE PATENT-IN-SUIT**

2 11. This action is for infringement of Plaintiff’s United States Patent Number
3 10,462,981 entitled “*Planter Pot Drain Tray Including An Elevated Central Pedestal,*
4 *An Oblique Liquid Drain Away, and Support Members*” (the “‘981 Patent”), which was
5 issued by the United States Patent Office on November 5, 2019. A true and accurate
6 copy of the ‘981 Patent is attached hereto as Exhibit A.

7 12. Plaintiff is the owner of the entire right, title, and interest in and to the ‘981
8 Patent.

9 13. The ‘981 Patent is valid and enforceable and Plaintiff has complied with
10 the statutory patent marking requirements of 35 U.S.C. § 287.

11 14. The ‘981 Patent claims, among other things, a planter pot drain tray with
12 an elevated central pedestal and an oblique liquid drain away member surrounding the
13 elevated central pedestal.

14 15. The invention set forth in the ‘981 Patent relates to a planted pot drain tray
15 first developed in 2015 and embodied by Plaintiff as its “Drain Away Tray” (“Plaintiff’s
16 Drain Tray Product”). An image of Plaintiff’s Drain Tray Product is shown below.



22 16. The invention of the ‘981 Patent satisfies a long-felt, unmet need in the
23 large scale indoor garden industry to collect and allow the discharge of excess or pass-
24 through water from a planted pot on top of the drain tray.

25 **THE ACCUSED PRODUCT**

26 17. According to Defendants’ website, Defendants are in the business of
27 offering products that provide “the best and most efficient ways to deliver water and
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1 nutrients to every plant, while empowering everyone to grow anywhere at any time.”
2 An image of Defendants’ website is attached as Exhibit B.

3 18. When Plaintiff’s Drain Tray Product was first released by Plaintiff for sale
4 in November 2016, the intended customer base was indoor plant growers who use
5 automatic irrigation and drainage systems like the ones sold by Defendants.

6 19. On information and belief, many of Defendants’ customers started buying
7 Plaintiff’s Drain Tray Product and incorporating it into their irrigation and drainage
8 systems to deal with water runoff more efficiently.

9 20. In December 2020, Plaintiff discovered that Defendants were offering to
10 the public in the United States its “PotPro” platform (the “Accused Product”). An image
11 of the Accused Product is below and attached as Exhibit C.



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18 21. Before the Accused Product was sold, customers were known to share
19 pictures on social media sites like Instagram, where Defendants’ products and
20 Plaintiff’s Drain Tray Product were used together, side-by-side, and so Defendants were
21 well aware of Plaintiff and Plaintiff’s Drain Tray Product before creating the Accused
22 Product.

23 22. Defendants are infringing the ‘981 Patent under 35 U.S.C. § 271 based on
24 their unauthorized commercial manufacture, use, importation, offer for sale, and/or sale
25 of the Accused Product.

26 23. The Court has not yet construed the meaning of any claims or terms in the
27 ‘981 Patent. In providing the following detailed allegations, Plaintiff does not intend to
28 convey or imply any particular claim construction or the precise scope of the claims.

1 Plaintiff's contentions regarding the construction of the claims will be provided in
2 compliance with the case schedule, any applicable federal or local procedural rules,
3 and/or any applicable orders.

4 24. The Accused Product includes an elevated central pedestal, labeled as 105
5 at Exhibit C.

6 25. The Accused Product includes an oblique liquid drain away member
7 surrounding the elevated central pedestal, the oblique liquid drain away member labeled
8 as 120 at Exhibit C.

9 26. The oblique liquid drain away member includes a high point at a first end
10 of the planter pot drain tray, labeled as 130 at Exhibit C, and a low point at the opposite
11 end of the planter pot drain tray, labeled as 135 at Exhibit C.

12 27. The Accused Product includes a flanged outer rim, labeled as 110 at
13 Exhibit C, coupled to an outer edge of the oblique liquid drain away member.

14 28. The Accused Product includes a drain spout member, labeled as 145 at
15 Exhibit C, coupled to, directly or indirectly with intervening elements or layers, the
16 flanged outer rim at the low point of the oblique liquid drain away member at the second
17 end of the planter pot drain tray.

18 29. The elevated central pedestal member of the Accused Product includes one
19 or more sidewalls, labeled as 125 at Exhibit C, that intersect with the oblique liquid
20 drain away member.

21 30. The one or more sidewalls of the Accused Product includes a first exposed
22 height above the oblique liquid drain away member toward the first end of the oblique
23 liquid drain away member, and a second exposed height above the oblique liquid drain
24 away member toward the second end of the oblique liquid drain away member, and the
25 second exposed height is greater than the first exposed height.

26 31. The Accused Product is specifically made to be connected to a water
27 conduit at the drain spout.

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1 32. The Accused Product is specifically made such that two or more can be
2 connected to a single water draining conduit at the drain spout of each of the Accused
3 Products.

4 33. Defendants have been and are inducing infringement of the '981 Patent by
5 actively and knowingly inducing others to make, use, sell, offer for sale, or import the
6 Accused Product that embodies the inventions claimed in the '981 Patent.

7 34. Plaintiff wrote to Defendants and Defendants have known of the existence
8 of the '981 Patent since at least as early as February 9, 2021. Their acts of infringement
9 have been willful and in disregard for the '981 Patent, without any reasonable basis for
10 believing that they had a right to engage in the infringing conduct.

11 35. Defendants have marketed and sold their drainage and fittings products
12 alongside Plaintiff's Drain Tray Product since 2016. Defendants stole Plaintiff's Drain
13 Tray Product idea and are undercutting Plaintiff in the market.

14 36. Defendants sell their infringing Accused Product at a fraction of the retail
15 price of Plaintiff's Drain Tray Product.

16 37. Plaintiff has lost substantial sales to customers who otherwise would have
17 purchased Plaintiff's Drain Tray Product, but instead purchased the infringing Accused
18 Product.

19 **FIRST CAUSE OF ACTION**

20 **DIRECT INFRINGEMENT OF U.S. PATENT 10,462,981**

21 38. Plaintiff repeats and realleges the allegations in the foregoing paragraphs
22 as though fully set forth herein.

23 39. Defendants have directly infringed and continue to infringe, literally
24 and/or under the doctrine of equivalents, the '981 Patent by making, using, offering for
25 sale, or selling within the United States or importing into the United States planter pot
26 drain trays the embody the invention claimed in the '981 Patent, including the Accused
27 Product and similar goods sold under the name PotPro Platform, without authority of
28 Plaintiff and in violation of 35 U.S.C. § 271(a).

1 40. More specifically, Defendants' sale and/or offer for sale in the United
2 States and/or importation into the United States of the Accused Product infringes at
3 least claims 1-7 of the '981 Patent.

4 41. Defendants do not have a license or permission from Plaintiff to make, use,
5 offer for sale, or sell in the United States or import into the United States the claimed
6 subject matter of the '981 Patent.

7 42. Defendants' aforementioned acts have caused damage to Plaintiff and will
8 continue to do so unless and until enjoined.

9 43. On information and belief, Defendants have been on notice of Plaintiff's
10 rights and the '981 Patent since at least February 9, 2021.

11 44. Despite this knowledge of the '981 Patent and an objectively high
12 likelihood that its actions constitute infringement of Plaintiff's valid patent rights,
13 Defendants continued to infringe. Defendants' infringement has been, and continues to
14 be knowing, intentional, and willful.

15 45. As this objectively-defined risk was either known or so obvious that it
16 should have been known to Defendants, Plaintiff seeks enhanced damages from
17 Defendants pursuant to 35 U.S.C. § 284.

18 46. As a result of Defendants' infringement of the '981 Patent, Plaintiff has
19 suffered monetary damages. Defendants are thereby liable to Plaintiff in an amount that
20 adequately compensates it for Defendants' infringement, which by law cannot be less
21 than a reasonable royalty, together with interest and costs fixed by this Court under 35
22 U.S.C. §284.

23 47. This case and the direct patent infringement is exceptional and therefore
24 Plaintiff is entitled to award of attorneys' fees pursuant to 35 U.S.C. § 285.

25 **SECOND CAUSE OF ACTION**

26 **INDUCEMENT OF INFRINGEMENT OF U.S. PATENT 10,462,981**

27 48. Plaintiff repeats and realleges the allegations in the foregoing paragraphs
28 as though fully set forth herein.

1 49. Defendants have been and are inducing infringement of the ‘981 Patent by
2 actively and knowingly inducing others to make, use, offer for sale, or sell within the
3 United States or import into the United States planter pot drain trays that embody the
4 invention claimed in the ‘981 Patent, including the Accused Product and similar goods
5 sold under the name PotPro Platform, in violation of 35 U.S.C. § 271(b).

6 50. More specifically, Defendants’ have induced infringement of at least claim
7 7 of the ‘981 Patent.

8 51. Defendants do not have a license or permission from Plaintiff to practice
9 the claimed subject matter of the ‘981 Patent.

10 52. Defendants’ aforementioned acts have caused damage to Plaintiff and will
11 continue to do so unless and until enjoined.

12 53. On information and belief, Defendants have been on notice of Plaintiff’s
13 rights and the ‘981 Patent since at least February 9, 2021.

14 54. Despite this knowledge of the ‘981 Patent and an objectively high
15 likelihood that its actions constitute infringement of Plaintiff’s valid patent rights,
16 Defendants continued to infringe. Defendants’ infringement has been, and continues to
17 be knowing, intentional, and willful.

18 55. As this objectively-defined risk was either known or so obvious that it
19 should have been known to Defendants, Plaintiff seeks enhanced damages from
20 Defendants pursuant to 35 U.S.C. § 284.

21 56. As a result of Defendants’ infringement of the ‘981 Patent, Plaintiff has
22 suffered monetary damages. Defendants are thereby liable to Plaintiff in an amount that
23 adequately compensates it for Defendants’ infringement, which by law cannot be less
24 than a reasonable royalty, together with interest and costs fixed by this Court under 35
25 U.S.C. §284.

26 57. This case and the induced patent infringement is exceptional and therefore
27 Plaintiff is entitled to award of attorneys’ fees pursuant to 35 U.S.C. § 285.

1 **DEMAND FOR JURY TRIAL**

2 58. Plaintiffs request a trial by jury for all issues so triable.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff respectfully requests this Court enter judgment in its
5 favor and grant the following relief against Defendants, jointly and severally:

6 A. Adjudging that Defendants have directly infringed and actively induced
7 infringement of the '981 Patent, in violation of 35 U.S.C. § 271(a) and (b);

8 B. Adjudging that Defendants' infringement of the '981 Patent has been
9 willful;

10 C. Entering a permanent injunction against Defendants and their respective
11 members, officers, directors, agents, servants, employees, all parent, subsidiary and
12 affiliate companies, their successors in interest and assigns, and all other entities and
13 individuals acting in concert with or on their behalf, from infringing, contributing to the
14 infringement of, or inducing infringement of, any claim of the '981 Patent;

15 D. Ordering an accounting of Defendant's sales and profits from all infringing
16 sales;

17 E. Awarding Plaintiff damages in an amount adequate to compensate Plaintiff
18 for Defendants' infringement of the '981 Patent, but in no event less than a reasonable
19 royalty under 35 U.S.C. § 284, together with interest and costs;

20 F. Ordering that the damages award be increased up to three times the actual
21 amount assessed, pursuant to 35 U.S.C. § 284;

22 G. Declaring this case exceptional and awarding Plaintiff its reasonable
23 attorneys' fees, pursuant to 35 U.S.C. § 285; and

24 H. Awarding such other relief as the Court may deem appropriate and just
25 under the circumstances.
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1 DATED May 27, 2022

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