

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

Case No. 9:22-cv-80333

LIVING STYLE (B.V.I.) LIMITED,
WHALEN, LLC, AND WHALEN, LTD.

Plaintiffs,

JURY DEMAND REQUESTED

v.

TWIN STAR INTERNATIONAL, INC.,

Defendant.

COMPLAINT

Plaintiffs, Living Style (B.V.I.) Limited (“Living Style”), Whalen, LLC (“Whalen-US”), and Whalen, Ltd. (“Whalen-HK”) (collectively, “Plaintiffs”), bring this action against Defendant, Twin Star International, Inc. (“Twin Star” or “Defendant”), for federal patent infringement. By its Complaint, Plaintiffs seek injunctive relief and monetary damages and allege as follows:

THE PARTIES

1. Plaintiff Living Style is a corporation organized and existing under the laws of the British Virgin Islands, with a principal place of business at Vistra Corporate Services Centre, Wickhams Cay II, Road Town, Tortola VG1110.

2. Plaintiff Whalen-US is corporation organized and existing under the laws of California, with a principal place of business located at 1578 Air Wing Road, San Diego, CA 92154.

3. Plaintiff Whalen-HK is corporation organized and existing under the laws of Hong Kong, China, with a principal place of business located at 6th Floor, LiFung Tower, 888

Cheung Sha Wan Road, Kowloon, Hong Kong 90017.

4. Upon information and belief, Defendant Twin Star is a company organized and existing under the laws of Florida, with a principal place of business located at 1690 S. Congress Avenue, Suite 210, Delray Beach, FL 33445.

JURISDICTION AND VENUE

5. This action arises under the Patent Act, 35 U.S.C. § 1, *et seq.*

6. This Court has original subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendant because it has committed alleged acts of patent infringement within this judicial district. Further, Defendant has a continuous, systematic, and substantial presence within this district, including selling and offering for sale infringing products in this judicial district, and committing acts of infringement in this district, including but not limited to selling infringing products directly to consumers and/or retailers in this district and selling, offering to sell and/or importing into the stream of commerce infringing products knowing such products would be sold in Florida, which acts form a substantial part of the events giving rise to Plaintiffs' claims. Further, Defendant imports, offers to sell and/or sells the accused products to major U.S. retailers, such as Lowes, to purchase, order and/or have shipped the infringing products into Florida. In sum, Defendant, a Florida corporation that is headquartered in Florida, has targeted, made or established contacts within this judicial district sufficient to permit the exercise of personal jurisdiction by this Court over it.

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

BACKGROUND

9. Living Style is an industry leader in the design, manufacture, marketing and sale of a variety of products, including furniture.

10. On August 4, 2020, the United States Patent and Trademark Office (the “PTO”) issued U.S. Patent No. 10,731,810 to Living Style (the “‘810 patent” or the “Asserted Patent”), entitled “Flame Simulating Assembly for Simulated Fireplaces Including a Reflecting Light System.” A true copy of the ‘810 patent is attached hereto as Exhibit 1.

11. Whalen-US designs, develops and sells an array of furniture products. It is a wholly-owned subsidiary of Living Style, which entered into an exclusive license with Whalen-US to market and sell products embodying the ‘810 patent in the United States and Canada.

12. Whalen-HK manufactures, distributes and sells certain simulated fireplace products. It is a wholly-owned subsidiary of Living Style, which entered into an exclusive license with Whalen-HK to manufacture and distribute simulated fireplace products outside of the United States and Canada, and to direct FOB sales of products embodying the ‘810 patent to certain customers in the U.S. that are not served by Whalen-US.

13. Whalen-US and Whalen HK’s product offerings include their line of “Quantum Flame” simulated fireplace inserts, which are marked in compliance with 35 U.S.C. § 287.

14. Twin Star is importing, marketing, distributing and selling fireplace console units identified as the Stanton Electric Fireplace and the Canyon Lake Electric Fireplace (collectively, the “Accused Products”).

15. The Accused Products are flame simulating assemblies that provide a flame effect. They are comprised of a light source, an imaging wall above the light source, a rotating flicker rod disposed in the path of the light source and configured to create fluctuating light on the imaging wall, a simulated fuel bed, and a front reflector situated to simulate a glowing or

burning effect on the fuel bed. As set forth below, the Accused Products infringe, either literally or under the Doctrine of Equivalents, Claims 1–5 of the ‘810 patent.

COUNT I
(Patent Infringement - U.S. Patent No. 10,731,810)

16. The preceding paragraphs are hereby incorporated by reference as if fully set forth herein.

17. Living Style is the owner of all right, title and interest in the ‘810 patent. The ‘810 patent has been in full force and effect since its issuance.

18. Whalen-US is a licensee of simulated fireplace products covered by the ‘810 patent.

19. Whalen-HK is a licensee of simulated fireplace products covered by the ‘810 patent.

20. Twin Star has been, and is now, infringing the ‘810 patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale and/or importing into the United States the Accused Products that infringe at least claim 1 of the ‘810 patent.

21. Independent Claim 1 of the ‘810 patent recites:

A flame simulating assembly for providing a moving effect of flames, the assembly comprising:

a light source;

an imaging wall disposed above the light source;

a rotating flicker rod having a plurality of reflective flicker elements configured and arranged to reflect the light from the light source and create fluctuating light on the imaging wall, the flicker rod being disposed in the path of the light source;

a simulated fuel bed; and

a front reflector,

wherein a portion of the light from the light source intermittently passes through

the plurality of flicker elements on the rotating flicker rod to illuminate the simulated fuel beds and create a glowing or burning effect thereon,

wherein the flicker rod rotates about a central axis and both the light source and at least a first portion of the front reflector are disposed below the central axis of the flicker rod, and

wherein the flicker rod is at least partially disposed between the light source and the front reflector such that said portion of light from the light source that intermittently passes through the plurality of flicker element is reflected off the front reflector to illuminate the simulated fuel bed.

22. The Accused Products meet all of the limitations of at least independent claim 1 of the '810 patent. Stanton Model No. 144648 is exemplary of all the Accused Products. It is a simulated fireplace having features that are recited by at least claim 1 of the '810 patent. Specifically, the Stanton Model No. 144648 is a simulated fireplace that comprises:

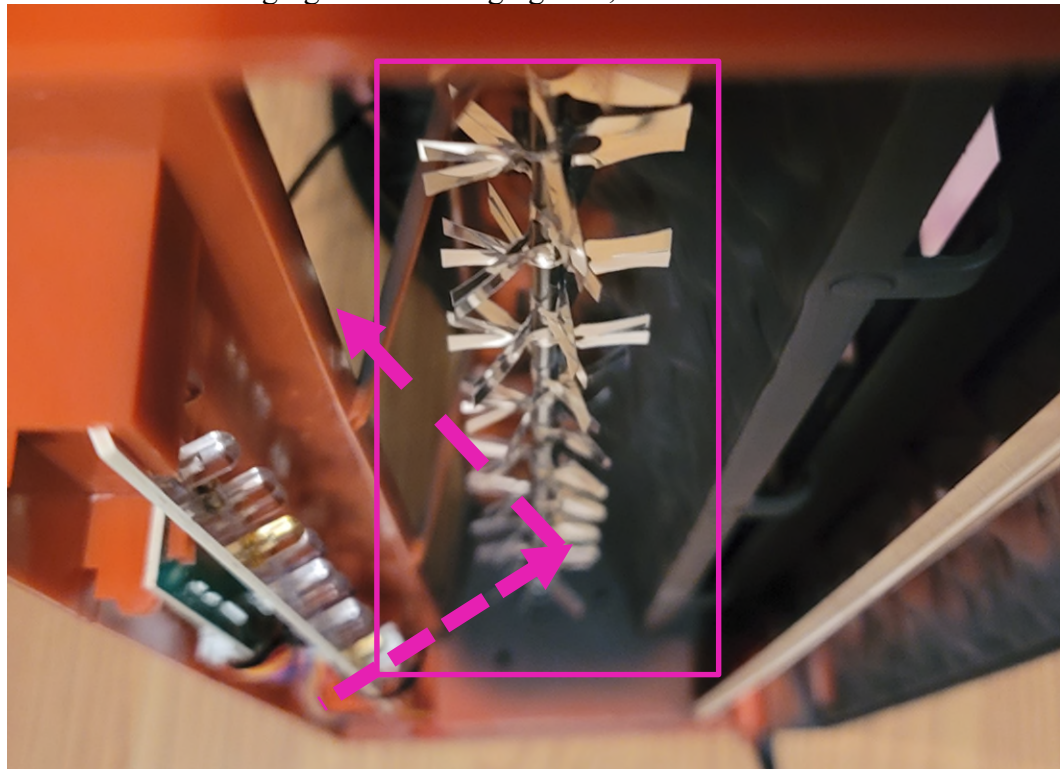
1. A flame simulating assembly for providing a moving effect of flames, the assembly comprising:
 - a. a light source;



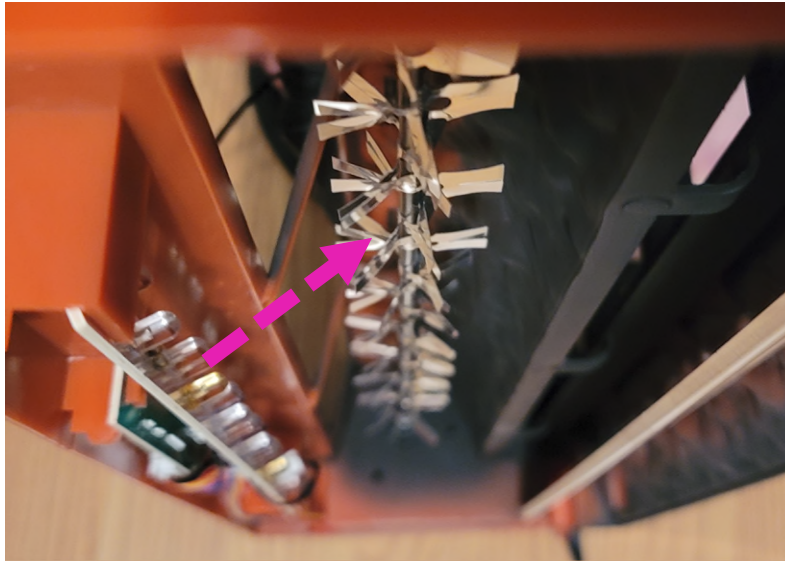
b. an imaging wall disposed above the light source;



c. a rotating flicker rod having a plurality of reflective flicker elements configured and arranged to reflect the light from the light source and create fluctuating light on the imaging wall;



d. the flicker rod being disposed in the path of the light source;

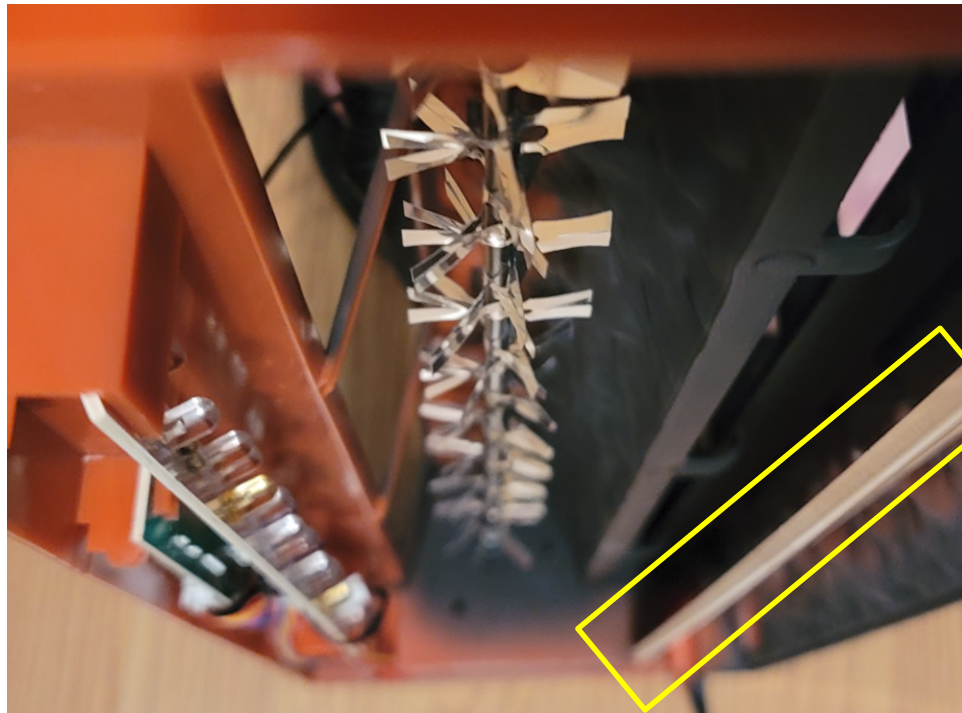


e. a simulated fuel bed;

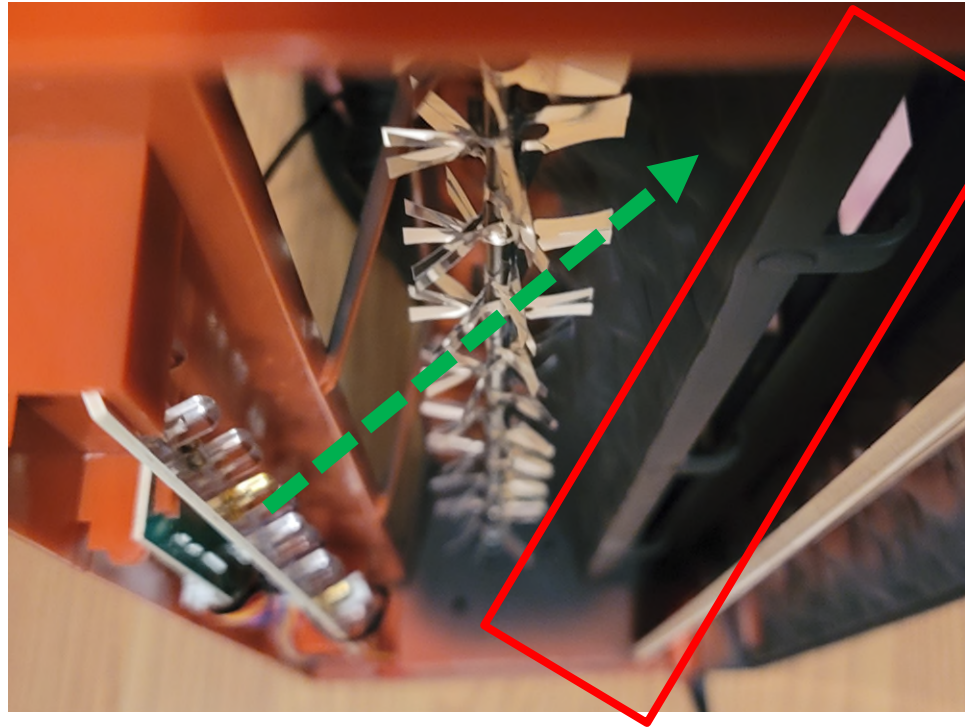




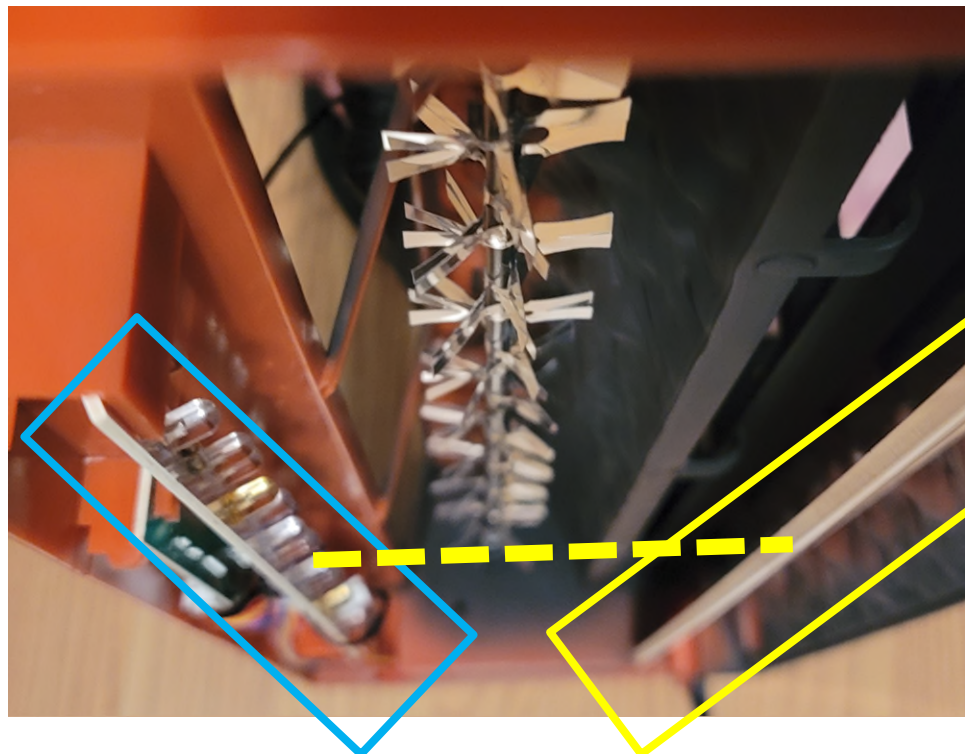
f. a front reflector



g. wherein a portion of the light from the light source intermittently passes through the plurality of flicker elements on the rotating flicker rod to illuminate the simulated fuel beds and create a glowing or burning effect thereon

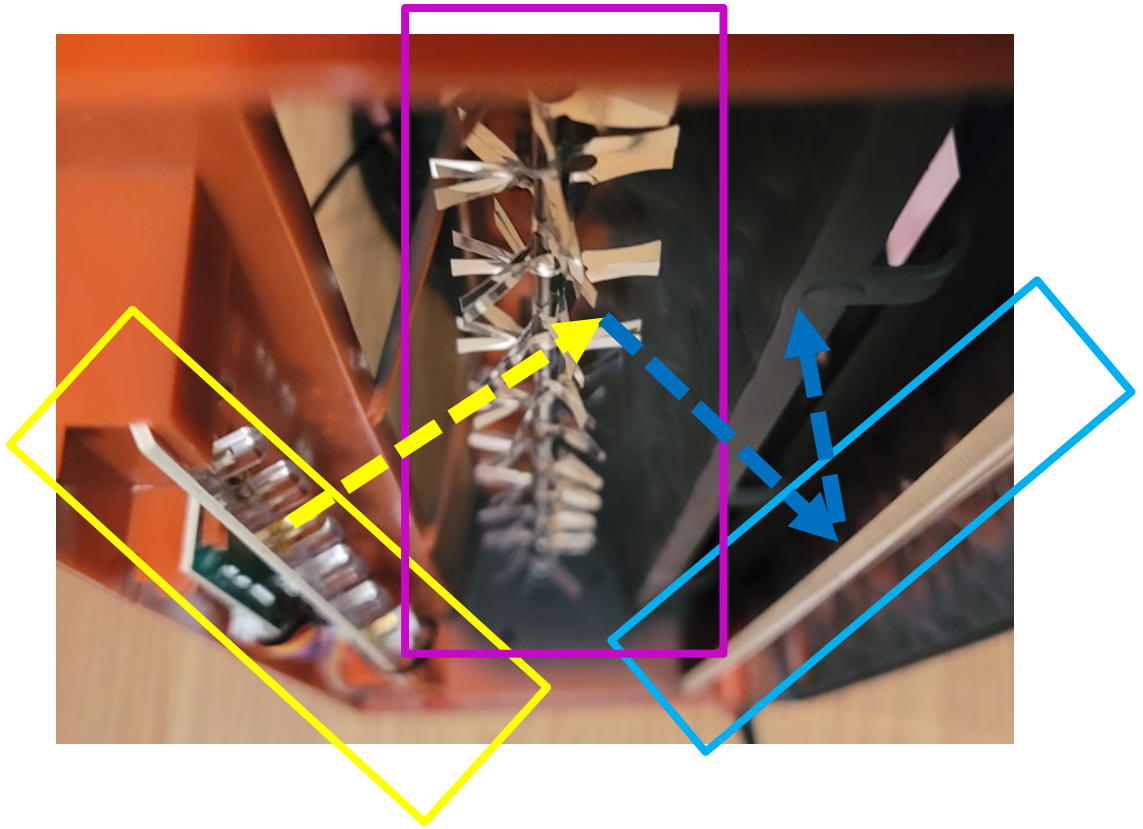


- h. wherein the flicker rod rotates about a central axis and both the light source and at least a first portion of the front reflector are disposed below the central axis of the flicker rod



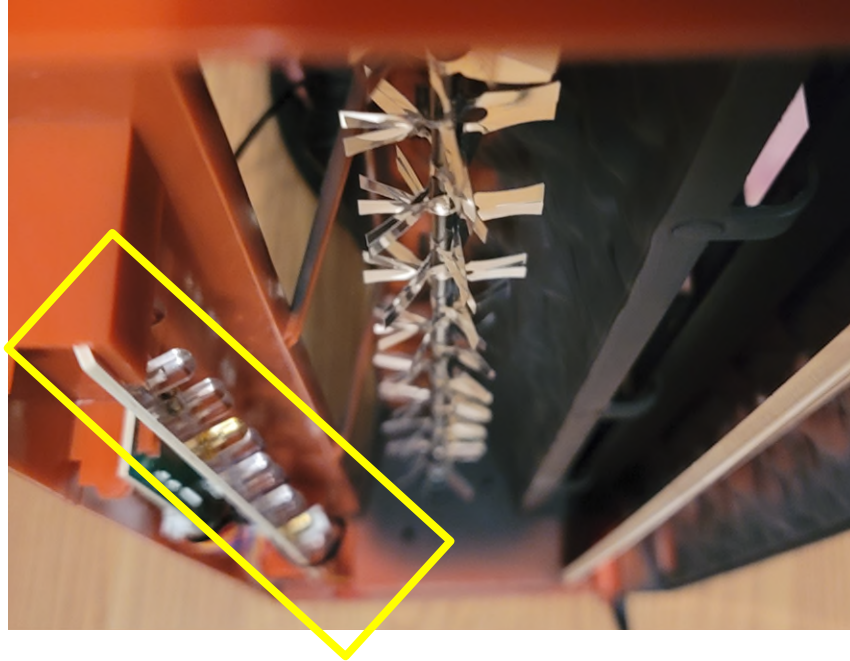
- i. wherein the flicker rod is at least partially disposed between the light source and the front reflector such that said portion of light from the light

source that intermittently passes through the plurality of flicker element is reflected off the front reflector to illuminate the simulated fuel bed



23. Dependent claim 2 of the '810 patent recites: The flame simulating assembly of claim 1, wherein the light source includes a plurality of lights all disposed along an axis parallel to the flicker rod.

24. The Accused Products meet all of the limitations of at least dependent claim 2 of the '810 patent. Stanton Model No. 144648 is exemplary of all the Accused Products. It is a simulated fireplace having features that are recited by at least claim 2 of the '810 patent. Specifically, the Stanton Model No. 144648 is a simulated fireplace that comprises the features as set forth in claim 1 of the '810 patent as alleged and shown in paragraph 22 wherein the light source includes a plurality of lights all disposed along an axis parallel to the flicker rod:



25. Dependent claim 3 of the '810 patent recites: The flame simulating assembly of claim 1, wherein light is reflected off the plurality of flicker elements upwardly toward a flame cut out before illuminating the imaging wall.

26. The Accused Products meet all of the limitations of at least dependent claim 3 of the '810 patent. Stanton Model No. 144648 is exemplary of all the Accused Products. It is a simulated fireplace having features that are recited by at least claim 3 of the '810 patent. Specifically, the Stanton Model No. 144648 is a simulated fireplace that comprises the features as set forth in claim 1 of the '810 patent as alleged and shown in paragraph 22 wherein light is reflected off the plurality of flicker elements upwardly towards a flame cut out before illuminating the imaging wall:



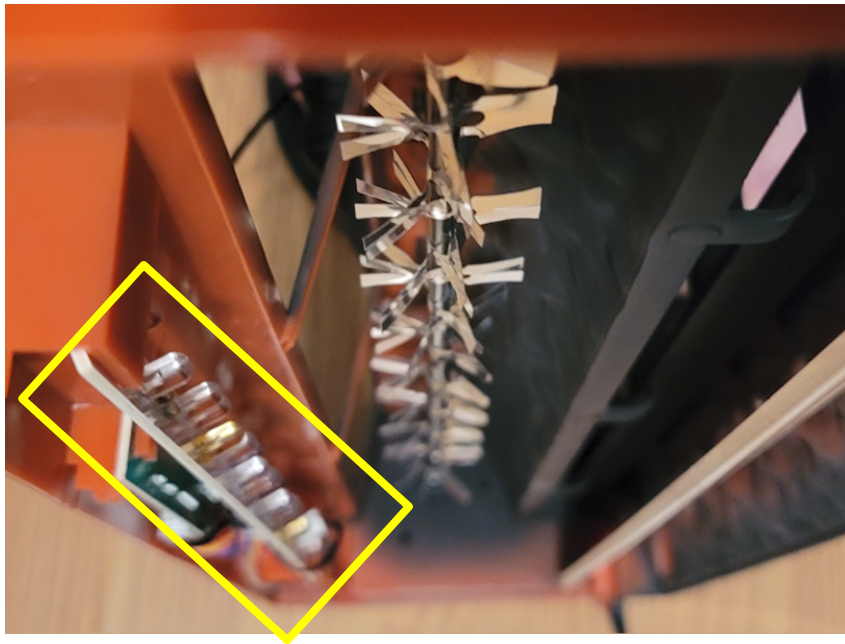
27. Dependent claim 4 of the '810 patent recites: The flame simulating assembly of claim 1, wherein the plurality of flicker elements comprises a plurality of varied shape flicker elements disposed on a central rotating axis.

28. The Accused Products meet all of the limitations of at least dependent claim 4 of the '810 patent. Stanton Model No. 144648 is exemplary of all the Accused Products. It is a simulated fireplace having features that are recited by at least claim 4 of the '810 patent. Specifically, the Stanton Model No. 144648 is a simulated fireplace that comprises the features as set forth in claim 1 of the '810 patent as alleged and shown in paragraph 22 wherein the plurality of flicker elements comprises a plurality of varied shape flicker elements disposed on a central rotating axis:



29. Dependent claim 5 of the '810 patent recites: The flame simulating assembly of claim 1, wherein light source consists of a horizontal array of LED lights.

30. The Accused Products meet all of the limitations of at least dependent claim 5 of the '810 patent. Stanton Model No. 144648 is exemplary of all the Accused Products. It is a simulated fireplace having features that are recited by at least claim 5 of the '810 patent. Specifically, the Stanton Model No. 144648 is a simulated fireplace that comprises the features as set forth in claim 1 of the '810 patent as alleged and shown in paragraph 22 wherein light source consists of a horizontal array of LED lights:



31. Twin Star will continue to harm Plaintiffs by its infringing conduct that, among other things, improperly competes with Plaintiffs' line of "Quantum Flame" simulated fireplace inserts.

32. Twin Star's infringing conduct in violation of 35 U.S.C. § 271(a) will continue, resulting in continuing irreparable harm to Plaintiffs, unless enjoined by the Court.

33. Such continuing infringement with knowledge provided at least by this Complaint is willful.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request this Court to:

A. Issue a temporary restraining order enjoining Defendant (including its officers, directors, employees, agents, and all persons acting in concert with them) from infringing the Asserted Patent;

B. Issue a preliminary injunction enjoining Defendant (including its officers, directors, employees, agents, and all persons acting in concert with them) from infringing the Asserted Patent;

C. Issue a permanent injunction enjoining Defendant (including its officers, directors, employees, agents, and all persons acting in concert with them) from inducing others to infringe, or contributing to the infringement of the Asserted Patent;

D. Enter judgment in favor of Plaintiffs and against Defendant on Count I of the Complaint;

E. Order that Defendant pay to Plaintiffs damages for Defendant's infringement of the Asserted Patent under 35 U.S.C. § 284 in an amount sufficient to compensate Plaintiffs, including but not limited to, damages in no event less than a reasonable royalty;

F. Award treble damages in accordance with 35 U.S.C. § 284;

G. Declare this case exceptional under 35 U.S.C. § 285 and award Plaintiffs their reasonable attorneys' fees and expenses;

H. Order Defendant to pay Plaintiffs' costs, pre-judgment interest and post-judgment interest; and

I. Grant other such relief that the Court deems appropriate.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable in this action.

Dated: March 3, 2022

Respectfully submitted,

LIVING STYLE (B.V.I) LIMITED,
WHALEN, LLC, AND WHALEN, LTD.

By their Attorneys,

/s/ Joseph W. Bain

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