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10 *Attorneys for Plaintiff Urban Dollz LLC*
11 *d/b/a Urban Doll*

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

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16 Urban Dollz LLC d/b/a Urban Doll, a
17 California corporation,

18 *Plaintiff,*

19 vs.

20 Lashify, Inc., a Delaware corporation,
and Sahara Lotti, an individual,

21 *Defendants.*
22

Case No. 2:23-cv-1427

**COMPLAINT FOR FALSE
ADVERTISING UNDER THE
LANHAM ACT (15 U.S.C. § 1121 ET
SEQ.); FALSE PATENT MARKING
UNDER THE PATENT ACT (35 U.S.C.
§ 292)**

DEMAND FOR JURY TRIAL

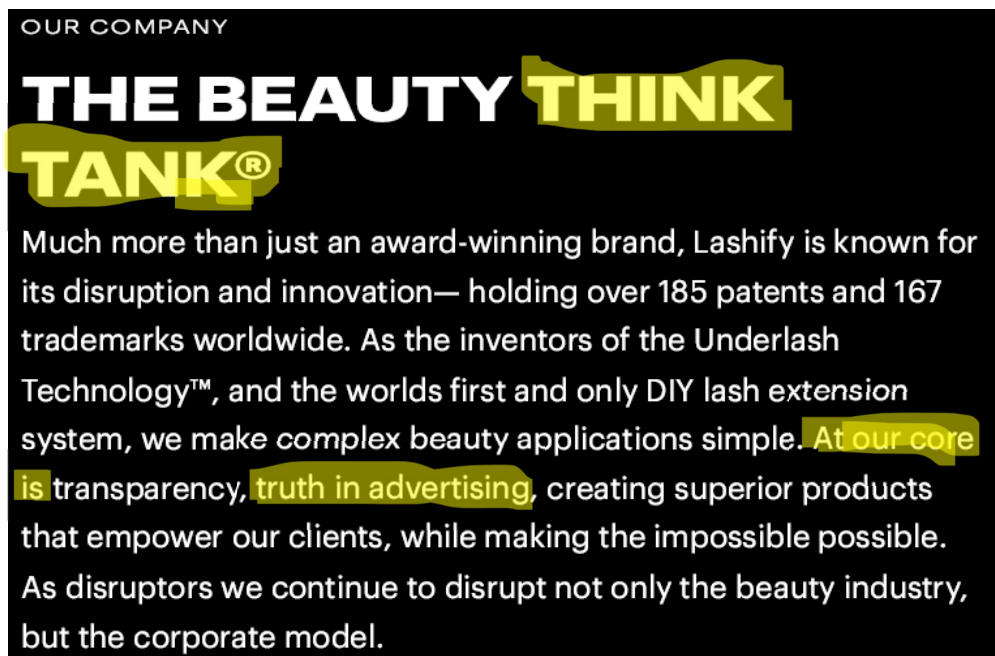
1 Plaintiff Urban Dollz LLC d/b/a Urban Doll (“Plaintiff” or “Urban Doll”)
2 hereby brings this Complaint for false advertising and false patent marking against
3 Lashify, Inc. (“Lashify”) and Sahara Lotti (“Lotti”) (collectively “Defendants”):

4 **NATURE OF THE ACTION**

5 1. As Lashify and its founder, Sahara Lotti, know and announced in a public
6 post on May 12, 2020, “falsely claiming patents or patents pending is illegal and false
7 marketing.” *See* Declaration of Sima Mosbacher in Support of Complaint
8 (“Mosbacher Dec.”), Ex. A at 1.

9 2. Yet, for years, Lashify and Lotti, who have built their entire business and
10 professional reputation on the concepts of invention and innovation, have been falsely
11 claiming that their products are “patented,” unlawfully harassing lawful competitors
12 as infringers and “copycats,” and using false representations about intellectual
13 property to prevent lawful competitors from entering the market for lashes and other
14 cosmetics products.

15 3. Lashify and Lotti have positioned themselves as a “think tank” that holds
16 “truth in advertising” at the company’s “core.”



1 Declaration of Thomas Martin in Support of Complaint (“Martin Decl.”), Ex. A at 19
2 (highlighting added).

3 4. Yet, Lashify and Lotti have persisted in making prominent false and
4 unsubstantiated objective and quantifiable claims about key elements of their
5 products.

6 5. Despite their representations and marketing, rather than employing true
7 innovation and truthful advertising, Lashify and Lotti have instead attempted to bully
8 others out of lawful market entry through the court system. These efforts—
9 constituting unlawful false advertising and false patent marking—are harmful to
10 Urban Doll, consumers, and the market at large, and must be stopped.

11 **PARTIES**

12 6. Plaintiff Urban Doll is a California Limited Liability Company with its
13 principal place of business at 601 W. 5th Street, Suite 1100, Los Angeles, California
14 90071.

15 7. Upon information and belief, Defendant Lashify is a corporation
16 organized under the laws of Delaware with its principal place of business at 11437
17 Chandler Boulevard, North Hollywood, CA 91601.

18 8. Upon information and belief, Defendant Lotti is an individual residing in
19 the state of California and within this judicial district at 1893 Sunset Plaza Drive, Los
20 Angeles, CA 90069.

21 **JURISDICTION AND VENUE**

22 9. This Court has subject matter jurisdiction as this Complaint arises under
23 the Lanham Act, including under 15 U.S.C. § 1121 and 1125, and under the Patent
24 Act of the United States, including 35 U.S.C. § 292.

25 10. This Court has general personal jurisdiction over Defendants, who
26 regularly do business in the State of California and in this District, and as to Defendant
27 Lashify, because, on information and belief, Lashify has its principal place of business
28 as well as other facilities in the State of California and in this District, and as to

1 Defendant Lotti because, on information and belief, she controls the operations of
2 Defendant Lashify in and from California and this District, and she resides in the State
3 of California and in this District.

4 11. Venue is proper in this district under 28 U.S.C. § 1391(b) and 15 U.S.C.
5 §§ 15 and 26.

6 **ALLEGATIONS**

7 **Lashify and Lotti’s Claims of Alleged “Inventorship”**

8 12. Lashify and Lotti have, for years, traded on the reputation of being
9 innovators, inventors, and as sophisticated, experienced participants in the invention
10 and patenting process.

11 13. Like Urban Doll, Lashify and Lotti rely heavily on social media, as well
12 as their website, to market and promote their products and to engage with consumers
13 and potential consumers of eyelash products.

14 14. After referring to Lotti on Lashify’s website as “the leading innovator
15 worldwide when it comes to lash technology,” Lashify provides a link to an entire
16 web page dedicated to “Intellectual Property”:

**THE LASH QUEEN,
SAHARA LOTTI**

Humble, brilliant and hilarious. These are the three most commonly used adjectives to describe our founder. In a world where CEO's are faceless, nameless even, Sahara is synonymous with Lashify and the DNA is intertwined. Lotti is unabashed and unapologetic, just like the system she created. Before Lashify, there was nothing in the market other than human hair strips, extensions, and little tiny clusters. She knew what she wanted. She knew what she needed. And it just didn't exist. So, she went on to make it. Turns out, the world wanted it just as badly.

The revolutionary Gossamer® lash, Fuse Control® Wand, Whisper Light® and Bondage® bonds, the Gossamer cartridge and Underlash Technology™ were all invented by Lotti. Many even questioned if "one woman" truly invented all this. She did. Each piece was engineered, designed and formulated by Sahara herself. Lucky for us, Lotti sees holes in a marketplace and seeks to fill them via innovation. Lashify is the owner of over 175 patents worldwide with Lotti named as the sole inventor. Sahara Lotti is currently the leading innovator worldwide when it comes to lash technology.

INTELLECTUAL PROPERTY

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1 Martin Decl., Ex. A at 20; *id.* at 9 (highlighting added).

2 15. Elsewhere on Lashify’s website, Lashify characterizes itself and Lotti as
3 “THE MOTHER OF INVENTION” while claiming that their alleged “ingenuity” has

4 **THE MOTHER OF INVENTION**

5
6 It’s ingenuity has garnered Lashify die-hard, loyal fans—“Lashifiends”—ranging from young and old, from ex-strip wearers or extension
7 converts, to celebrity MUA’s and celebrity themselves.

8 “garnered Lashify die-hard, loyal fans”:

9 Martin Decl., Ex. A at 78.

10 16. Lashify has represented that its purported intellectual property portfolio,
11 with Lotti as the inventor thereof, is “a testament to . . . the strength of its brand.” *See*
12 *Lashify, Inc. v. Urban Dollz LLC et al.*, Case No. 2:22-cv-06148 (“*Urban Doll*”), ECF
13 No. 24 at ¶ 23 (C.D. Cal. Sept. 23, 2022).

14 17. Lashify has represented that its purported “innovation” and history of
15 patenting its purported technology are central to its marketing and success, citing
16 customer comments that the “Lashify system” is “the best invention since sliced
17 bread,” *see Urban Doll*, ECF No. 24 at ¶ 17, and noting that Lashify is a “market
18 leader” “as a result of Ms. Lotti’s . . . ingenuity.” *See Urban Doll*, ECF No. 24 at ¶ 23.

19 18. On Lashify’s website and in Lotti’s social media posts, they claim to have
20 invented such things as “the first DIY lash extension” and “Underlash Technology”:

21 **The Lashify system: aka the first DIY lash extension.**
22 **The Gossamer® lash. The Fuse Control® Wand.**
23 **The Underlash Technology™.**
24 **The cartridges. The methods.**
25 **The bonding techniques.**
26 **The patterns.**
27 **We did that.**

28 Martin Decl., Ex. A at 9 (highlighting added).

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1,818 Posts 1M Followers 404 Following

Lashify®

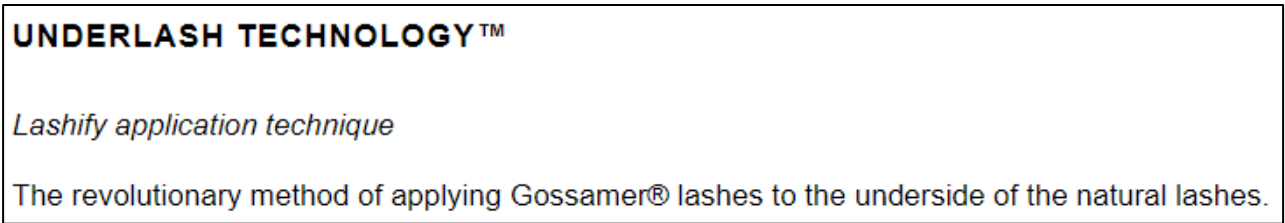
Brand · Women-owned + 2 more

Mascara? Who me? Try @lashify's award-winning Underlash Technology™

- 185+ Global Patents
- **Inventor of DIY Lash Extensions**
- Follow to Learn Methods

Mosbacher Decl., Ex. B at 2 (highlighting added).

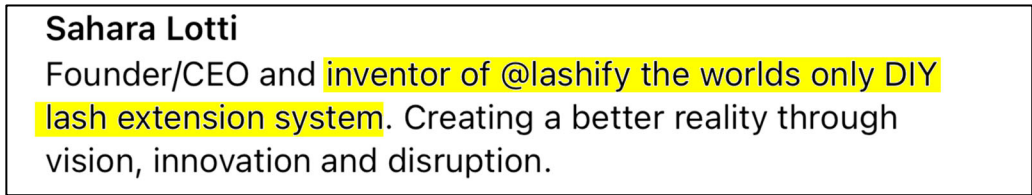
19. Lashify’s website defines “Underlash Technology” as an “application technique” that it refers to as “[t]he revolutionary method of applying Gossamer lashes to the underside of the natural lashes.”



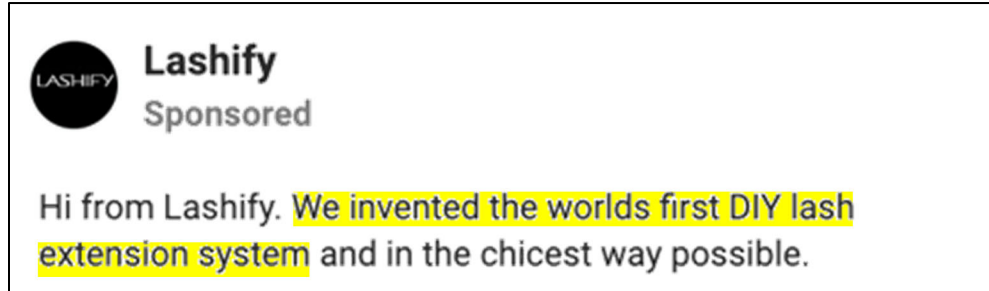
Martin Decl., Ex. A at 7.

20. Upon information and belief, Lotti is the administrator of Lashify’s website and/or controls or directs administration of the content of Lashify’s website.

21. Lashify and Lotti even claim to be the inventor of the “*worlds [sic] only*” and the “*worlds [sic] first* DIY lash extension system.”



Mosbacher Decl., Ex. B at 1 (highlighting added).



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Mosbacher Decl., Ex. D at 1 (highlighting added).

22. Lashify and Lotti also have aggressively pursued litigation asserting their reputation as innovators and inventors.

23. For example, in lawsuits that Lashify has instituted, it represented that Lotti “invented the most natural-looking false lash system in the industry.” See *Certain Artificial Eyelash Extension Systems, Products, & Components Thereof*, ITC Investigation No. 337-TA-1226 (“1226 Investigation”), Complaint at 1 (Sept. 9, 2020) (EDIS Doc ID 719222); *Lashify, Inc. v. Kiss Nail Products, Inc.*, Case No. 1:20-cv-10023 (“*Kiss*”), ECF No. 1 at ¶ 9 (D. N.J. Aug. 5, 2020); *Lashify, Inc. v. Zeng et al.*, Case No. 3:20-cv-06086 (“*Zeng*”), ECF No. 1 at ¶ 11 (N.D. Cal. Aug. 28, 2020); *Lashify, Inc. v. Qingdao LashBeauty Cosmetic Co., Ltd. d/b/a Worldbeauty*, Case No. 6:22-cv-0077 (“*LashBeauty*”), ECF No. 1 at ¶ 29 (W.D. Tex. Jul. 12, 2022); *Lashify, Inc. v. Qingdao Hollyren Cosmetics Co., Ltd. d/b/a Hollyren*, Case No. 6:22-cv-00777 (“*Hollyren*”), ECF No. 1 at ¶ 34 (W.D. Tex. Jul. 12, 2022); *Lashify, Inc. v. Urban Dollz LLC et al.*, Case No. 2:22-cv-06148 (“*Urban Doll*”), ECF No. 1 at ¶ 16 (C.D. Cal. Aug. 29, 2022).

24. Lashify and Lotti's inventorship claims are objective, quantifiable, and demonstrably false.

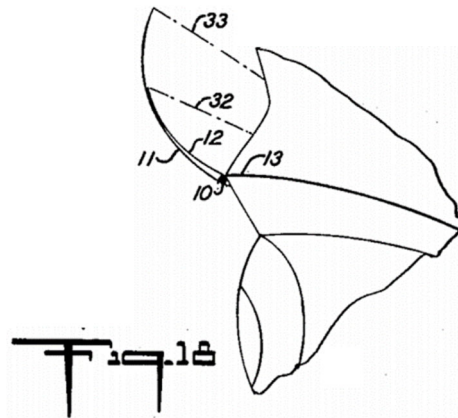
25. For example, neither Lashify nor Lotti invented DIY lash extensions.

26. Do-it-yourself (“DIY”) artificial eyelashes have been known since at least the 1930s.

1 27. On November 17, 1931, Marjorie A. Birk received a patent for a
2 technique that allowed artificial eyelashes to be “easily and successfully applied to
3 the eyelashes *by the owner* of the latter, and, hence, *the expense and time necessary*
4 *in having them applied by a professional expert is avoided.*” U.S. Patent No.
5 1,831,801 to Birk at 78-84 (emphasis added).

6 28. Ms. Birk’s patent also discloses a technique for applying artificial
7 eyelashes to the “underside” of one’s natural eyelashes using an adhesive. *See* U.S.
8 Patent No. 1,831,801 to Birk at 62-73.

9 29. Another legitimate, prior inventor—Inga B. Meehan—obtained a patent
10 in 1962 that discloses the application of artificial eyelashes “beneath the upper
11 eyelid.”



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18 U.S. Patent No. 3,032,042 to Meehan at 4:38-47; Fig. 18.

19 30. Other patents from the same period before Lashify’s existence disclose a
20 similar technique for applying artificial eyelashes to the underside of one’s natural
21 lashes. *See, e.g.*, U.S. Patent No. 3,833,007 to Jacobs at 3:40-45.

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23 31. Thus, neither Lashify nor Lotti invented the application of artificial
24 eyelashes underneath one’s natural lashes; or as Lashify refers to it “Underlash
25 Technology.” *See* Martin Decl., Ex. A at 7.

26 32. To be sure, other at-home DIY’ers were publicly demonstrating on
27 YouTube how to apply artificial eyelashes “underneath” their own natural eyelashes
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1 at least as early as 2010—several years before Lashify and Lotti claim to have
2 invented the first DIY lash extension.



13 <https://www.youtube.com/watch?v=9X84CUIWqgo> at 2:45-7:00 (Apr. 5, 2010); *see*
14 *also* Martin Decl. at ¶ 3.

15 33. Bloggers were publicly demonstrating how to apply artificial eyelashes
16 “underneath” their own natural eyelashes at least as early as 2011—also several years
17 before Lashify and Lotti claim to have invented the first DIY lash extension.



26 Martin Decl., Ex. B at 4; *see also id.* at ¶ 5.

27 34. Various YouTube personalities continued publicly demonstrating how to
28 apply artificial eyelashes underneath their own natural eyelashes in the years

1 preceding Lashify and Lotti’s alleged invention of “DIY lash extensions” and
2 “Underlash Technology”:



12 <https://www.youtube.com/watch?v=faKvACCAvNU> at 2:32-2:55 (Feb. 12, 2014) ;
13 *see also* Martin Decl. at ¶ 6.



25 <https://www.youtube.com/watch?v=comq0clt56o> at 7:39-11:00 (Feb. 24, 2015); *see*
26 *also* Martin Decl. at ¶ 7.

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<https://www.youtube.com/watch?v=AhJyTcClaMs> at 4:30-4:40, 11:40-15:30 (Mar. 22, 2015); *see also* Martin Decl. at ¶ 8.

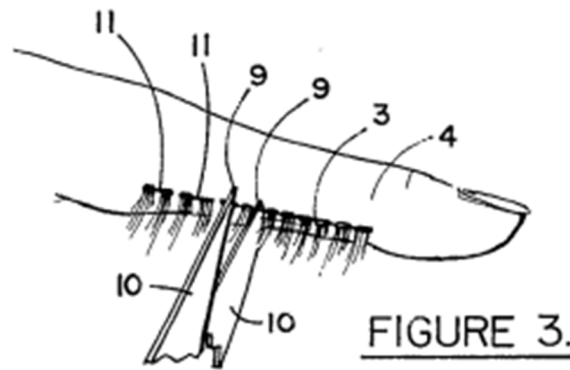
35. Prior to Lashify’s alleged inventions, some of these same at-home DIY’ers were either cutting strip lashes into sections, or lash segments, or using pre-manufactured lash segments so they would be “easier to apply” and to provide a more natural look.



Martin Decl., Ex. B at 2; <https://www.youtube.com/watch?v=faKvACCAvNU> at 5:13-5:19; *see also* Martin Decl. at ¶ 5.

1 36. The concept of cutting strip lashes into lash segments has been around
2 since at least the 1970s.

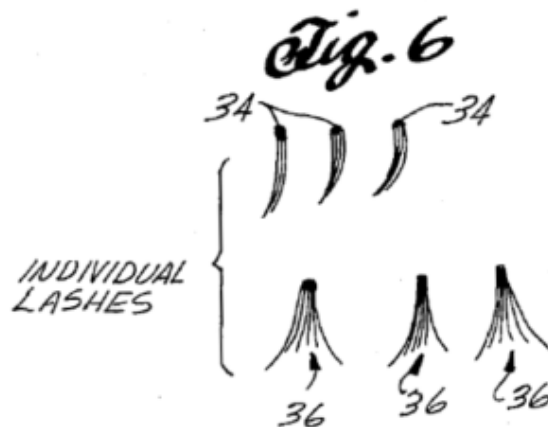
3 37. On August 19, 1975, George Masters obtained a patent that discloses how
4 to cut a strip lash into lash segments to create “a more beautiful, natural looking
5 appearance.”



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12 U.S. Patent No. 3,900,038 to Masters at 2:5-13; *id.* at Fig. 3.

13 38. Lash segments continued to be disclosed in patents into the 1980s for the
14 purpose of overcoming the weight of strip lashes.

15 39. On November 10, 1981, Sunjeen Choe received a patent that disclosed a
16 method of heat fusing individual lashes together to form lash segments with a base
17 that was less bulky than a knotted base:
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26 U.S. Patent No. 4,299,242 to Choe at 1:41-59, 2:3-11, 3:65-75; *id.* at Fig. 6.

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1 40. Incredibly, Lotti has claimed on social media that “[a]ll the other copycats
2 in litigation were unable to find ANYTHING in the world that was remotely close to
3 the Lashify system.... ZERO. ZILCH.” Martin Decl., Ex. C at 2.

4 41. This claim is false.

5 42. Not only are all the foregoing patents, blog posts, and YouTube videos
6 publicly available, they were specifically identified to Lashify at least as early as
7 March 29, 2021, during Lashify’s litigation at the ITC. *See, e.g.*, 1226 Investigation,
8 Respondents KISS Nail Products, Inc., Ulta Salon, Cosmetics & Fragrance, Inc.,
9 Walmart, Inc., and CVS Pharmacy, Inc.’s Notice of Prior Art at 1, 12 (Mar. 29, 2021)
10 (EDIS Doc ID 738266).

11 43. Yet, when it comes to Lotti’s claim that she “protected every element of
12 the worlds [sic] only DIY lash extension system” on the current version of Lashify’s
13 website, Lotti claims that “ignorance is no excuse.” Martin Decl., Ex. A at 20.

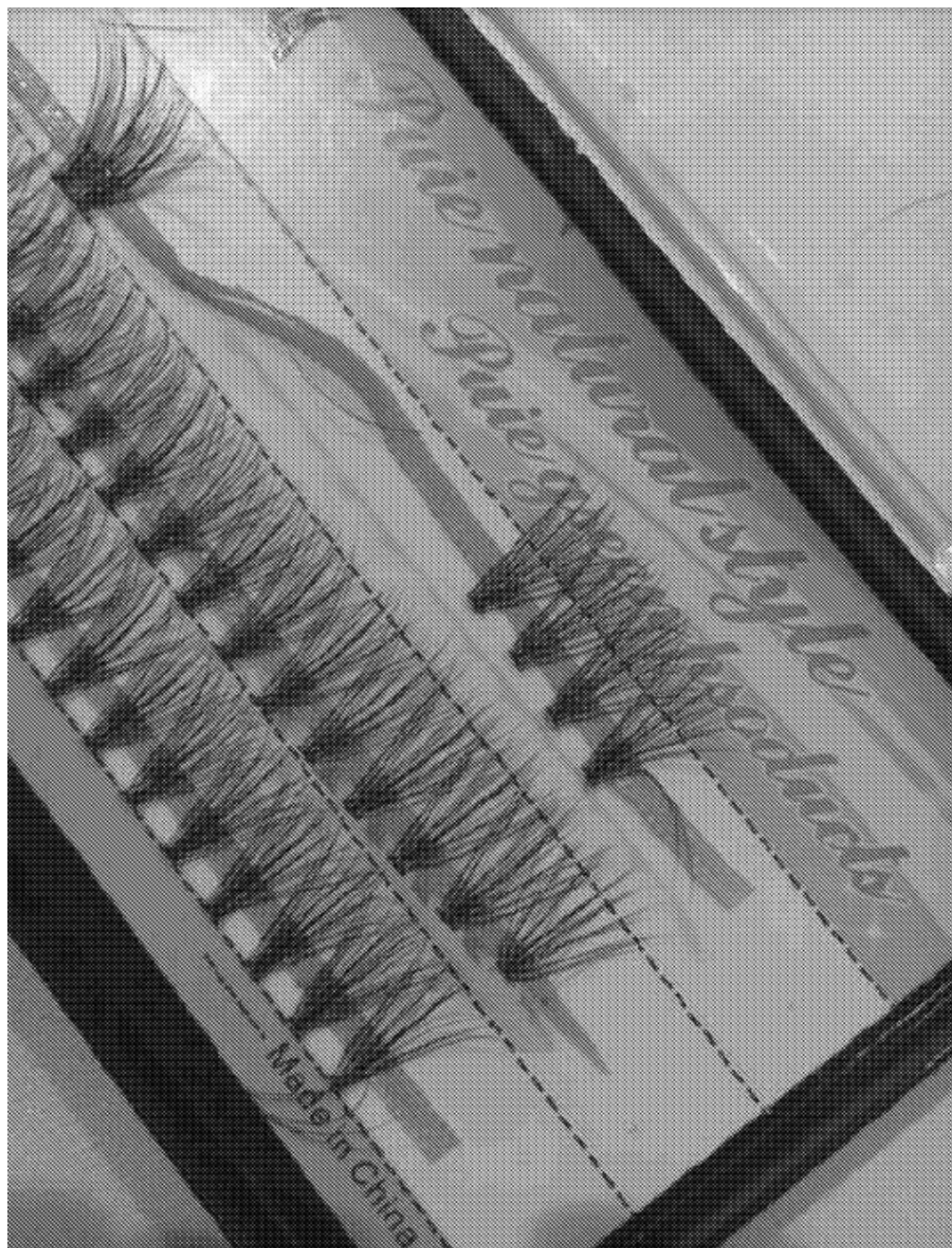
14 44. Lashify and Lotti also know that they did not invent what is claimed in
15 certain of their patents.

16 45. For example, Claim 1 of U.S. Patent No. 11,219,260 to Lotti (the “’260
17 Patent”) recites the following:

- 18 1. An artificial lash extension system comprising:
19 a plurality of lash extensions, each of the plurality of lash
20 extensions comprising:
21 a plurality of clusters of artificial hairs, each of the
22 plurality of clusters comprising at least two artificial
23 hairs; and
24 a base, wherein the plurality of clusters are attached to
25 the base by at least an application of heat, wherein
26 the at least two artificial hairs of each of the plurality
27 of clusters protrude from the base, wherein at least
28 some of the artificial hairs of at least one of the
 plurality of clusters are coupled to one another at a
 respective part of the base, and wherein the base is
 designed to at least attach the lash extension to an
 underside of natural lashes.

1 Martin Decl., Ex. D at 9:5-19.

2 46. A prior art artificial eyelash (hereinafter “PUIE”) that satisfies each and
3 every one of these claim limitations is depicted on the cover of the provisional patent
4 application to which the ’260 Patent claims priority:

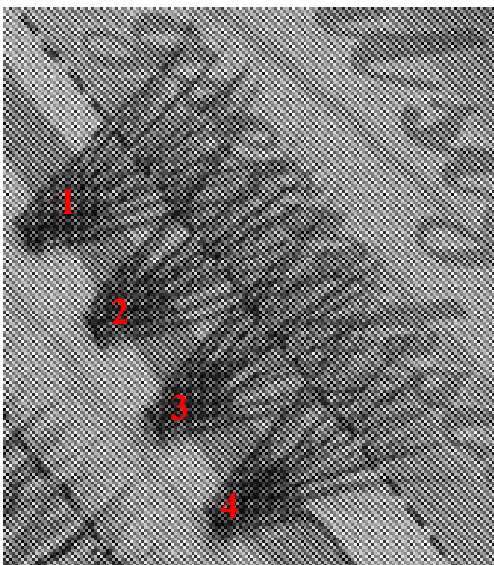


26 Martin Decl., Ex. E at 12; *see also* 1226 Investigation, Motion for Summary
27 Determination of No Lack of Written Description or Enablement, and Entitlement to
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1 Provisional Application Priority Date, by Complainant Lashify, Inc. (“Lashify
2 MSD”) at 16 (May 11, 2021) (EDIS Doc ID 742745) (“The Puie Lash is shown in
3 Figure 1 of the provisional application...”); 1226 Investigation, Trial Transcript at
4 407:11-20 (Jul. 14, 2021) (EDIS Doc ID 746931) (Lashify’s technical expert
5 confirming his testimony that “Ms. Lotti used PUIE to make her first embodiments
6 of the claimed invention.”).

7 47. Lotti purchased the PUIE eyelashes from Amazon.com before filing the
8 provisional patent application to which the ’260 Patent claims priority. *See, e.g.*, 1226
9 Investigation, Trial Transcript at 407:11-20 (Lashify’s technical expert confirming
10 his testimony that “Ms. Lotti actually bought hot melt PUIE eyelash clusters from
11 Amazon before the ’984 patent was filed.”).

12 48. The PUIE eyelashes comprise “a plurality of lash extensions,” as recited
13 in Claim 1 of the ’260 Patent:

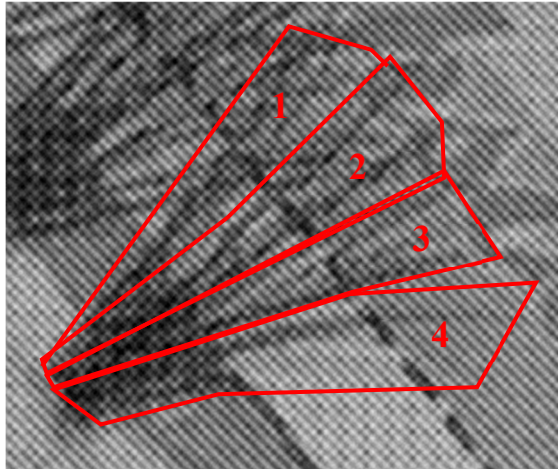


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23 49. Martin Decl., Ex. E at 12 (cropped; annotations added).

24 50. Each of the “plurality of lash extensions” of the PUIE eyelashes
25 comprises “a plurality of clusters,” each of which need only comprise “at least two
26 artificial hairs,” as recited in Claim 1 of the ’260 Patent:

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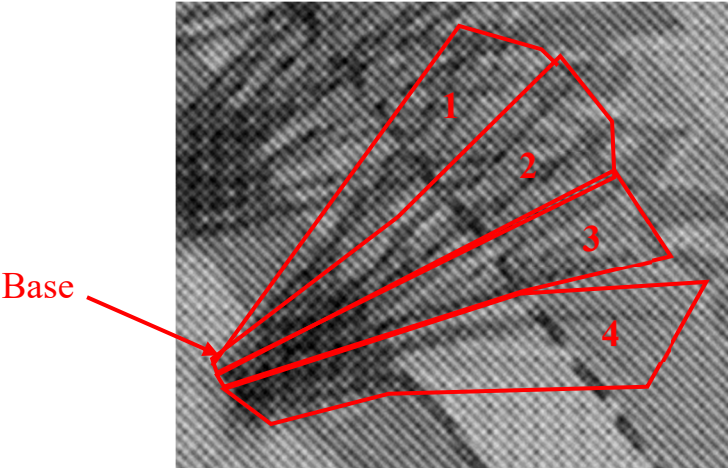
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Martin Decl., Ex. E at 12 (cropped; annotations added).

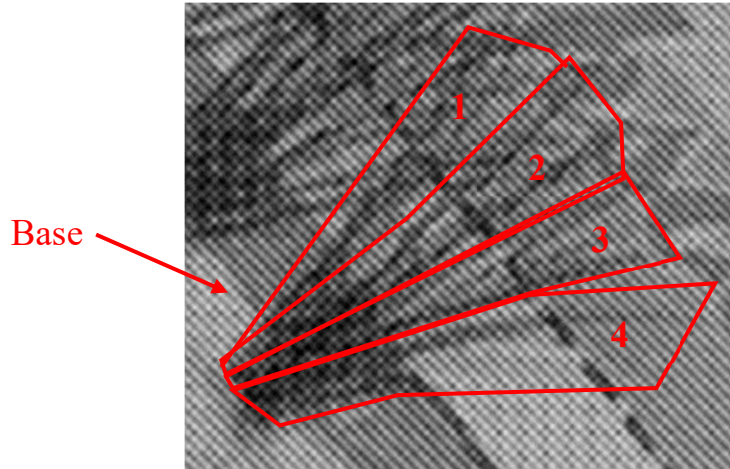
51. Each of the “plurality of clusters” of the PUIE eyelashes is “attached to the base by at least an application of heat,” consistent with what Lashify explained to the ITC in the 1226 Investigation. *See* 1226 Investigation, Lashify MSD at 17 (“[T]he Puie Lash is ... heat fused at the base.”); *id.* at 18 (“[T]he fibers of the Puie Lash have roots that are embedded in the heat fused base of the cluster.”); *id.* (“[T]he fibers of the Puie Lash were heated at the ends....”).

52. Each of the “plurality of clusters” of the PUIE eyelashes comprises “at least two artificial hairs [that] protrude from the base,” as recited in Claim 1 of the ’260 Patent:



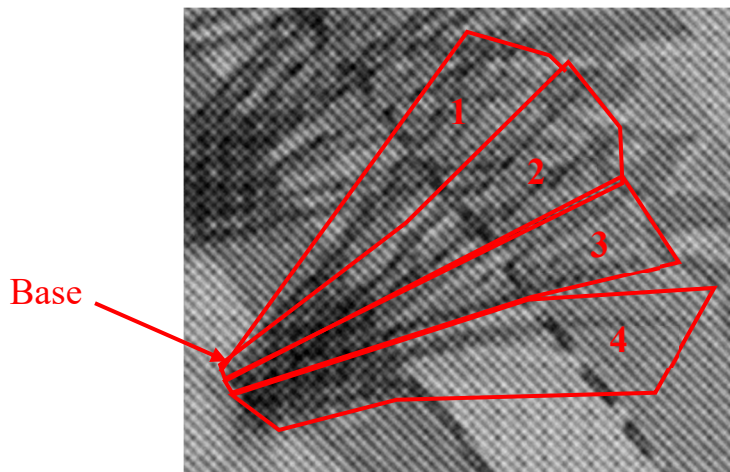
Martin Decl., Ex. E at 12 (cropped; annotations added).

1 53. “[A]t least some of the artificial hairs of at least one of the plurality of
2 clusters” of the PUIE eyelashes “are coupled to one another at a respective part of the
3 base,” as recited in Claim 1 of the ’260 Patent:



11 Martin Decl., Ex. E at 12 (cropped; annotations added); *see also* 1226 Investigation,
12 Lashify MSD at 17 (“[T]he Puie Lash is ... heat fused at the base.”); *id.* at 18 (“[T]he
13 fibers of the Puie Lash have roots that are embedded in the heat fused base of the
14 cluster.”); *id.* (“[T]he fibers of the Puie Lash were heated at the ends....”).

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16 54. And the “base” of the PUIE eyelashes are designed to at least attach the
17 lash extension to an underside of natural lashes,” as recited in Claim 1 of the ’260
18 Patent.



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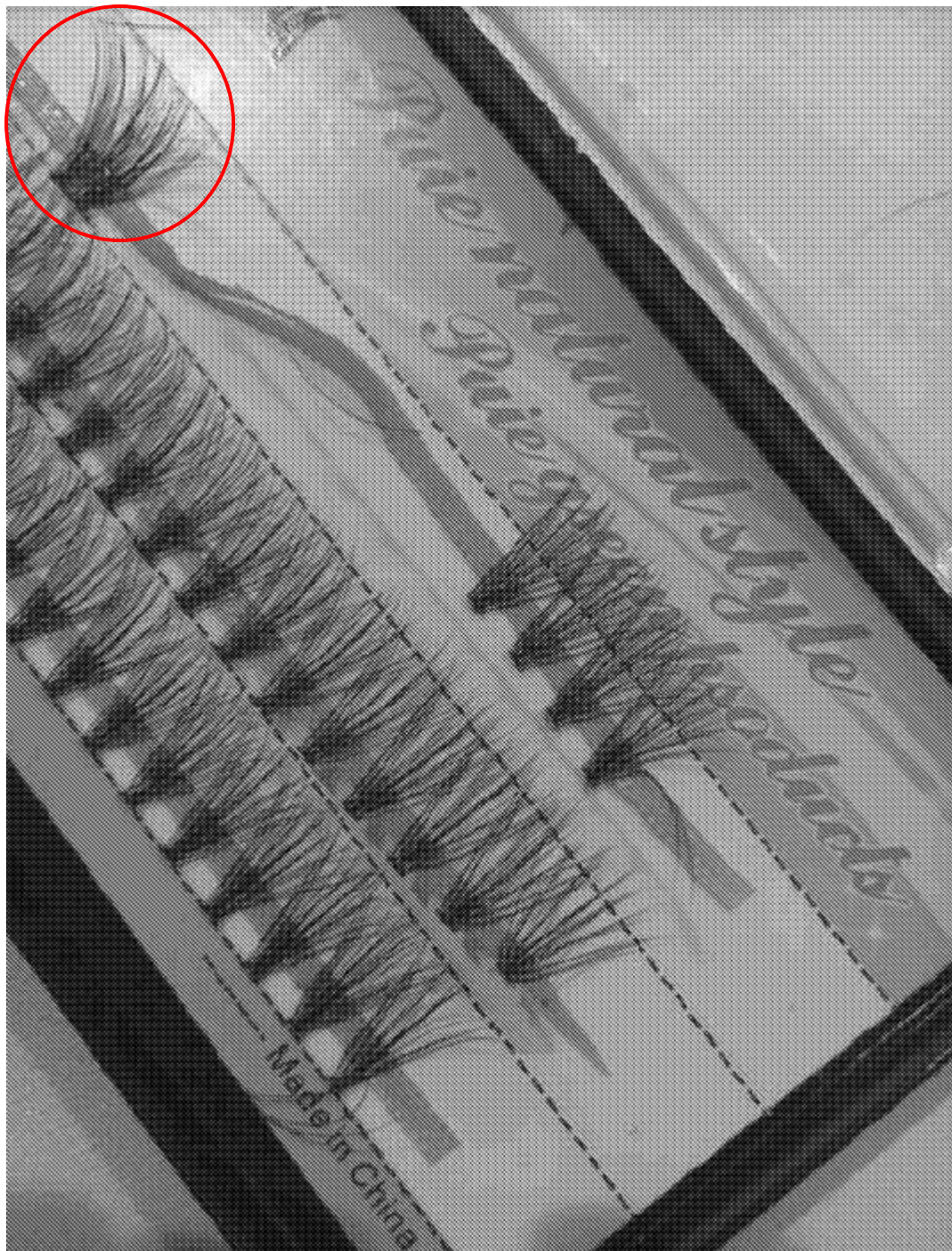
55. To be sure, Lotti posted a video on Instagram depicting PUIE eyelashes and proclaiming that “what you see here is ... the worlds [sic] first underlash aka Gossamer lashes I made using PBT and my iron.”



Martin Decl., Ex. F at 2; Martin Decl. at ¶ 13; *see also* 1226 Investigation, Trial Transcript at 407:11-20 (Lashify’s technical expert confirming his testimony that “I understand that the PUIE product was made from PBT, and Ms. Lotti used PUIE to make her first embodiments of the claimed invention.”).

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56. Upon information and belief, one of the eyelash extensions depicted in the image in the preceding paragraph also is depicted in Figure 1 of the provisional patent application to which the '260 Patent claims priority:



Martin Decl., Ex. E at 12 (annotation added).

1 57. Thus, Lashify and Lotti know, and have known, they did not invent the
2 subject matter of at least Claim 1 of the '260 Patent.

3 58. Nevertheless, Lashify and Lotti are asserting Claim 1 of the '260 Patent
4 against no fewer than three different competitors in patent infringement suits currently
5 pending in U.S. District Courts, including a suit currently pending against Urban Doll.
6 *See LashBeauty*, ECF No. 1 at ¶ 53; *Hollyren*, ECF No. 1 at ¶ 58; *Urban Doll*, ECF
7 No. 1 at ¶ 62.

8 59. Lotti has repeatedly referred to these litigations and Lashify and Lotti's
9 purported patents in social media posts to further their goal of intimidating
10 competitors and customers and convincing customers not to buy competitors'
11 products.



23 Martin Decl., Ex. G at 1 (highlighting added).

24 Bottom line — if we don't get them in the ITC, we'll get them in Texas
25 If we don't get them in Texas, we'll get them in China. But trust me
26 when I tell you...we will get them. Shakespeare has a saying about us
27 broads.....he might be onto something.

28 *Id.* (highlighting added).

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Here's the thing, anyone that copies our product, or induces infringement, promotes stealing from us or tries to do monetary damage to our company, will also get caught up in what's going to be a very big lawsuit. **It's clear that lashify owns patents. Once you're aware of that there's no way around it.**

Martin Decl., Ex. H at 1 (highlighting added).

Lashify and Lotti's False "Patented" Claims

60. Consistent with Lashify and Lotti's misrepresentations to their customers that they invented certain technologies when they did not, Lashify and Lotti also have misrepresented to the marketplace, their customers, and Plaintiff's potential customers that Lashify has patents when it did not.

61. On information and belief, Lashify and Lotti are well aware of the patent prosecution process, including what it means for a product to be "patented."

62. Lashify and Lotti claim to have "protected *every element* of the worlds [sic] only DIY lash extension system" with patents. Martin Decl., Ex. A at 20; *see also* Martin Decl., Ex. H at 1 ("It's clear that lashify owns patents. Once you're aware of that there's no way around it.").

63. For years, Lashify and Lotti have advertised, and continue to advertise, that their purported products are "patented" on a near-daily basis, if not even more frequently, including via social media posts and comments.

64. For example, on December 1, 2017, Lashify represented to the public on social media that its artificial eyelash applicator (*i.e.*, its "Fuse Control Wand") was "Patented":



lashify 🌟 Woot!! Testing out our latest lash styles at Lashify HQ on Alison ✕ ✕
Our Gossamer lashes live inside the Eye Lozenge that's shaped to your eye. Our **Patented Fuse Control Wand** wraps around and has a horizontal clamp force that pulls out the Gossamers. Just Blink and Fuse! It's so easy to do it's hard to explain! ❤️ ✕ #lashify #controlkit

1 Mosbacher Decl., Ex. C at 1 (highlighting added).

2 65. Neither Lashify nor Lotti received a U.S. patent with claims directed to
3 an artificial eyelash applicator until March 27, 2018—nearly four months after
4 Lashify represented to the public that it was “Patented.” See U.S. Design Patent No.
5 D814,107 to Lotti.

6 66. On December 6, 2017, Lashify represented to the public on social media
7 that its artificial eyelash container (*i.e.*, its “Lash Lozenge”) was “Patented”:



8 lashify These are our Gossamer Lashes! They live inside
9 our patented Lash Lozenge which protects them from damage
10 so that you can apply hundred of silk lashes yourself in just
11 seconds. You're welcome.

12 Mosbacher Decl., Ex. C at 2 (highlighting added).

13 67. On March 1, 2018, Lashify represented to the public on social media that
14 its artificial eyelash container (*i.e.*, its “Lash Cartridge”) was “Patented”:



15 lashify You'll never strip again. The patented #lashify Lash
16 Cartridge is everything ⚡

17 Mosbacher Decl., Ex. C at 3 (highlighting added).

18 68. Neither Lashify nor Lotti received a U.S. patent with claims directed to
19 an artificial eyelash container until November 19, 2019—more than a year-and-a-half
20 after Lashify represented to the public that it was “Patented.” See U.S. Design Patent
21 No. D867,668 to Lotti.

22 69. On January 29, 2019, Lashify represented to the public on social media
23 that the “Lashify System” was “patented”:



24 lashify “Bottom line: these lashes are game-changing.” -
25 Elle.com ■ Harpers Bazaar Editors Pick - Glamour Best
26 Beauty Product of 2019 ■ Featured in Harpers Bazaar, Elle,
27 Into the Gloss, The Cut, Byrdie, US Weekly, Popcandy etc —
28 go to Lashify.com for more info!

Finally DIY lash extension technology that actually works! No
damage. No strips. Most innovative beauty product of the
decade! Watch our founder @saharalotti use the patented
Lashify® system! Our Gossamer lashes are so light they
literally stick to your lashes and melt within your lash line.

1 Mosbacher Decl., Ex. C at 4 (highlighting added).

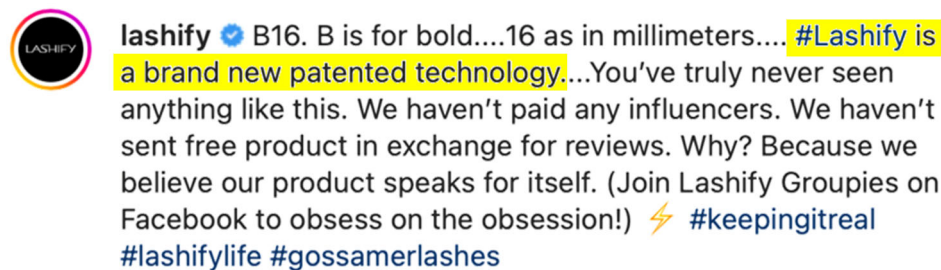
2 70. Neither Lashify nor Lotti received a U.S. patent with claims directed to a
3 “system” until of November 16, 2021—nearly two years after Lashify first
4 represented to the public that there was a “patented Lashify system.” See U.S. Patent
5 No. 11,172,749 to Lotti.

6 71. On March 12, 2018, Lashify represented to the public on social media
7 that its “Gossamer” artificial eyelash was “Patented”:



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11 Mosbacher Decl., Ex. C at 5 (highlighting added).

12 72. On March 18, 2018, Lashify represented to the public on social media
13 that its “B16” artificial eyelash was “a brand new *patented* technology”:



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19 Mosbacher Decl., Ex. C at 6 (highlighting added).

20 73. Neither Lashify nor Lotti received a U.S. patent directed to an artificial
21 eyelash until May 26, 2020—more than two years after Lashify first represented to
22 the public that it was “Patented.”
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1 74. At least as early as August 10, 2020, Lashify represented to the public on
2 its own website that the “Charcoflex formula” of its artificial eyelash bond was
3 “patented”:

4 Our patented Charcoflex® formula is
5 designed to withstand heat, bacteria, and
6 absorb excess moisture. Contains biotin
7 to nourish the natural lashes while
8 wearing our Gossamers for multiple days.

9 Martin Decl., Ex. I at 1 (highlighting added).

10 75. Neither Lashify nor Lotti received a patent directed to the formula of its
11 artificial eyelash bond until October 11, 2022—more than two years after Lashify
12 first represented to the public that it was “Patented.”

13 76. All the advertising statements referenced above are *false*, as pertinent
14 patents had not yet issued at the time Lashify and Lotti were advertising that such
15 products were “patented.”

16 77. But, even beyond the demonstrable falsity of these statements based on
17 timing, they are also false because the products and technology they describe do not
18 practice any issued patent.

19 78. Upon information and belief, Lashify’s artificial eyelashes identified in
20 the advertising above were not “patented” despite Lashify and/or Lotti’s ownership
21 of patents covering different artificial eyelash inventions.

22 79. The first two patents received by Lashify and Lotti that were directed to
23 artificial eyelashes were U.S. Patent No. 10,660,388 (the “’388 Patent”) and U.S.
24 Patent No. 10,721,984 (the “’984 Patent”).

25 80. The ’388 Patent issued on May 26, 2020.

26 81. The ’984 Patent issued on July 28, 2020.

1 82. Lashify and Lotti did not receive another patent directed to artificial
2 eyelashes until January 11, 2022—nearly four years after Lashify first represented to
3 customers that its artificial eyelashes were “Patented.” *See supra* ¶ 71.

4 83. On June 9, 2021, the Chief Administrative Law Judge (“CALJ”) at the
5 U.S. International Trade Commission (“ITC”) determined that Lashify’s “Gossamer”
6 artificial eyelashes do *not* practice the ’388 Patent. *See* 1226 Investigation, Order No.
7 35 at 9 (Jun. 9, 2021) (EDIS Doc ID 745429).

8 84. Lashify did not petition for review of the CALJ’s finding that its
9 “Gossamer” artificial eyelashes do *not* practice the ’388 Patent.

10 85. On October 6, 2021, the ITC determined that Lashify’s “Gossamer”
11 artificial eyelashes also do *not* practice the ’984 Patent. *See* 1226 Investigation,
12 Commission Opinion at 21, 29 (Oct. 6, 2021) (EDIS Doc ID 782895).

13 86. Thus, because Lashify owned no other patents claiming an artificial
14 eyelash until January 11, 2022, Lashify’s “Gossamer” artificial eyelashes could not
15 have practiced any patent received by Lashify or Lotti at least until January 11,
16 2022—nearly four years after Lashify first represented to customers that its artificial
17 eyelashes were “Patented.” *See supra* ¶ 71.

18 87. Lashify and Lotti’s advertising practices are particularly deceptive, as
19 they purport to educate consumers about patents and intellectual property, and then
20 mislead those same consumers about Lashify and Lotti’s rights.

21 **Lashify and Lotti’s Weaponization of Inventorship Principles**

22 88. Lashify and Lotti have built their business reputation, and their purported
23 commercial success, on promoting themselves as prolific, sophisticated inventors and
24 enforcers of intellectual property rights.

25 89. Lashify and Lotti have touted their purported status as “innovators” and
26 “inventors” as critical to their success, and thus material to consumers’ decision to
27 purchase their products. *See* Martin Decl., Ex. A at 78 (“It’s ingenuity has garnered
28 Lashify die-hard, loyal fans – ‘Lashfiends’ – ranging from young and old, from ex-

1 strip wearers or extension converts, to celebrity MUA’s and celebrity [sic]
2 themselves.”); Martin Decl., Ex. A at 19 (“Much more than just an award-winning
3 brand, Lashify *is known for* its disruption and innovation – holding over 185 patents
4 and 167 trademarks worldwide.”) (emphasis added).

5 90. Lashify and Lotti have prominently positioned themselves as aggressive
6 enforcers of what they purport to be legitimate patent rights, filing numerous
7 intellectual property enforcement actions in United States courts and before the U.S.
8 International Trade Commission.

9 91. Lashify’s website page featuring its purported intellectual property even
10 includes a dedicated button for site visitors to “REPORT COPYCATS.”



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13 Martin Decl., Ex. A at 9.

14 92. In the numerous complaints Lashify has filed against its competitors, it
15 has repeatedly labeled its competitors as “copycats.” See 1226 Investigation,
16 Complaint at ¶¶ 1, 16, 288; *Kiss*, ECF No. 1 at ¶¶ 2, 20, 25, 31; *Zeng*, ECF No. 1 at
17 ¶ 11; *LashBeauty*, ECF No. 1 at ¶ 29; *Hollyren*, ECF No. 1 at ¶ 47.

18 93. Lashify also has repeatedly and unfairly accused Plaintiff of being a
19 “copycat.” *Urban Doll*, ECF No. 1 at ¶¶ 2, 34, 40, 43, 111, 113, 169, 171.

20 94. A cursory visual inspection of Plaintiff’s artificial eyelashes and
21 Lashify’s artificial eyelashes demonstrates that Plaintiff’s artificial eyelashes are *not*
22 copies of Lashify’s artificial eyelashes.



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27 Lashify’s Artificial Eyelashes



28 Plaintiff’s Artificial Eyelashes

1 Martin Decl. at ¶¶ 15, 16.

2 95. As depicted in the two images in the preceding paragraph, Plaintiff’s
3 products have more density of fibers, are clustered differently, and have different
4 shaped bases from Lashify’s products.

5 96. Lashify, Lotti, and, on information belief, their agents regularly and
6 aggressively comment on third-party social media pages and accounts to characterize
7 competitors as infringers, copycats, and counterfeiters.

8 97. To the contrary, as plead herein, Lashify and Lotti have improperly and
9 knowingly falsified, exaggerated, misstated, and misused purported intellectual
10 property rights as a means of curtailing innovation and impeding lawful market entry
11 and competition, including as it relates to Urban Dollz.

12 98. Lashify has even gone so far as to claim that it is the only entity who may
13 use, in advertising, *the concept of innovation itself*, proposing to sue Urban Doll for
14 even “suggesting that [someone other than Lashify is] an innovator when it comes to
15 [lash] products.” See *Lashify v. Urban Dollz et al*, ECF No. 052-4 at ¶ 80. This is
16 entirely baseless.

17 **Lashify and Lotti’s Pervasive False Advertising**

18 99. Lashify’s false representations about its inventorship, intellectual
19 property prowess, and the “patented” nature of its offerings has been accepted as true
20 and proliferated by relevant consumers, creating a landscape that is prohibitive of
21 competition and new market entrants like Urban Doll.

22 100. Lashify and Lotti have built – falsely – a reputation of legitimate
23 intellectual property rights in the eyes of relevant consumers, and competitors like
24 Urban Doll are harmed and baselessly tagged as frauds and copycats.

25 101. Indeed, not only have Lashify and Lotti attacked second comers as
26 copycats and infringers, but consumers who have internalized Lashify and Lotti’s
27 false messaging are primed to immediately dismiss competitors as uncreative
28 wrongdoers.

1 102. Based on Lashify and Lotti’s false representations consumers take as true
2 that Lashify and Lotti are “creative and invent their own products,” that their offerings
3 are “true tested and patent protected”, and that Urban Doll is “copying” defendants
4 and should “go up in [flames] in court”:

5 This is so cringe and infuriating. People can't just be creative and invent their own products!? As if consumers are dumb and can't figure out whose out
6 here copying and trying to monopolize on the momentum of the true tested and patent protected ideas! Doll House about to go up in 🔥s in court!
7 BUBYE!

8 Martin Decl., Ex. J at 6.

9 103. The United States legal system, not Lashify’s customers, is tasked with
10 “figur[ing] out who [is] out here copying.” Martin Decl., Ex. J at 6.

11 104. Instead of relying on legitimate intellectual property claims, Lashify and
12 Lotti have instead weaponized relevant consumers through years of falsely claiming
13 their technology is proprietary and “patented” when it is not, creating an air of false
14 legitimacy that permeates its entire business model.

15 105. Lashify and Lotti should not be permitted to falsely and improperly
16 impede lawful competition through false advertising.

17 **Count I – False Advertising Under 15 U.S.C. § 1125(a)(1)(B)**

18 106. Urban Doll repeats and realleges the foregoing allegations as if fully set
19 forth herein.

20 107. Defendants have committed acts of false advertising by their
21 dissemination of false and misleading advertising claims, including as alleged above.

22 108. Defendants have repeatedly made false statements in advertisements that
23 it is the “inventor” of products and technology that have been well-known and
24 practiced in prior art for years, if not nearly a century.

25 109. Defendants have continued to make these false statements even after
26 being made aware of and having actual knowledge of such long-standing, earlier
27 published patents, YouTube videos, and other publications. *See supra* ¶ 42.

28 110. The claims cited in this Complaint, and all similar claims that Lashify
and/or Lotti are the inventors of long-known products and technology are false.

1 111. Defendants’ false statements are admittedly a central element of their
2 business and purported success, are deceptive, have a tendency to deceive a
3 substantial segment of Defendants’ audience as well as the marketplace and Plaintiff’s
4 potential customers, and/or, on information and belief, have actually deceived the
5 market, including both Plaintiff’s potential customers and Defendants’ customers.

6 112. Defendants have prominently, repeatedly, and continuously emphasized
7 the importance of innovation and inventorship as part of the value proposition for lash
8 products and other cosmetics, admitting and trading on the position that these
9 concepts are material to relevant consumers’ purchasing decisions.

10 113. Defendants’ deception is likely to impact purchasing decisions and is
11 therefore material.

12 114. Defendants have offered and/or sold their falsely advertised goods in
13 interstate commerce.

14 115. Urban Doll has been, continues to be, and is likely to be injured as a result
15 of Defendants’ false advertising, as such wrongful conduct—which, in many cases,
16 takes the form of direct accusations by Defendants or, on information and belief, their
17 agents that Urban Doll is not innovative, is an infringer, is a “dupe” or “copycat”—
18 results in diverted sales and harm to Urban Doll’s goodwill, including its goodwill as
19 an innovator in its own right.

20 116. Lashify and Lotti are well aware of the requirements for truthful
21 marketing relating to patents, noting in a public social media post on May 12, 2020
22 that “[f]alsely claiming patents or patents pending is illegal and false marketing.”
23 Mosbacher Dec., Ex. A at 1.

24 117. Defendants have repeatedly made false statements in advertisements that
25 its advertised products were “patented” when no such patents had issued, or in some
26 cases, when patent applications had not been filed.

27 118. For example, Defendants have made numerous statements on their
28 website, via social media, and in other advertising that their offerings are “patented,”

1 when in fact at the time of the statements such offerings were not “patented,”
2 including but not limited to the numerous references cited in this Complaint.

3 119. The offerings touted in Defendants’ challenged advertising could not
4 possibly have been “patented” as of the dates such statements were made, as pertinent
5 patents had not been granted and, in some cases, not even applied for.

6 120. The claims cited in this Complaint, and all similar claims that unpatented
7 and/or unpatentable products and offerings are “patented,” were false when made and,
8 upon information and belief, are still false.

9 121. Moreover, Defendants’ claims that their purported technology is
10 “patented” remains false to this day, for reasons including that their purported patents
11 do not cover the products touted in their advertisements and/or because their
12 statements as to what they have “patented” knowingly ignores prior art inventions,
13 patents, and publications disclosing that same subject matter years, and in some cases
14 decades, prior to Lashify and Lotti.


15 122. Defendants’ false statements, part and parcel of their companywide
16 efforts to favorably position themselves and their brand as innovators, inventors, and
17 owners of valid patent rights, are deceptive, have a tendency to deceive a substantial
18 segment of Defendants’ audience, the marketplace, and Plaintiff’s potential
19 customers, and/or, on information and belief, have actually deceived Defendants’
20 consumers, the marketplace, and Plaintiff’s potential customers.

21 123. Urban Doll has been, continues to be, and is likely to be injured as a result
22 of Defendants’ false advertising.

23 **Count II – False Patent Marking Under 35 U.S.C. § 292**

24 124. Urban Doll repeats and realleges the foregoing allegations as if fully set
25 forth herein.

26 125. Defendants have used, in advertising, the word “patented” in connection
27 with unpatented articles, for the purpose of representing to the public that such articles
28 are subject to patent protection.

1 126. Defendants hold themselves out as sophisticated innovators with deep
2 knowledge of how the U.S. Patent and Trademark Office (“USPTO”) operates. *See*,
3 *e.g.*, Martin Decl., Ex. C at 2 (“WHY would the @uspto, a government entity, issue
4 dozens of patents @lashify if this was so common? ... I mean all you have to do is
5 show them ONE piece of evidence and they’ll invalidate my patents.”); Martin Decl.,
6 Ex. J at 3 (“We’ve searched high and low and no lash system patents have ever been
7 found at the @uspto ...”); Martin Decl., Ex. L at 2-3 (“WARNING TO ALL
8 INVENTORS.  Patenting products in the current climate may be dangerous. It
9 may be in your best interest to NOT patent your invention using @ustpo because
10 published patents will make it much easier to steal from you. I suggest relying on
11 trade secrets for now until you have the funds to fight. Thousands of people have
12 asked me advice on IP (especially in beauty). I cannot in good faith recommend going
13 through the @ustpo The @usgovernment @potus must make some real changes to
14 deter bad actors from intentional infringement—otherwise not worth your
15 investment.”).

16 127. Defendants could not have reasonably or objectively believed that their
17 products were “patented” when no patents had issued yet with claims directed to those
18 products.

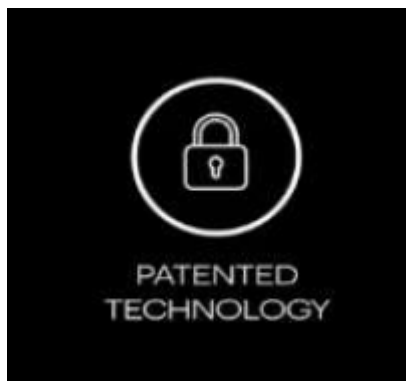
19 128. Defendants also cannot reasonably or objectively believe that their
20 “Gossamer” artificial eyelashes are “patented” under the ’388 Patent because the
21 CALJ at the ITC determined that those artificial eyelashes do *not* practice the ’388
22 Patent, and Defendants did not seek review of or otherwise challenge that
23 determination. *See* 1226 Investigation, Order No. 35 at 9 (Jun. 9, 2021) (EDIS Doc
24 ID 745429).

25 129. Yet, the ’388 Patent is still listed prominently on Lashify’s “Intellectual
26 Property” web page:

27 **US Patent 10,660,388 - Artificial Lash Extensions**
28

1 Martin Decl., Ex. A at 9.

2 130. The '388 Patent also remains included among a list of patents under a
3 “Patented Protected” logo on the web pages for Lashify’s “Control Kit,” which
4



10 contains “Gossamer” eyelashes.

11 Martin Decl., Ex. M; *see also* Martin Decl. at ¶¶ 27-28.

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13 131. Lashify also associates the '388 Patent with at least 29 of its other
14 artificial eyelashes on the web pages for those products—specifically, the “Extra
15 Extreme Gossamer Lashes,” “Gemini Gossamer Lashes,” “Drama Plus+ Gossamer
16 Lashes,” “Drama Gossamer Lashes,” “Starburst Gossamer Lashes,” “Amplify
17 Gossamer Lashes,” “Amplify Ginger Gossamer Lashes,” “Fluffy FX Lashes,”
18 “Extreme Ice Gossamer Lashes,” “Amplify Truffle Gossamer Lashes,” “Amplify Ash
19 Gossamer Lashes,” “Curl Silver Gossamer Lashes,” “Amplify Teal Gossamer
20 Lashes,” “Curl Lavender Gossamer Lashes,” “Amplify Dark Brown Gossamer
21 Lashes,” “Curl Ping Gossamer Lashes,” “Plushy Gossamer Lashes,” “Fluffy
22 Gossamer Lashes,” “Amplify Violet Gossamer Lashes,” “Plushy Tame Gossamer
23 Lashes,” “Amplify Minx Gossamer Lashes,” “Extreme Gossamer Lashes,” “Bold
24 Gossamer Lashes,” “The Inner Corner Gossamer,” “Bold Plus+ Gossamer Lashes,”
25 “Curl Gossamer Lashes,” “Amplify Royal Kim Blue Gossamer Lashes,” and
26 “Amplify Plus+ Gossamer Lashes.” *See* Martin Decl. at ¶¶ 29-57.

1 132. Defendants’ challenged statements that their products are “patented,” and
2 any similar statement by Defendants that unpatented articles are patented, were false
3 when made and, upon information and belief, are still false.

4 133. Defendants made such representations (*i.e.*, that their products were
5 “patented” when they were not) with the specific intent to deceive potential customers
6 into believing Defendants were innovators and that competitors were unlawfully
7 copying Defendants.

8 134. Defendants sought to deceive potential customers into believing
9 Defendants were innovators and that competitors were so-called “copycats” with the
10 express purpose of driving sales away from those competitors to Defendants,
11 including away from Plaintiff.

12 135. Defendants’ customers believe and rely on Defendants’ representations
13 when deciding what products to purchase:

14 I can not believe the amount of copycats out there I have been following and using your
15 brand since the beginning (soft launch beginning lol) and refuse to try anything else
16 because it’s a cheap imitation. I tell people all the time you get what you pay for.

17 Martin Decl., Ex. K at 4.

18 I would NEVER buy a knock-off brand. Lashify for Lifer here! ❤️❤️❤️

19 Martin Decl., Ex. L at 4.

20 136. Defendants’ false representations that their products were “patented”
21 when they were not is part of Defendants’ plan to use intellectual property to “corner
22 the market” by giving the misleading appearance that they “own all the IP.” Martin
23 Decl., Ex. H at 1 (“I knew that if I could create this market and **own all the IP**, I could
24 **corner the market** and make massive change.”) (emphasis added); *see also id.* at 1
25 (“It’s clear that lashify owns patents. Once you’re aware of that there’s **no way**
26 **around it.**”) (emphasis added); Martin Decl., Ex. B at 20 (Lotti claiming “I have
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1 protected *every element* of the worlds [sic] only DIY lash extension system.”)
2 (emphasis added).

3 137. Defendants were successful in driving sales away from competitors to
4 Defendants based on their false representations, including from Plaintiff.

5 138. Urban Doll has therefore suffered competitive injury as a result of
6 Defendants’ false patent marking.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Urban Doll prays for the following relief:

9 1) A determination and declaration that Defendants have violated and are
10 in violation of the Lanham Act, including 15 U.S.C. § 1125;

11 2) A determination and declaration that Defendants have violated and are
12 in violation of the Patent Act, including 35 U.S.C. § 292;

13 3) A determination and declaration that Defendants have committed and
14 are committing false advertising and false patent marking under all causes of action
15 asserted in this lawsuit based on this Complaint;

16 4) That judgment be entered in favor of Plaintiff and as against Defendants
17 for false advertising and false patent marking under all causes of action in the
18 lawsuit based on this Complaint;

19 5) A determination and declaration that Defendants are jointly and
20 severally liable under all causes of action in this lawsuit;

21 6) An order preliminarily, and a judgment permanently, enjoining and
22 restraining Defendants, their officers, agents, affiliates, board of directors,
23 subsidiaries, servants, partners, employees, attorneys, majority and controlling
24 shareholders, and all others in active concert or participation with any Defendants,
25 from:

26 a) engaging in false advertising under the Lanham Act, including by
27 making false statements about inventorship and/or “patented” technology and/or
28 accusing Plaintiff of being a copycat, dupe, or infringer (or the like);

1 b) engaging in false patent marking under 35 U.S.C. § 292; and
2 c) assisting, aiding, encouraging, or abetting any other person or
3 business entity in engaging in or performing any of the aforementioned activities.

4 7) An order preliminarily and a judgment permanently ordering that
5 Defendants issue appropriate retractions, and corrective statements, and delete all
6 false, misleading, and illegal social media postings, comments, and publications
7 complained of in this matter;

8 8) A judgment awarding Plaintiff all compensatory damages under all
9 causes of action in this lawsuit, including requiring that Defendants pay Urban Doll
10 all of its damages caused by Defendants' unlawful acts and damages adequate to
11 compensate Urban Doll for Defendants' unlawful acts, with pre-judgment and post-
12 judgment interest, as well as post-trial damages for any ongoing unlawful acts;

13 9) A judgment requiring that Defendants account for all profits derived
14 from their wrongful acts and disgorge and pay them and all other unjust enrichment
15 to Urban Doll;

16 10) A judgment ordering Defendants to pay exemplary, extraordinary,
17 punitive, and statutory damages for their intentional acts of false advertising and
18 false patent marking;

19 11) A judgment and declaration that this case is exceptional and awarding
20 Plaintiff its reasonable attorneys' fees, costs, disbursements, and pre- and post-
21 judgment interest, as provided by law;

22 12) A judgment that each of Defendants are jointly and severally liable for
23 the acts complained of herein; and

24 13) An award to Plaintiff of such other relief as the Court deems proper and
25 just under the circumstances.

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Dated: February 24, 2023

By: /s/ Peter H. Kang
Peter H. Kang (Bar No. 158101)

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JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38.

Dated: February 24, 2023

By: /s/ Peter H. Kang

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