

1 Stephen McArthur (State Bar No. 277712)
stephen@smcarthurlaw.com
2 Thomas Dietrich (State Bar No. 254282)
tom@smcarthurlaw.com
3 THE MCARTHUR LAW FIRM, P.C.
9465 Wilshire Blvd., Ste. 300
4 Beverly Hills, CA 90212
Telephone: (424) 258-6815

5 *Attorneys for Plaintiff*
6 *Covves, LLC*

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

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11 COVVES, LLC,
12 Plaintiff,
13 v.
14 TARGET CORPORATION and
15 TARGET BRANDS, INC.,
16 Defendants.

Case No. 2:23-cv-00640

**COMPLAINT FOR DESIGN
PATENT INFRINGEMENT**

Demand for Jury Trial

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19 Plaintiff Covves, LLC (“Covves”), for its Complaint against Target
20 Corporation and Target Brands, Inc., states and alleges as follows:

21 **The Parties**

- 22 1. Covves is a limited liability company organized and existing under the
23 laws of the State of California, located at 23145 Kashiwa Court, Torrance, CA
24 90505.
25 2. Target Corporation is a corporation organized and existing under the
26 laws of Minnesota with an address of 1000 Nicollet Mall, Minneapolis, MN 55403.
27 3. Target Brands, Inc. is a corporation organized and existing under the
28 laws of Minnesota with an address of 1000 Nicollet Mall, Minneapolis, MN 55403.

1 Target Corporation and Target Brands, Inc. are referred to collectively as “Target.”

2 **Nature of the Action**

3 4. This is an action at law and in equity for design patent infringement
4 under the Patent Act, 35 U.S.C. § 101 *et seq.*

5 5. This action arises by reason of Target’s willful and unauthorized
6 copying of Covves’ design patents for unicorn-shaped inflatable toys. Covves seeks
7 recovery of Target’s total profits from infringing sales and additional relief as set
8 forth below.

9 **Jurisdiction and Venue**

10 6. This Court has exclusive subject matter jurisdiction over these claims
11 pursuant to 28 U.S.C. §§ 1331 and 1338.

12 7. This Court has personal jurisdiction over Target because it does
13 substantial business and sales in this District and advertised, distributed, offered for
14 sale, and sold products that infringe Covves’ patents in this District. Target
15 committed tortious acts against Covves in this District, where Covves’ principle
16 place of business is located.

17 8. Venue for this action is proper in the Central District of California
18 pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

19 9. Specifically, venue is proper over Target under 28 U.S.C. § 1400(b)
20 because it committed acts of infringement and has regular and established places of
21 business in this District, including operating at least three Target distribution
22 centers in this District, as well as operating numerous Target store locations in this
23 District, including but not limited to stores at: (a) 3535 S. La Cienega Blvd., Los
24 Angeles, CA 90016; (b) 735 S. Figueroa St., Los Angeles, CA 90017; (c) 8480
25 Beverly Blvd. Ste. 1A, Los Angeles, CA 90048; (d) 3131 S. Hoover St. #1910, Los
26 Angeles, CA 90089; (e) 3471 W. Century Blvd., Inglewood, CA 90305; and (f)
27 6000 Sepulveda Blvd., Ste 2250, Culver City, CA 90230.

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Patents-in-Suit

10. Covves owns two design patents that are at issue in this case, both of which relate to unicorn-shaped inflatables—one for a pool float and one for an inflatable drink holder.

11. The U.S. Patent & Trademark Office (“USPTO”) issued U.S. Patent No. D787,617 (the “’617 patent”), titled “Inflatable Toy,” on May 23, 2017, from an application dated August 24, 2015.

12. The USPTO issued U.S. Patent No. D783,370 (the “’370 patent”), titled “Inflatable Beverage Holder,” on April 11, 2017, from an application dated November 8, 2016.

13. Covves is the owner by assignment of all right, title, and interest in the ’617 patent and ’370 patent (together, the “Patents-in-Suit”), including all rights to sue and collect for past, present, and future damages.

Facts Underlying Causes of Action

Covves Invents Unicorn Floaties

14. Covves sells high-quality inflatable pool toys under the brand names “Kololo,” “#Floaty,” and “#GetFloaty.”

15. Covves’ invented the unicorn pool float, originally sold as the “Giant Unicorn,” and popularized it worldwide beginning in 2016-17. Covves’ original Giant Unicorn float is shown below.



1 16. This unicorn pool toy has a unique patented design, which is protected
2 by Covves' '617 patent.

3 17. Covves also sells the "Mini Unicorn Cup Holder," a smaller inflatable
4 unicorn-shaped drink holder with a unique design protected by the '370 patent.

5 18. Unicorn floats did not exist before Covves invented and popularized
6 them.

7 19. Covves practices both of the Patents-in-Suit domestically and
8 worldwide, selling products embodying the patents from various channels including
9 its website, <https://getfloaty.com/>, and through online retailers, including
10 Amazon.com and HSN.com.

11 20. Covves has over 22,000 followers on its Instagram page
12 (<https://www.instagram.com/getfloaty/>), which contains many photographs of
13 products that embody the Patents-in-Suit.

14 21. Covves unicorn floats embodying the Patents-in-Suit have been
15 featured on *The Today Show*, *Vogue*, *Elite Daily*, *Popsugar*, and *Harper's Bazaar*,
16 among other media sources.

17 22. Covves has a history of arms-length licensing deals with third parties,
18 licensing its unicorn pool floats for \$10.00 per float and its unicorn cupholders for
19 \$1.00 per cupholder.

20 ***Target's Infringements in 2017-2020***

21 23. In or about 2017, Target decided to capitalize on Covves' hard work
22 and success by selling inflatables that copied Covves' intellectual property.

23 24. Beginning in or about early 2018, Target began advertising and selling
24 unicorn pool floats (collectively, "Target Unicorn Floats") that misappropriated the
25 patented design of Covves' unicorn floats.

26 25. Over the next several years, Target sold at least three different versions
27 of Target Unicorn Floats, each of which copied Covves' design claimed in the '617
28 patent. These included the "Glitter Wing Unicorn Pool Float," the "Unicorn Lil

1 Float,” and the “Unicorn Pride Pool Float.”

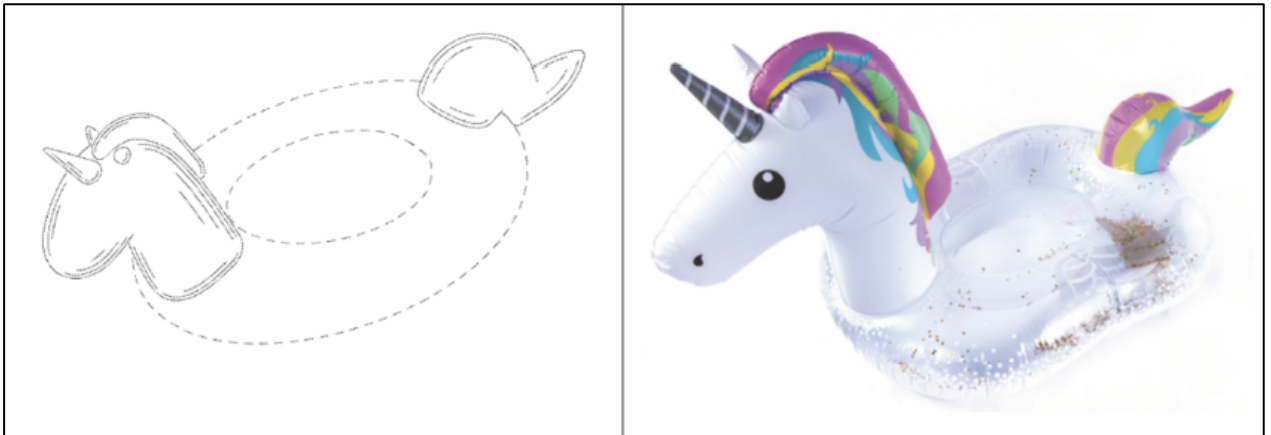
2 26. Target also sold inflatable unicorn-shaped cupholders called “Unicorn
3 Bev Boats,” which copied Covves’ design claimed in the ’370 patent.

4 27. Target incorporated the Target Unicorn Floats and Unicorn Bev Boats
5 into its “Sun Squad” collection—Target’s own house brand for summer fun toys
6 and games. Target designed and selected the packaging for these products and
7 specified various aspects of the product design.

8 28. Below are true and correct photographs of Target’s infringing floats
9 next to one of the images from the applicable Patent-in-Suit.

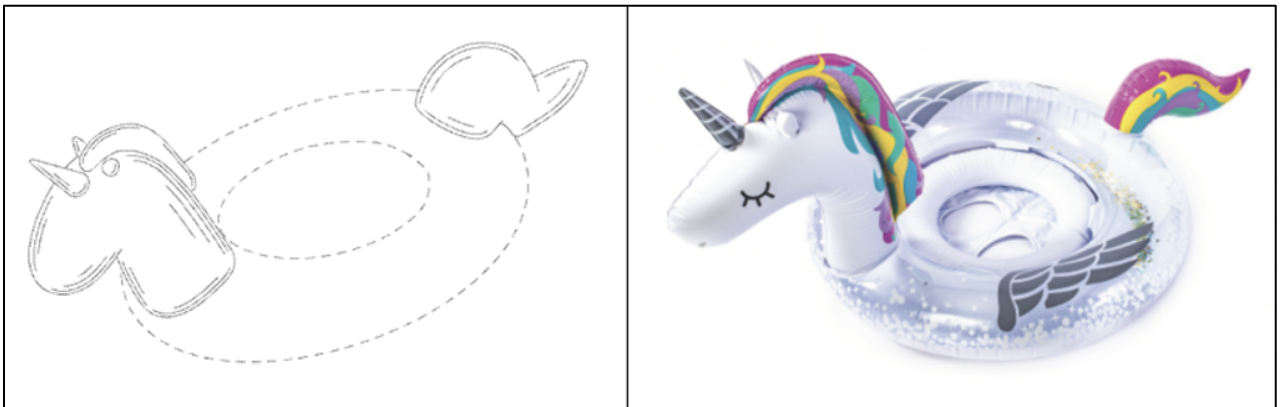
10 ‘617 patent, Fig. 1

Target Glitter Wing Unicorn Pool Float



19 ‘617 patent, Fig. 1

Target Unicorn Lil Float



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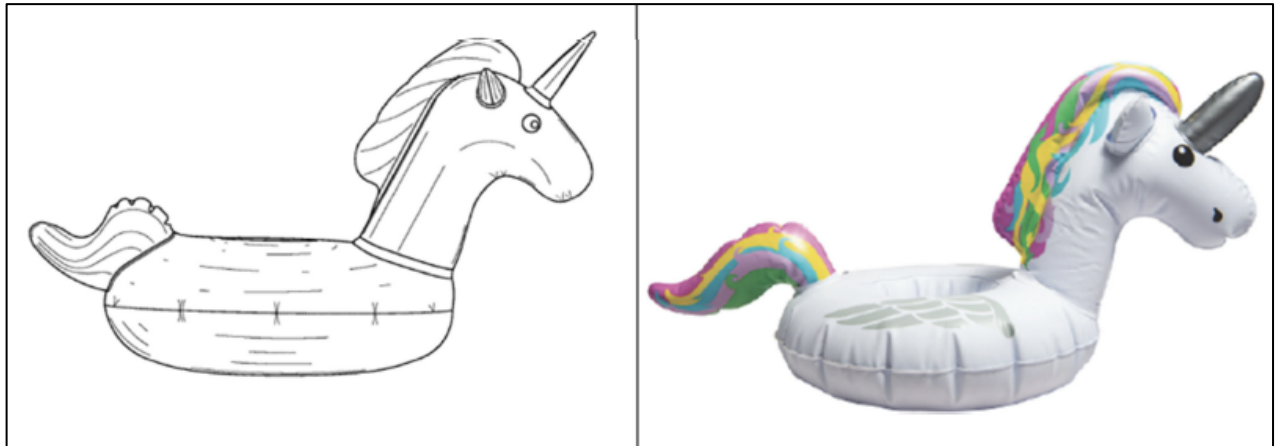
'617 patent, Fig. 1

Target Pride Float



'370 patent, Fig. 2

Target Unicorn Bev Boat



29. The images above are demonstrative of the similarity between Target's floats and Covves' patented designs.

30. With regard to the Target Unicorn Floats and the '617 patent design, both feature a raft body with an elongated neck. Atop the neck rests a head affixed with a horn, two pointed ears, and a raised, three-dimensional mane. The mane begins behind the horn and rests atop the head and neck between the pointed ears. A tail with swooping bend is affixed to the rear of the raft body.

31. With regard to the Target's Unicorn Bev Boat and the '370 patent design, both feature a rounded body with a rounded empty space in the center.

1 Affixed to the body is an elongated neck. Atop the neck rests a head affixed with a
2 horn, two pointed ears, and a raised, three-dimensional mane. The mane begins
3 behind the horn and rests atop the head and neck. The eye is comprised of a black
4 circle, containing a smaller white circle. A tail with a swooping bend is affixed to
5 the rear of the rounded body.

6 32. Pictured below are Covves' patented "Giant Unicorn" product (left)
7 and one of the Target Unicorn Floats sold by Target (right).



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15 33. Pictured below are Covves' patented "Mini Unicorn Cupholder" (left)
16 and the Unicorn Bev Boat (right) sold by Target.



26 34. The designs of the Target Unicorn Floats are substantially the same as
27 the design protected by Covves' '617 patent such as to deceive an ordinary observer
28 into inducing them to purchase Target's products supposing them to be Covves'.

1 and re-open its claims for infringement against Target that were brought in the
2 Initial Case.

3 ***Target’s Subsequent Infringements in 2022***

4 42. In 2022, Covves learned that Target was once again selling unicorn
5 pool floats and inflatable drink holders that are copied from Covves’ patented
6 designs.

7 43. In particular, Target has sold and is continuing to sell an inflatable
8 pool float on its website, www.target.com, called the “Rainbow Unicorn Inflatable
9 Swimming Pool Tube Ring Float” (the “Rainbow Ring Float”).

10 44. A screenshot of the Rainbow Ring Float as shown on Target’s website
11 is included below, next to an embodiment of Covves’ ’617 patent.

12 **Covves Giant Unicorn Float**



Target Rainbow Ring Float



21 45. The design of the Rainbow Ring Float sold by Target is substantially
22 the same as the design protected by Covves’ ’617 patent such as to deceive an
23 ordinary observer into inducing them to purchase Target’s products supposing them
24 to be Covves’.

25 46. Target’s selling, offering for sale, distributing, and advertising the
26 Rainbow Ring Floats has directly infringed the ’617 patent.

27 47. In addition, Target has sold and is continuing to sell an inflatable
28 unicorn-shaped drink holder on its target.com website, which is called the

1 “Inflatable Unicorn Swimming Pool Floating Drink Holder” (“Rainbow Drink
2 Holder”).

3 48. A screenshot of the Rainbow Drink Holder as shown on Target’s
4 website is included below, next to an embodiment of Covves’ ’370 patent.

5 **Covves Mini Unicorn Cupholder**

Target Rainbow Drink Holder



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13 49. The design of the Rainbow Drink Holder sold by Target is
14 substantially the same as the design protected by Covves’ ’370 patent such as to
15 deceive an ordinary observer into inducing them to purchase Target’s products
16 supposing them to be Covves’.

17 50. Target’s selling, offering for sale, distributing, and advertising the
18 Rainbow Drink Holder has directly infringed the ’370 patent.

19 51. Target’s infringement is willful and deliberate, as it has sold and
20 offered to sell the Rainbow Ring Floats and Rainbow Drink Holders with
21 knowledge of Covves’ Patents-in-Suit and patented designs.

22 **Count 1**

23 **Infringement of US. Patent No. D787,617 (Target Unicorn Floats)**

24 52. Covves incorporates each paragraph above into this claim.

25 53. Covves is the owner of the ’617 patent.

26 54. Target has directly infringed the ’617 patent under 35 U.S.C. § 271(a),
27 literally and/or under the doctrine of equivalents, by selling, offering to sell,
28 advertising, and promoting Target Unicorn Floats that embody the design protected

1 by Covves' '617 patent.

2 55. Covves has been damaged, in an amount to be determined, as a direct
3 and proximate result of Target's infringement of the '617 patent.

4 **Count 2**

5 **Infringement of US. Patent No. D783,370 (Unicorn Bev Boat)**

6 56. Covves incorporates each paragraph above into this claim.

7 57. Covves is the owner of the '370 patent.

8 58. Target has directly infringed the '370 patent under 35 U.S.C. § 271(a),
9 literally and/or under the doctrine of equivalents, by selling, offering to sell,
10 advertising, and promoting Unicorn Bev Boats that embody the design protected by
11 Covves' '370 patent.

12 59. Covves has been damaged, in an amount to be determined, as a direct
13 and proximate result of Target's infringement of the '370 patent.

14 **Count 3**

15 **Infringement of US. Patent No. D787,617 (Rainbow Ring Float)**

16 60. Covves incorporates each paragraph above into this claim.

17 61. Covves is the owner of the '617 patent.

18 62. Target has directly infringed the '617 patent under 35 U.S.C. § 271(a),
19 literally and/or under the doctrine of equivalents, by selling, offering to sell,
20 advertising, and promoting the Rainbow Ring Float, which embodies the design
21 protected by Covves' '617 patent.

22 63. Covves has been damaged, in an amount to be determined, as a direct
23 and proximate result of Target's infringement of the '617 patent.

24 64. Target's infringement of the '617 patent has been and continues to be
25 willful. As noted above, Target has long known of the '617 patent and its need for a
26 license to practice the patented design. Target has deliberately continued to infringe
27 in a wanton, malicious, and egregious manner with reckless disregard for Covves'
28 patent rights. Thus, Target's infringing actions have been and continue to be

1 consciously wrongful.

2 65. Such willful and deliberate infringement justifies an increase of three
3 times the damages to be assessed pursuant to 35 U.S.C. § 284 and further supports
4 that this is an exceptional case necessitating an award of reasonable attorneys' fees
5 pursuant to 35 U.S.C. § 285.

6 **Count 4**

7 **Infringement of US. Patent No. D783,370 (Rainbow Drink Holders)**

8 66. Covves incorporates each paragraph above into this claim.

9 67. Covves is the owner of the '370 patent.

10 68. Target has directly infringed the '370 patent under 35 U.S.C. § 271(a),
11 literally and/or under the doctrine of equivalents, by selling, offering to sell,
12 advertising, and promoting the Rainbow Drink Holder, which embodies the design
13 protected by Covves' '370 patent.

14 69. Covves has been damaged, in an amount to be determined, as a direct
15 and proximate result of Target's infringement of the '370 patent.

16 70. Target's infringement of the '370 patent has been and continues to be
17 willful. As noted above, Target has long known of the '370 patent and its need for a
18 license to practice the patented design. Target has deliberately continued to infringe
19 in a wanton, malicious, and egregious manner with reckless disregard for Covves'
20 patent rights. Thus, Target's infringing actions have been and continue to be
21 consciously wrongful.

22 71. Such willful and deliberate infringement justifies an increase of three
23 times the damages to be assessed pursuant to 35 U.S.C. § 284 and further supports
24 that this is an exceptional case necessitating an award of reasonable attorneys' fees
25 pursuant to 35 U.S.C. § 285.

26 **Prayer for Relief**

27 WHEREFORE, Covves prays that this Court enter judgment in its favor on
28 the claim for relief set forth above and award Covves relief including but not

1 limited to an Order:

- 2 A. Granting a judgment that Target has infringed the '617 patent and
3 the '370 patent.
- 4 B. Permanently enjoining Target and its officers, directors, agents,
5 employees, affiliates, attorneys, and all others acting in privity or in
6 concert with it, and its parents, subsidiaries, divisions, successors, and
7 assigns, from further acts of infringement of the Patents-in-Suit.
- 8 C. Granting an accounting of Target's revenue, gross profits, and net
9 profits from all sales of infringing products.
- 10 D. Awarding Target's total profits to Covves pursuant to 35 U.S.C. § 289.
- 11 E. Ordering Target to pay to Covves actual damages adequate to
12 compensate for the infringements in the form of a reasonable royalty
13 for the use made of the patented designs by Target, together with
14 prejudgment and post-judgment interest and costs, in accordance with
15 35 U.S.C. § 284.
- 16 F. Awarding treble damages pursuant to 35 U.S.C. § 284 for Target's
17 willful and deliberate infringement.
- 18 G. Finding this to be an "exceptional case" and awarding Covves its
19 reasonable attorneys' fees pursuant to 35 U.S.C. § 285.
- 20 H. Awarding such other and further relief as this Court may deem just and
21 appropriate under the circumstances.
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JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38 and Central District of California L.R. 38-1, Covves demands a trial by jury on all issues so triable.

DATED: January 27, 2023 THE MCARTHUR LAW FIRM, PC

By: /s/ Stephen C. McArthur
STEPHEN C. MCARTHUR

Stephen McArthur
stephen@smcarthurlaw.com
Thomas Dietrich
tom@smcarthurlaw.com
9465 Wilshire Blvd., Ste. 300
Beverly Hills, CA 90212
Telephone: (424) 258-6815

Attorneys for Plaintiff Covves, LLC