

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:23-cv-00283

PDB BLANKS AND GLITTER, LLC

Plaintiff,

v.

KELLIE DeFRIES, and
CRYSTAL KATANA, LLC,

Defendants.

COMPLAINT FOR DECLARATORY JUDGMENT OF NO PATENT INFRINGEMENT

Plaintiff PDB Blanks and Glitter, LLC, by and through its attorneys, for its Complaint against Kellie DeFries (“DeFries”) and Crystal Katana, LLC (“Crystal Katana”) (collectively “Defendants”), alleges on its own knowledge and on information and belief as follows:

NATURE OF THE CASE

1. This is an action for a declaratory judgment of no infringement of United States Patent No. 10,308,005 and United States Patent No. D867,839 arising under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the patent laws of the United States, including Title 35, United States Code.

2. This Complaint relates to Defendants’ allegation that Plaintiff infringe U.S. Patent No. 10,308,005 and U.S. Patent No. D867,839 by the selling of Plaintiff’s “PDB RAINBOW TOOL,” as documented in a November 2022 demand letter.

3. Defendants have purposefully misrepresented the scope of its patents by omitting a crucial claim limitation and demanded of Plaintiff millions of dollars in damages.

4. Rather than acquiesce to Defendants' coercive tactics, and to protect the reputation of Plaintiff's brand, Plaintiff now respectfully seeks assistance from this Court in the form of declaratory and injunctive relief, as well as, damages, attorneys' fees and costs.

THE PARTIES

5. Plaintiff PDB Blanks and Glitter, LLC is a limited liability company formed under the laws of Missouri and with its principal place of business in Colorado Springs, Colorado.

6. Upon information and belief, Defendant Kellie DeFries is an individual who resides at 2619 Jasmine Street, National City, CA 91950.

7. Upon information and belief, Defendant Crystal Katana, LLC is a limited liability company formed under the laws of California. Upon information and belief, Defendant DeFries is the owner and chief executive officer of Defendant Crystal Katana, LLC.

8. Upon information and belief, Defendant Crystal Katana, LLC is a limited liability company represented by Brandon J. Leavitt of the Leavitt & Eldredge Law Firm.

JURISDICTION AND VENUE

9. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

10. This court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

11. Personal jurisdiction over Defendants is proper in this District as they have availed themselves of the rights and benefits of the laws of Colorado and they have purposefully conducted business relating to the licensing and enforcement of their patents in Colorado.

12. Venue is proper in this district under 28 U.S.C. § 1391(b) because Defendants are subject to personal jurisdiction in this judicial district, and have directed its business, licensing, and enforcement activities at this judicial district, and a substantial part of the events giving rise to the claims occurred in this judicial district.

FACTUAL BACKGROUND

13. Plaintiff PDB Blanks and Glitter, LLC (“PDB”) is an online retail establishment based in Colorado Springs, Colorado operating at the website <https://pdbcreativestudio.com>. Plaintiff provides a variety of beads and rhinestone products, including associated tools by which to manipulate each, to customers nationwide.

14. Specifically, Plaintiff sells through its website the “PDB RAINBOW TOOL.”

15. The following is a copy of an image of Plaintiff’s PDB RAINBOW TOOL from Plaintiff’s website:



16. U.S. Patent No. 10,308,005 (“the ’005 Patent”), entitled “Double Ended Hand Tool,” names Defendant Kellie DeFries as the sole inventor and states the patent issued on June 4, 2019. Attached as **Exhibit 1** is a copy of the ’005 Patent.

17. On information and belief, Defendant DeFries is the owner of all right, title, and interest in the ’005 Patent.

18. On information and belief, the ’005 Patent has not been assigned to another person or entity.

19. U.S. Patent No. D867,839 (“the ’839 Patent”), entitled “Double Ended Hand Tool,” names Defendant Kellie DeFries as the sole inventor and states the patent issued on November 26, 2019. Attached as **Exhibit 2** is a copy of the ’839 Patent.

20. On information and belief, Defendant DeFries is the owner of all right, title, and interest in the ’839 Patent.

21. On information and belief, the ’839 Patent has not been assigned to another person or entity.

22. On information and belief, Defendant DeFries, through her company Defendant Crystal Katana, LLC and its attorneys, sent to Plaintiff on or about November 9, 2022, a “Pre-Litigation Notice and Demand” letter (“Demand Letter”). Attached as **Exhibit 3** is a copy of the Demand Letter.

23. Defendants’ Demand Letter alleges, among other things, infringement of the ’005 Patent and the ’839 Patent by Plaintiff’s PDB RAINBOW TOOL.

24. Defendants’ Demand Letter seeks from Plaintiff approximately \$3,000,000 in damages and threatens possibly tripling these damages to approximately \$9,000,000.

25. Defendants' Demand Letter commanded Plaintiff "to immediately cease any and all production, marketing, or sales of your [PDB RAINBOW TOOL] and to refrain from any further online sales in the future absent a negotiated royalty agreement with my client."

26. Based on the foregoing, a justiciable controversy exists between Plaintiff and Defendants as to whether Plaintiff's PDB RAINBOW TOOL infringe the '005 Patent and/or the '839 Patent.

27. Absent a declaration of non-infringement, Defendants will continue to wrongfully allege that Plaintiff's PDB RAINBOW TOOL infringe the '005 Patent and/or the '839 Patent, and thereby cause Plaintiff irreparable injury and damage.

**COUNT ONE – DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF U.S. PATENT NO. 10,308,005**

28. PDB repeats and realleges paragraphs 1 through 27 hereof, as if fully set forth herein.

29. As a result of the acts described in the preceding paragraphs, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of non-infringement of the '005 Patent.

30. A judicial declaration is necessary and appropriate so that Plaintiff may ascertain its rights regarding its PDB RAINBOW TOOL and the '005 Patent.

31. Plaintiff is entitled to a declaratory judgment that Plaintiff does not make, use, sell, offer for sale, or import into the United States, and has not made, used, sold, offered for sale, or imported into the United States any products or methods that infringe, either directly or indirectly, any valid and enforceable claims of the '005 Patent under 35 U.S.C. § 271.

**COUNT TWO – DECLARATORY JUDGMENT OF
NON-INFRINGEMENT OF U.S. PATENT NO. D867,839**

32. PDB repeats and realleges paragraphs 1 through 31 hereof, as if fully set forth herein.

33. As a result of the acts described in the preceding paragraphs, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of non-infringement of the '839 Patent.

34. A judicial declaration is necessary and appropriate so that Plaintiff may ascertain its rights regarding its PDB RAINBOW TOOL and the '839 Patent.

35. Plaintiff is entitled to a declaratory judgment that Plaintiff does not make, use, sell, offer for sale, or import into the United States, and has not made, used, sold, offered for sale, or imported into the United States any products or methods that infringe, either directly or indirectly, any valid and enforceable claims of the '839 Patent under 35 U.S.C. § 271.

DEMAND FOR JURY TRIAL

36. Pursuant to Fed. R. Civ. P. 38, Plaintiff demands a trial by jury of all issues triable of right to jury and raised by the pleading in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

a. Adjudging that Plaintiff has not infringed and is not infringing, either directly or indirectly, any valid and enforceable claim of the '005 Patent or the '839 Patent, in violation of 35 U.S.C. § 271;

b. A judgment that Defendants and each of its officers, directors, agents, counsel, servants, employees, and all of persons in active concert or participation with

any of them, be restrained and enjoined from alleging, representing, or otherwise stating that Plaintiff infringes any claims of the '005 Patent or the '839 Patent or from instituting or initiating any action or proceeding alleging infringement of any claims of the '005 Patent or the '839 Patent against Plaintiff or any customers, manufacturers, users, importers, or sellers of the PDB RAINBOW TOOL;

c. Declaring Plaintiff as the prevailing party and this case as exceptional, and awarding Plaintiff its reasonable attorneys' fees, pursuant to 35 U.S.C. § 285;

d. That Defendants be ordered to pay all fees, expenses, and costs associated with this action; and

e. Award Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted,

January 31, 2023

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