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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**CHOON’S DESIGN LLC,**  
Plaintiff,

v.

**WECOOL TOYS INC.,**  
Defendant.

Case No.:

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

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This is an action for patent infringement in which Plaintiff, Choon’s Design LLC (“Choon’s” or “Plaintiff”), complains against Defendant, WeCool Toys Inc. (“WeCool” or “Defendant”), and alleges as follows:

## **PARTIES**

1. Choon's is a Michigan limited liability company with a place of business at 23660 Research Drive, Farmington, Michigan 48335.

2. Defendant WeCool is a New Jersey corporation having its principal place of business at 801 Arnold Ave, Point Pleasant, NJ 08742.

## **JURISDICTION AND VENUE**

3. This Court has original subject matter jurisdiction over the claims in this action at least pursuant to 28 U.S.C. § 1331 (federal question) and § 1338 (patents).

4. Defendant is subject to personal jurisdiction in this Court. In particular, this Court has personal jurisdiction over Defendant because it has engaged in continuous, systematic and substantial activities within this judicial district, including the marketing and/or sales of infringing products in this judicial district. Defendant is further incorporated in New Jersey and has its principal place of business in this judicial district. Furthermore, this Court has personal jurisdiction over Defendant in this case because it has committed acts giving rise to Choon's claims within and directed to this judicial district.

5. Venue is proper in this judicial district as to Defendant under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400(b). Defendant is incorporated in New Jersey, has committed acts giving rise to Choon's claims within and directed to this judicial

district, and also has a regular and established place of business in this district at least by way of its location at 801 Arnold Ave, Point Pleasant, NJ 08742.

### **BACKGROUND**

6. Mr. Cheong Choon Ng, the founder of Choon's, came up with the idea for Rainbow Loom while trying to impress his young daughters. He spent many months tweaking the loom design, and ultimately, he and his wife decided to invest their life savings into commercially producing the product.

7. In late 2011, Choon's introduced its Rainbow Loom product ("the Rainbow Loom") to the market. The Rainbow Loom is a kit including, among other things, a loom designed to be used with rubber bands to form links for making bracelets, necklaces, and even bags and other items.

8. Choon's introduced the Rainbow Loom by selectively placing it in specialty toy and craft stores. Mr. Ng spent his evenings and weekends visiting these stores to convince them to carry the product. Choon's did not initially sell the product to any retail chains—although it does now.

9. Notwithstanding, the Rainbow Loom product was, from the get go, received with great fanfare and accomplished almost immediate and monumental success—even without any relationships with retail chains.

10. In an article dated July 19, 2013, one store owner noted "[w]e are selling the Rainbow Loom like crazy!" The article further notes that the Rainbow

Loom is “[t]he summer obsession ... [and] ... is flying off shelves so quickly that stores can’t keep them in stock for long,” and that the popularity of the Rainbow Loom has “‘spread like wildfire throughout the country,’ especially with kids 5 to 15.”

11. Choon’s founder, Cheong Choon Ng, has been featured on the NBC’s TODAY show (<http://www.today.com/style/new-silly-bandz-rainbow-loom-bracelets-hit-kids-6C10920802>) and his amazing success story has been detailed in a number of publications. Choon’s was also featured in articles in publications such as The Wall Street Journal, The New York Times, and Crain’s Detroit Business.

12. Undoubtedly, the Rainbow Loom became a smash hit within the toy industry. Choon’s was awarded the coveted “Toy of the Year” award at the 14th Annual Toy of the Year Awards held in New York City. Choon’s also received awards for “Activity Toy of the Year,” “Girl Toy of the Year,” and “Specialty Toy of the Year.”

13. Since its introduction into the market, Choon’s has sold millions of Rainbow Loom kits in the U.S.

14. In addition to a loom, rubber bands, and clips, Choon’s Rainbow Loom kit also includes a Mini Rainbow Loom, comprising a hook and a mini loom. Choon’s also sells the Mini Rainbow Loom individually (separate from the Rainbow Loom kits).

15. Choon's tremendous success has led to numerous copycats trying to capitalize on Choon's hard work. For instance, after taking note of Choon's great success, Defendant began selling products called: (1) fashion bandz jewelry kit, and (2) Fashion Bandz Go Cup, both of which are shown below (*see also Exhibit 1*):

**fashion bandz jewelry kit**



**Fashion Bandz Go Cup**



**THE ASSERTED PATENT**

16. Choon's owns United States Patent No. 8,899,631 ("the '631 patent"), entitled "Brunnian Link Making Device and Kit," which was issued on December 2, 2014 by the United States Patent and Trademark Office. A true and correct copy of the '631 patent is attached hereto as **Exhibit 2**.

17. The '631 patent names Cheong Choon Ng as inventor.

18. Choon's is the owner by assignment of all right, title and interest in the '631 patent.

19. The '631 patent generally relates to, inter alia, a novel device, method and kit for creating a linked item.

20. Choon's sells products covered by one or more claims of the '631 Patent.

21. Choon marks its covered products in compliance with 35 U.S.C. §287.

22. Defendant's fashion bandz jewelry kit and Fashion Bandz Go Cup (shown below) (hereinafter, "the Accused Jewelry Kits") infringe one or more of the claims of Choon's '631 Patent:



**COUNT I**  
**(DIRECT INFRINGEMENT OF U.S. PATENT 8,899,631)**

23. Choon's incorporates by reference all of the preceding paragraphs as though fully set forth herein.

24. The '631 patent remains valid, enforceable, and unexpired.

25. Claim 10 of the '631 patent recites:



A kit for creating an item consisting of a series of links, the kit comprising:

a template including at least two pins spaced apart from each other, each of the pins including a first end, a base end, and an access groove; and

at least one clip including inward facing ends for securing ends of the series of links together.

26. Defendant is directly infringing and/or has directly infringed the '631 patent, including, without limitation, by making, using, offering for sale, selling, and/or importing, without license or authority, products covered by at least claim 10 of the '631 patent, including, but not limited to, the Accused Jewelry Kits in violation of 35 U.S.C. §271(a).

27. As shown in **Exhibits 3 and 4**, the Accused Jewelry Kits meet each limitation of at least claim 10 of the '631 patent.

28. Defendant has knowledge of the '631 patent and its infringement of the '631 patent, or willfully blinded itself to such knowledge. Defendant has knowledge of the '631 patent and that its actions infringed the '631 patent at least based on the letter sent to Defendant on October 28, 2022. At a minimum, Defendant was aware of the '631 patent and its infringement of the '631 patent in view of this letter.

29. Defendant has knowledge of patents related to the rubber band loom industry in general and would be aware of the '631 Patent.



30. Upon information and belief, Defendant also has knowledge of Choon's patents through publicly available notices on Choon's website and therefore would have been aware of the '631 Patent. [See e.g. <https://www.rainbowlloom.com/patents>, screenshots attached as **Exhibit 5**].

31. Upon information and belief, Defendant has not made any changes to the Accused Jewelry Kits despite its knowledge of the '631 patent.

32. Defendant knew of the '631 patent, acted despite an objectively high likelihood that its actions constituted infringement of a valid patent, knew or should have known of this likelihood, and ignored and/or disregarded that its actions constituted infringement of a valid and enforceable patent.

33. As a result, Defendant's infringement of the '631 patent is and/or has been egregious, willful and deliberate.

34. The parties are competitors. Defendant is offering and selling infringing products to the same customers Plaintiff Choon's is doing business with, taking away sales and profits from Choon's. Choon's has suffered substantial damages and will suffer severe and irreparable harm as a result of Defendant's infringement, unless that infringement is enjoined by this Court. The threatened injury to Choon's outweighs any harm that the injunction may cause to Defendant. Injunctive relief would not disserve the public interest under these circumstances.

**COUNT II**  
**(INDUCED INFRINGEMENT OF U.S. PATENT 8,899,631)**

35. Choon's incorporates by reference all of the preceding paragraphs as though fully set forth herein.

36. The '631 patent remains valid, enforceable, and unexpired.

37. With knowledge of the '631 patent, Defendant has induced and/or continues to induce infringement of at least claim 10 of the '631 patent in violation of 35 U.S.C. § 271(b) by making, offering to sell, selling, and/or importing, without license or authority, the Accused Jewelry Kits for use by at least Defendant's customers of the Accused Jewelry Kits. In light of Defendant's inducement, these purchasers and customers directly infringe the '631 patent by using the Accused Jewelry Kits.

38. Defendant specifically intended its customers to infringe the '631 patent and knew that its customers' acts constituted infringement, or at the very least, was willfully blind to the existence of the '631 patent and/or the fact that customers' use of the Accused Jewelry Kits would directly infringe the '631 patent. Despite a high likelihood that its actions would induce its customers' direct infringement of the '631 patent, Defendant marketed and sold the Accused Jewelry Kits to its customers for such use. These customers directly infringe the '631 patent by using the Accused Jewelry Kits as instructed by Defendant.

39. As shown in **Exhibits 3 and 4**, when users use the Accused Jewelry Kits as prescribed by Defendant, each limitation of at least claim 10 of the ‘631 Patent is met.

40. Defendant knew that its customers’ actions, when performed, would directly infringe the ‘631 patent. Defendant has knowledge of the ‘631 patent and its infringement of the ‘631 patent, or willfully blinded itself to such knowledge. Defendant has knowledge of the ‘631 patent and that its actions infringed the ‘631 patent at least based on the letter sent to Defendant on October 28, 2022. At a minimum, Defendant was aware of the ‘631 patent and its infringement of the ‘631 patent in view of this letter.

41. Defendant has knowledge of patents related to the rubber band loom industry in general and would be aware of the ‘631 Patent.

42. Upon information and belief, Defendant also has knowledge of Choon’s patents through publicly available notices on Choon’s website and therefore would have been aware of the ‘631 Patent. [See e.g. <https://www.rainbloom.com/patents>, screenshots attached as **Exhibit 5**].

43. Upon information and belief, Defendant has not made any changes to the Accused Jewelry Kits despite its knowledge of the ‘631 patent.

44. At the very least, based on Choon’s October 28, 2022 letter, Defendant’s likely knowledge of Choon’s patent portfolio in general, Defendant’s

knowledge that Choon's is a direct competitor in the market regarding the Accused Jewelry Kits, and Defendant's information and products provided that promote direct infringement by customers and users, Defendant believed that there was a high probability that its acts, if taken, would result in direct infringement of the '631 patent by its customers, yet deliberately avoided confirming that belief. At the very least, Defendant willfully blinded itself to the existence of the '631 patent, and therefore willfully blinded itself to customers' direct infringement of the '631 patent resulting from the customers' use of the Accused Jewelry Kits.

45. Defendant knew of the '631 patent, acted despite an objectively high likelihood that its actions constituted infringement of a valid patent, knew or should have known of this likelihood, and ignored and/or disregarded that its actions constituted infringement of a valid and enforceable patent.

46. As a result, Defendant's infringement of the '631 patent is and/or has been egregious, willful and deliberate.

47. The parties are competitors. As a result of Defendant's inducement of infringement, Choon's will suffer severe and irreparable harm, unless that infringement is enjoined by this Court, and has suffered substantial damages. The threatened injury to Choon's outweighs any harm that the injunction may cause to Defendant. Injunctive relief would not disserve the public interest under these circumstances.

**PRAYER FOR RELIEF**

WHEREFORE, Choon's requests judgment in its favor against Defendant for the following relief:

A. A judgment in favor of Choon's that Defendant has directly infringed the '631 Patent;

B. A judgment in favor of Choon's that Defendant has indirectly infringed the '631 Patent;

C. A preliminary and permanent injunction enjoining Defendant, its officers, directors, agents, servants, employees and those persons in active concert or participation with Defendant, from infringing the '631 Patent in violation of 35 U.S.C. § 271;

D. An award of damages adequate to compensate Choon's for Defendant's infringement, including but not limited to lost profits and/or a reasonable royalty;

E. An order adjudging Defendant to have deliberately and willfully infringed the '631 Patent and trebling, or otherwise increasing, Choon's damages under 35 U.S.C. § 284;

F. A judgment in favor of Choon's that this is an exceptional case;

G. An award to Choon's of its attorney fees and its costs and expenses incurred in connection with this action pursuant to 35 U.S.C. § 285;

- H. An award of prejudgment and post-judgment interest and costs of this action; and
- I. Such other and further relief that this Court deems just and proper.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38(b), Choon's demands a trial by jury on all issues so triable.

Respectfully submitted,

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*(Pro Hac Vice Applications Forthcoming)*

Dated: November 2, 2022