

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

STOCK YOUR HOME LLC,

Plaintiff,

vs.

LIFTED LIMITED, LLC,

Defendant

Case No.: Number

**STOCK YOUR HOME LLC'S  
COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff Stock Your Home LLC ("SYH"), files this Complaint for Declaratory Judgment of Invalidity and Noninfringement against Defendant Lifted Limited, LLC ("Lifted") or ("Defendant"), and in support of its Complaint alleges as follows.

**NATURE OF THE ACTION**

1. This is an action for a declaratory judgment of Invalidity and Noninfringement arising under the patent laws of the United States , Title 35 of the United States Code.
2. SYH is a highly respected, leading seller of a broad variety of products on Amazon.com.
3. SYH respects the intellectual property rights of others.
4. On June 17, 2022, Amazon.com notified SYH by email that Lifted through its attorneys, Alex P. Bradford, and Vonda J. Westlake, at the firm of Sheridan Ross, 2695 Patterson Rd., Grand Junction, CO 81506, asserted that certain products sold by SYH on Amazon.com (ASIN: BO7SJ94R68 and BO87NCXT7S) infringe U.S Patent No. 10,694,779 (" '779 Patent").
5. The action by Lifted was directed specifically towards SYH which is located in the Federal Eastern District of New York to impact SYH and its sales in the Federal Eastern District of New York along with sales outside New York.
6. The attorneys from Sheridan Ross failed to provide Amazon.com any legal argument forming the basis of their conclusion of patent infringement of the '779 Patent, and failed to address the critical issue of the validity of the '779 Patent.

1 7. A legal analysis, prepared for the Evaluator appointed by Amazon.com, was sent on August 15, 2022 to the  
2 attorneys at Sheridan Ross, Bradford and Westlake, on behalf of SYH proving that the ‘779 Patent is  
3 invalid so that patent infringement is not possible. See Ex. A.

4 8. The attorneys at Sheridan Ross, Bradford and Westlake, responded to the SYH as to the legal analysis  
5 showing that the ‘779 Patent is invalid with the simple assertion, “[w]e do not find them convincing ..”.  
6 The attorneys failed to provide any counter-arguments as to the validity of the ‘779 Patent.

7 9. The issue of patent infringement was submitted to a Patent Evaluator appointed by Amazon.com; however,  
8 the Patent Evaluator refused to consider arguments relating to invalidity.

9 10. The Patent Evaluator appointed by Amazon.com, on information and belief, was not and still is not  
10 admitted to the Patent Office. On information and belief, the Patent Evaluator failed to have the minimum  
11 requirements to qualify to be a Patent Agent, and it is unlikely that he would meet the minimum  
12 requirements to be accepted in a Federal Court as an Expert Witness on issues of validity and infringement  
13 of a patent. Thus, the Patent Evaluator’s opinion is irrelevant.

14 11. The letter sent on August 15, 2022 to the attorneys at Sheridan Ross informed them that if Lifted continues  
15 to harm SYH by not allowing the sale of the aforementioned products, SYH will file a Declaratory  
16 Judgment Action based on the invalidity of the ‘779 Patent and seek damages including attorney fees and  
17 costs. The attorneys on behalf of Lifted ignored the possibility of a Declaratory Judgment Action and  
18 threatened litigation for past damages, but failed to provide a basis for past damages in view of the  
19 termination of sales by SYH.

20 12. The simplistic response by the attorneys at Sheridan Ross of “[w]e do not find them convincing ...” and  
21 subsequent threats of litigation for past damages is evidence that Lifted is intent on harming SYH  
22 economically by denying SYH a significant market for its products now and in the future in New York and  
23 outside New York. The attorneys at Sheridan Ross ignored the fact that the Patent Evaluator failed to  
24 consider the issue of validity of the ‘779 Patent, or that there appears to be no evidence that the Patent  
25 Evaluator is admitted to the Patent Office and that he might not be qualified to render a legal opinion on the  
26 validity and infringement of the ‘779 Patent. In fact, the attorneys at Sheridan Ross point to the decision of  
27 the Patent Evaluator as apparently confirmation of their opinion that the ‘779 Patent is infringed.

1 13. This Court should not allow the continuing economic harm to SYH in New York and outside New York by  
2 Lifted through tortiously interfering with sales by SYH based on an invalid '779 Patent.

3 14. Meanwhile, Lifted is selling a product allegedly under the '779 Patent in New York with substantial sales  
4 now that Lifted has eliminated SYH as a competitor.

5  
6 **THE PARTIES**

7 15. SYH is a New York limited liability company having a principal place of business at 478 Albany Ave.,  
8 Suite 184, Brooklyn, NY 11203 and other offices only in the Federal Eastern District of New York.

9 16. On information and belief, Lifted is a Colorado limited liability company having a principal office of  
10 business at 1107 Gunnison Avenue, Grand Junction, CO 81501.

11 **JURISDICTION AND VENUE**

12 17. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 1338(a) because  
13 this action involves claims arising under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*, and  
14 under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

15 18. The Court has personal jurisdiction over Lifted because Lifted through its attorney engaged in tortious  
16 interference with the business of SYH by preventing SYH from selling in in New York and outside New  
17 York by sending an unsubstantiated claim of patent infringement to Amazon.com without providing a legal  
18 basis. Moreover, when Lifted was confronted with legal arguments showing that the asserted '779 Patent  
19 was invalid, Lifted failed to provide any counter legal opinion, and simply stated that Lifted did not agree.

20 19. Lifted has repeated threatened SYH with a patent infringement lawsuit for past damages since  
21 Amazon.com stopped selling the products identified by Lifted, and SYH is located only in the Federal  
22 Eastern District of New York so Lifted has clearly implied a willingness to have litigation in the Federal  
23 Eastern District of New York.

24 20. The issue of patent validity is strictly a legal issue so there is no valid issue of the convenience of fact  
25 witnesses.

26 21. On information and belief, Lifted has many sales in New York, and particularly the Federal Eastern District  
27 of New York so Lifted should have a reasonable expectation of being sued in the Federal Eastern District  
28 of New York.

1 **THE PATENT-IN-SUIT**

2 22. The U.S. Patent No. 10,694,779 (“ ‘779 Patent”) is entitled “pipe lighter holder and tool”. The named  
3 inventors of the ‘779 Patent are Matthew Robert Bodenchuk and Leslie Renea Bodenchuk; and the assignee  
4 on the cover page is Lifted Limited, LLC. A copy of the ‘779 Patent is attached as Ex. B.

5 **COUNT ONE**

6 **(Declaratory Judgment of Invalidity and Noninfringement of the ‘779 Patent)**

7 23. Paragraphs 1 through 22 are incorporated herein as set forth above.

8 24. Each and every patent claim of the ‘779 Patent is invalid and the ‘779 Patent is invalid so that SYH cannot  
9 infringe an invalid ‘779 Patent directly or indirectly.

10 25. SYH is entitled to a judicial determination that SYH has not directly or indirectly infringed the ‘779 Patent.

11 26. A judicial declaration is necessary and appropriate so that SYH may ascertain its rights regarding the  
12 claims of the ‘779 Patent.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, SYH respectfully requests that judgment be entered:

- 15 A. Declaring that the ‘779 Patent is invalid;
- 16 B. Declaring that SYH cannot infringe the invalid ‘779 Patent;
- 17 C. Finding that this is an exceptional case under 35 U.S.C. § 285, and awarding SYH its reasonable  
18 attorney’s fees and costs;
- 19 D. Awarding SYH its costs associated with this case;
- 20 E. Awarding SYH any other remedy or relief to which SYH may be entitled and which the Court deems  
21 just, proper, and equitable.

22 September 29, 2022

23 Respectfully Submitted,

24 By /s/ David Fink (4238)

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