

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

LEAD CREATION INC.,
Plaintiff,

v.

THE PARTNERSHIPS and
UNINCORPORATED
ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A"
Defendants.

Case No.: 8:23-cv-00049

VERIFIED COMPLAINT

PLAINTIFF'S COMPLAINT FOR PATENT INFRINGEMENT

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COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Lead Creation Inc., by and through undersigned counsel, brings this Complaint for patent infringement against the Partnerships and Unincorporated Associations identified on **Schedule-A** attached hereto (collectively, “Defendants”) and alleges as follows:

NATURE OF THE ACTION

1. This is an action for infringement of United States Patent No. 7530706 (the Patent-in-suit) arising under the patent laws of the United States. This action relates to an invention whereby when distance between the LED and the convex lens is changed, beam angle is concurrently changed so that the brightness for long distance is increased and illumination scope for short distance is increased without using a reflective cone. This is achieved by using a collar coaxially coupled to the main body; a convex lens coupled to the collar and optically coupled to the light-emitting diode in coaxially displaceable manner relative thereto, the convex lens defining a predetermined focal length, said convex lens being selectively displaceable between various ranges.

PARTIES

2. Plaintiff Lead Creation Inc. is a corporation duly organised and existing under the laws of the State of Delaware. Plaintiff's principal place of business is located in Florida.

3. Defendants are individuals and business entities of unknown makeup who own and/or operate one or more of the e-commerce stores under at least the Seller Aliases identified on Schedule A and/or other seller aliases not yet known to Plaintiff. On information and belief, Defendants reside and/or operate in the People's Republic of China or other foreign jurisdictions with lax intellectual property enforcement systems or redistribute products from the same or similar sources in those locations. Defendants are foreign individuals or corporations who have both incentive and capacity to hide their assets once warned that their funds are at risk. Defendants are also not likely to submit to the authority of this Court and to preserve sufficient funds to satisfy any judgments that the Court may issue against them. Defendants have the capacity to be sued pursuant to Federal Rule of Civil Procedure 17(b).
4. On information and belief, Defendants either individually or jointly, operate one or more e-commerce stores under the Seller Aliases listed in **Schedule-A** attached hereto. The tactics used by Defendants to conceal their identities and the full scope of their operation make it virtually impossible for Plaintiff to discover Defendants' true identities and the exact interworking of their network. If Defendants provide additional credible information regarding their identities, Plaintiff will take appropriate steps to amend the Complaint.
5. Defendants have both incentive and capacity to secret, conceal, destroy, alter, sell-off, transfer or otherwise dispose of or deal with infringing products or

other goods that infringe the Patent-in-suit and records relating thereto that are in their possession or under their control.

6. Defendants have both incentive and capacity to inform their suppliers and manufacturers of infringing products with the result being that those suppliers and manufacturers may also secret, conceal, sell-off or otherwise dispose of infringing products infringing the Patent-in-suit. Defendants have both incentive and capacity to secret and conceal the means of obtaining or manufacturing such infringing products, and records relating thereto that are in their possession or under their control.
7. Defendants have both incentive and capacity to secret, conceal, transfer or otherwise dispose of their ill-gotten proceeds from their sales of infringing products and records relating thereto that are in their possession or under their control.
8. Defendants have both incentive and capacity to open new user accounts and amazon merchant storefronts under new or different names and continue to offer for sale and sell infringing products with little to no consequence.
9. This suit arises out of the same series of transactions or occurrences of Defendants engaging in the sale of infringing products on amazon and there are common questions of law and fact that will arise in the litigation. The sale of infringing products on amazon by Defendants encapsulates a series of occurrences that are connected by a logical relationship. Upon information and belief, the infringing products sold by Defendants have similar parts and

are likely sourced from the same manufacturer unknown to Plaintiff. The concealment of identities and use of fake addresses by Defendants to avoid detection follow similar methodologies and patterns of conduct. The addresses provided by Defendants are unreliable and their actual addresses are unknown to Plaintiff. Screenshots of Google Maps search of Defendants' addresses are attached hereto as **Exhibit-2**.

JURISDICTION AND VENUE

10. This Court has Federal subject matter jurisdiction over this matter action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338(a) (patent infringement). Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and § 1400(b) in this district because a substantial part of the events or omissions gives rise to the claims that occurred in this District.
11. This Court has personal jurisdiction over Defendants since each of the Defendants directly target business activities toward consumers in the United States, including Florida, through at least the fully interactive, e-commerce stores¹ operating under the seller aliases identified in **Schedule-A** attached hereto (the "Seller Aliases"). Specifically, Defendants have targeted sales to Florida residents by setting up and operating e-commerce stores that target United States consumers using one or more Seller Aliases, offer shipping to the United States, including Florida, accept payment in U.S. dollars and, on

¹ The e-commerce store URLs are listed on Schedule A hereto under the Online Marketplaces.

information and belief, have sold products incorporating Plaintiff's invention to residents of Florida. Each of the Defendants is committing tortious acts in Florida, is engaging in interstate commerce, and have wrongfully caused Plaintiff substantial injury in the State of Florida. Upon information and belief, Defendants are subject to the personal jurisdiction of this Court because, among other things, Defendant have purposefully availed themselves of the benefits of doing business in this District by providing services to the residents of this District and by selling products and services to businesses and individuals located in this District.

COUNT ONE: PATENT INFRINGEMENT

12. Plaintiff repeats and incorporates by reference the allegations of paragraphs 1.-11. above.
13. On May 12, 2009, the U.S. Patent and Trademark Office issued the patent-in-suit, entitled LED Lighting Apparatus with Fast Changing Focus. A true and correct copy of the patent-in-suit is attached as **Exhibit-1**. The claims of the patent-in-suit cover invention whereby when distance between the LED and the convex lens is changed, beam angle is concurrently changed so that the brightness for long distance is increased and illumination scope for short distance is increased without using a reflective cone. This is achieved by using a collar coaxially coupled to the main body; a convex lens coupled to the collar and optically coupled to the light-emitting diode in coaxially displaceable

manner relative thereto, the convex lens defining a predetermined focal length, said convex lens being selectively displaceable between various ranges. The claims of the patent-in-suit carry a presumption of validity under 35 U.S.C. § 282(a) and are enforceable.

14. Plaintiff is the owner of the entire right, title and interest in the patent-in-suit by assignment, and possesses the right to sue for and obtain equitable relief and damages for infringement of the patent-in-suit.
15. Defendants have directly infringed and continue to directly infringe the patent-in-suit by making, using, selling, and offering for sale in the United States, and/or importing into the United States lighting apparatus namely flashlights the convex lens which when changed, the beam angle is concurrently changed so that the brightness for long distance is increased and illumination scope for short distance is increased without using a reflective cone, identified by the designations as shown in **Exhibit-3**. (hereinafter “Accused Products”). These Accused Products embody the invention defined by one or claims of the Patent-in-suit, without authority or license from Plaintiff. More particularly, upon information and belief, Defendants have infringed and continue to infringe at least Claim 1 of the patent-in-suit because the Accused Products include every limitation of Claim 1.
16. Third party service providers like those used by Defendants do not adequately subject new sellers to verification and confirmation of their identities, allowing infringers to “routinely use false or inaccurate names and addresses

when registering with these e-commerce platforms.” **Exhibit-4**, Daniel C.K. Chow, *Alibaba, Amazon, and Counterfeiting in the Age of the Internet*, 40 *NW. J. INT’L L. & BUS.* 157, 186 (2020); see also, report on “Combating Trafficking in Counterfeit and Pirated Goods” prepared by the U.S. Department of Homeland Security’s Office of Strategy, Policy, and Plans (Jan. 24, 2020), attached as **Exhibit-5** and finding that on “at least some e-commerce platforms, little identifying information is necessary or [an infringer] to begin selling” and recommending that “[s]ignificantly enhanced vetting of third-party sellers” is necessary. Infringers hedge against the risk of being caught and having their websites taken down from an e-commerce platform by pre-emptively establishing multiple virtual store-fronts. **Exhibit-5** at p. 22. Since platforms generally do not require a seller on a third-party marketplace to identify the underlying business entity, infringers can have many different profiles that can appear unrelated even though they are commonly owned and operated. **Exhibit-5** at p. 39. Further, “E-commerce platforms create bureaucratic or technical hurdles in helping brand owners to locate or identify sources of [infringement].” **Exhibit-4** at 186-187.

17. Claim 1 of the Patent-in-suit is asserted as below:

- a) A light-emitting diode (LED) lighting apparatus, comprising:
- b) a main body having a power source;

- c) a light-emitting diode electrically connected with the power source and positioned at a front end of the main body, the light-emitting diode emitting light beams;
- d) a collar coaxially coupled to the main body;
- e) a convex lens coupled to the collar and optically coupled to the light-emitting diode in coaxially displaceable manner relative thereto, the convex lens defining a predetermined focal length, said convex lens being selectively displaced between a first range and a second range, said first range being from the light-emitting diode to a first position offset from the light-emitting diode by the predetermined focal length, said second range being from the first position to a second position offset from the light emitting diode by twice the predetermined focal length; and
- f) at least one of said main body and collar having a pair of annular engagement portions axially offset from the other for releasably locking said collar to the main body to locate the convex lens respectively in said first range and second range;
- g) whereby a brightness of the light is optimally maintained for a greater range of illumination when the convex lens is in said second range than in said first range.

18. The Accused Products include a light-emitting diode (LED) lighting apparatus, a collar coaxially coupled to the main body; a convex lens coupled

to the collar and optically coupled to the light-emitting diode in coaxially displaceable manner relative thereto and convex lens being selectively displaceable between a first range and a second range which corresponds to the collar, convex lens placement and displacement mechanism as recited in Claim 1.

19. Claim 2 of the Patent-in-suit recites: “The light-emitting diode (LED) lighting apparatus as claimed in claim 2, wherein the convex lens is configured to converge light beams from the LED.”
20. The Accused Products include a convex lens configured to converge light beams, which corresponds to convex lens configured to converge light beams from the LED as recited in claim 2.
21. Claim 4 of the Patent-in-suit recites: “The light-emitting diode (LED) lighting apparatus as claimed in claim 1, wherein the main body has a fast thread formed thereon for retentive engagement by a housing displaceably coupled to the main body, the housing having the convex lens coupled thereto.”
22. The Accused Products include retentive engaging by a housing coupled with a convex lens, which corresponds to claims as recited in claim 4.
23. Claim 5 of the Patent-in-suit recites: The light-emitting diode (LED) lighting apparatus as claimed in claim 1, wherein the distance between the LED and the convex lens is adjustable with an approximate range of 0 mm to 32 mm.

24. The Accused Products include “zoom” function adjustable housing, which corresponds to the distance between the LED and the convex lens is adjustable with an approximate range of 0mm to 32mm as recited in claim 5.
25. Claim 8 of the patent-in-suit recites: “The light-emitting diode (LED) lighting apparatus as claimed in claim 1, wherein said collar and main body are coupled to be linearly displaceable one relative to the other without rotation between said engagement portions.”
26. The Accused Products include a collar and main body that are linearly displaceable without rotation, which corresponds to claims recited in claim 8.
27. A claim chart comparison with details of limitation matching to show infringement and Expert Opinion of Ms. Brenitra Mosley, MBA., senior consulting engineer, registered patent practitioner, electrical engineer and cybersecurity engineer is attached hereto as **Exhibit-6**.
28. Plaintiff has suffered injury, including irreparable injury, as a result of Defendants’ infringement. Plaintiff is therefore entitled to preliminary and permanent injunctive relief restraining and enjoining Defendants from infringing the Patent-in-suit.
29. Defendants have infringed Plaintiff’s patent through the aforesaid acts and will continue to do so unless enjoined by this Court. Defendants’ wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling,

offering for sale, and importing the patented invention. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

30. Plaintiff is entitled to recover damages adequate to compensate for the infringement, including Defendants' profits pursuant to 35 U.S.C. § 289. Plaintiff is entitled to recover any other damages as appropriate pursuant to 35 U.S.C. § 284.

31. By reason of Defendants' infringement, Plaintiff is suffering and will continue to suffer substantial damages in an amount to be determined at trial.

COUNT TWO: DECEPTIVE AND UNFAIR TRADE PRACTICES

32. Plaintiffs repeat and re-allege every allegation set forth in Paragraphs 1-32.

33. Defendants' wilful direct infringement of the Patent-in-suit to conduct sales of its counterfeit and inferior quality products are likely to deceive, mislead, betray, and defraud consumers who are customers of Plaintiff.

34. Defendants have unfairly competed with and injured and will continue to injure Plaintiffs by soliciting sales of their counterfeit inferior quality products by infringement of the Patent-in-suit. Defendants' infringement has and will cause irreparable injury to Plaintiffs' goodwill and reputation associated with the value of Plaintiff's patent.

35. Defendants' acts and practices of operating multiple stores that infringe on the Patent-in-suit to avoid detection and patent enforcement constitute acts of

unlawful, unfair or fraudulent business acts and practices within the meaning of Fla Stat 501.204.

COUNT THREE: UNJUST ENRICHMENT

36. Plaintiffs repeat and re-allege every allegation set forth in Paragraphs 1-35.
37. Plaintiff's Patent-in-suit have conferred the benefit of sales of products incorporating Plaintiff's invention on Defendants. Defendants have knowledge of the benefit they derive from making, using, selling, and offering for sale of the products infringing on the patent-in-suit. Defendants have accepted the benefit of infringement of the Patent-in-suit. It would be inequitable for Defendants to retain the benefits derived from the Patent-in-suit without paying fair value for it.
38. By virtue of the wilful infringement of the Patent-in-suit, Defendants have been unjustly enriched in an amount to be proven at trial. Defendants' retention of monies gained through its deceptive business practices, infringements, acts of confusing consumers and otherwise have unjustly enriched Defendants.
39. Defendants' ill-gotten gains obtained from sales of its Accused Products, includes the monies that should have been paid to Plaintiff as licensing fees or otherwise, if Defendants complied with their legal obligations.

COUNT FOUR: UNFAIR COMPETITION

40. Plaintiffs repeat and re-allege every allegation set forth in Paragraphs 1-39.

41. Defendants have gained the advantage of soliciting Accused Product sales by infringing the Patent-in-suit. Defendants are aware of the advantage they gain from highlighting the inventions claimed in the patent-in-suit. By from making, using, selling, and offering for sale of the Accused Products, Defendants have consented to receive the benefits of the Patent-in-suit. It would be unfair for Defendants to keep using the patent-in-suit without paying fair market value for it.

42. Defendants have been unfairly profited in an amount that will be proven at trial as a result of the deliberate direct infringement of the patent-in-suit. The retention of funds obtained by the defendants' dishonest business practices, violations, actions that confused consumers, and other illegal means has unfairly enriched the defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court grant the following relief:

- A. A judgment that Defendants have infringed one or more claims of the Patent-in-suit;
- B. That Defendants, their affiliates, officers, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through, under or in active concert with them be temporarily, preliminarily, and permanently enjoined and restrained from:

- i. making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use any products not authorized by Plaintiff and that include any reproduction, copy or imitation of the invention claimed in the Patent-in-suit;
 - ii. aiding, abetting, contributing to, or otherwise assisting anyone in infringing upon the Plaintiff's Patent; and
 - iii. effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in Subparagraphs (i) and (ii)
- C. Entry of an Order that, upon Plaintiff's request, those with notice of the injunction, including, without limitation, any online marketplace platforms such as eBay, AliExpress, Alibaba and Amazon, (collectively, the "Third Party Providers") shall disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of goods that infringe the claims of the Patent-in-suit;
- D. That Plaintiff be awarded such damages as it shall prove at trial against Defendants that are adequate to compensate Plaintiff for Defendants' infringement of the Patent-in-suit, but in no event less than a reasonable royalty for the use made of the invention by the Defendants, together with interest and costs, pursuant to 35 U.S.C. § 284;

- E. That the amount of damages awarded to Plaintiff to compensate Plaintiff for infringement of Patent-in-suit be increased by three times the amount thereof, as provided by 35 U.S.C. § 284;
- F. In the alternative, that Plaintiff be awarded all profits realized by Defendants from Defendants' infringement of the Patent-in-suit, pursuant to 35 U.S.C. § 289;
- G. Costs and reasonable attorneys' fees relating to this action pursuant to 35 U.S.C. § 285; and
- H. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands trial by jury on all claims so triable.

Dated: January 6th, 2023

Florida

Respectfully submitted,
By: *Michael Hurckes*
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VERIFICATION

Michael A. Hurckes, being duly sworn, deposes and says:

I am the Director of Lead Creation Inc. in the above-entitled action. I have read the foregoing complaint and personally know the contents thereof. The same are true to my knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters, I believe them to be true.

Michael Hurckes

MICHAEL A. HURCKES
Director, Lead Creation Inc.

6th day of January, 2022