

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

IGEL BEAUTY LLC, a Texas Limited  
Liability Company,

Plaintiff,

v.

DAILY NAIL ART SUPPLY, LLC, a  
Florida Limited Liability Company,

Defendant.

JURY TRIAL DEMANDED

Case No.

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, iGel Beauty LLC (“iGel Beauty”), by and through its undersigned attorneys, for its Complaint against Defendant Daily Nail Art Supply, LLC (“Daily Nail”), states and alleges as follows:

**NATURE OF THE ACTION**

1. iGel Beauty seeks injunctive and monetary relief from Daily Nail for patent infringement concerning Daily Nail’s unauthorized use of iGel Beauty’s patented technology.

**THE PARTIES**

2. Plaintiff iGel Beauty LLC, is a Texas Limited Liability Company with its principal place of business at 7170 W. 43<sup>rd</sup> St., Suite 300 Houston, Texas 77092-5735.

3. Upon information and belief Defendant Daily Nail Art Supply, LLC is a Florida Limited Liability Company with its principal place of business at 7525 N. Armenia Avenue, Tampa, FL 33604.

### **JURISDICTION AND VENUE**

4. This Court has original subject matter jurisdiction over the claims in this action that relate to patent infringement pursuant to 35 U.S.C. § 271, as such claim arises under the laws of the United States, and has supplemental jurisdiction under 28 U.S.C. § 1367 over iGel Beauty's claims under Florida law.

5. This Court has personal jurisdiction over Daily Nail because Daily Nail transacts business within the State of Florida. Daily Nail's infringing Nail Lamps are sold and offered for sale throughout the State of Florida, and it purposefully directs its business activities toward consumers in the State of Florida; derives a commercial benefit from its contacts within the State of Florida; and is causing injury to iGel Beauty's business within the State of Florida.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because a substantial part of the events or omissions giving rise to the claim occurred and is occurring in this District, and because this Court has personal jurisdiction over Daily Nail.

**FACTS COMMON TO ALL COUNTS**

**iGel Beauty's Patent and Trade Dress**

7. iGel Beauty was founded by Daniel Bui.

8. The Nail Lamp Mr. Bui created was like nothing on the market.

9. In addition to unique performance aspects of the Nail Lamp, Mr. Bui created a very unique look for the Nail Lamp. The look for the Nail Lamp was unlike any competitive products and serves to immediately identify the Nail Lamp as coming from a single source.

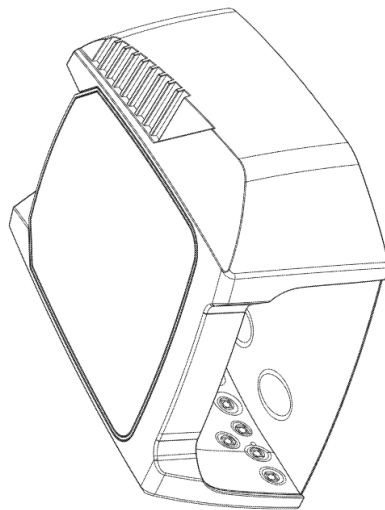
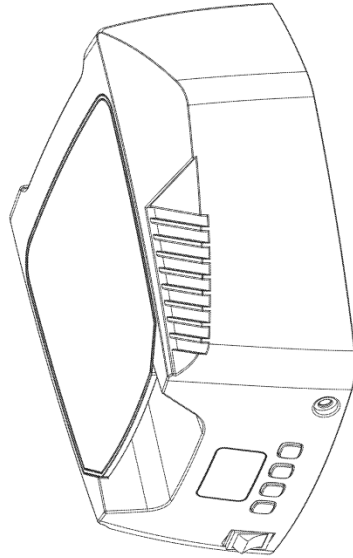
10. iGel Beauty has enjoyed substantial commercial success in connection with its Nail Lamp.

11. On March 23, 2021, the United States Patent and Trademark Office ("the Patent Office") duly and lawfully issued United States Design Patent No. D914,291 S ("the D'291 Patent"), entitled, "NAIL LAMP."

12. iGel Beauty owns by assignment all right, title and interest in the D'291 patent.

13. A true and correct copy of the D'291 Patent is attached hereto as Exhibit A and is incorporated by reference.

14. Representative images of the protected design claimed in the D'291 Patent are shown below:

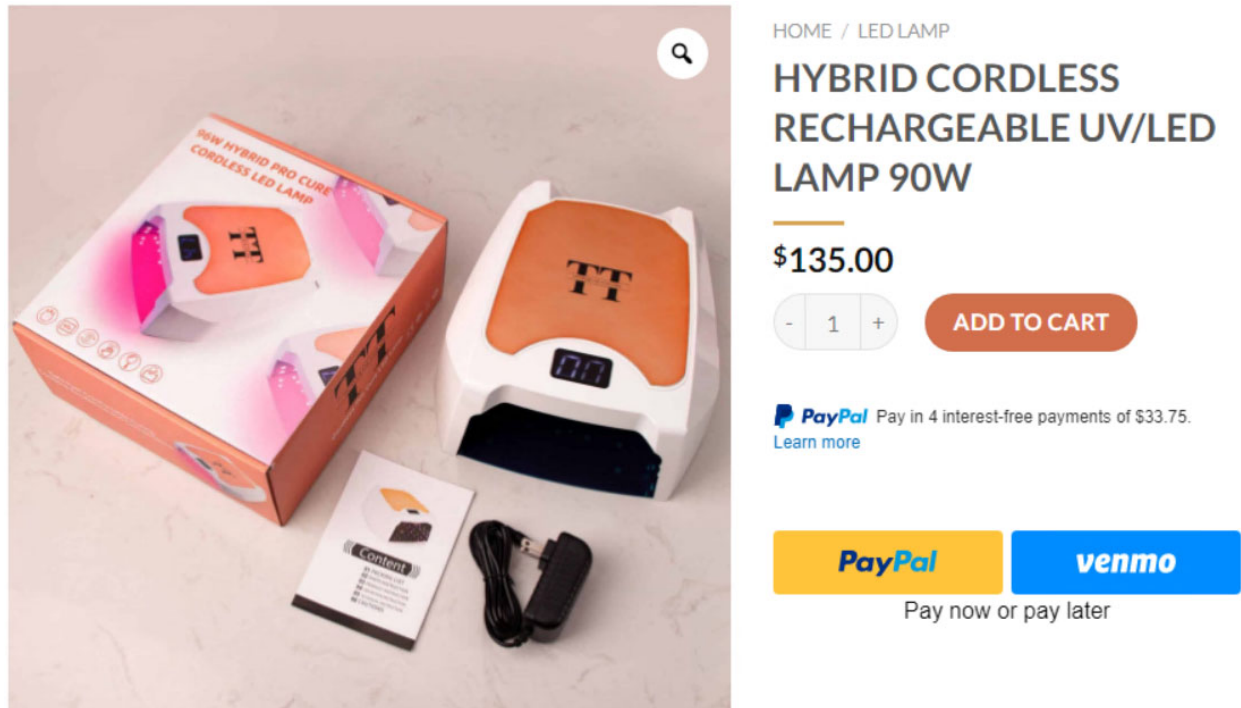


### **Daily Nail's Unlawful Conduct**

15. Daily Nail sells a Nail Lamp featuring designs that are confusingly similar to the iGel Beauty protected design claimed in the D'291 Patent.

16. Upon information and belief, on or about August 29, 2022, Daily Nail began marketing and selling a Nail Lamp termed "TT Power of Colors

Hybrid Cordless Rechargeable UV/LED Lamp 90 W." An image of a Daily Nail, Nail Lamp is shown below:



17. The design and decorative features used by Daily Nail for its Nail Lamp are confusingly similar to iGel Beauty's protected design claimed in the D'291 Patent.

18. The design used by Daily Nail for its Nail Lamp are confusingly similar to iGel Beauty's trade dress.

### Harm to iGel Beauty

19. iGel Beauty has spent large quantities of time, money, and effort to develop goodwill among its customers, and to create an instantly recognizable Nail Lamp, featuring the iGel Beauty protected design claimed

in the D'291 Patent, that is highly popular and coveted by its customers for its high quality and performance.

20. The Nail Lamps offered for sale by Daily Nail, which look nearly identical to iGel Beauty's Nail Lamp featuring the iGel Beauty protected design claimed in the D'291 Patent, will likely result, in confusion among customers, as well as lost sales, loss of market position, and loss of goodwill for iGel Beauty.

21. On August 29, 2022, iGel Beauty, through counsel, sent a cease and desist letter to Daily Nail, claiming intellectual property rights in its novel Nail Lamp design and notifying Daily Nail of its infringing conduct in making, using, offering for sale, and/or selling its iGel Beauty protected design claimed in the D'291 Patent. A true and correct copy of iGel Beauty's August 29, 2022 letter is attached hereto as Exhibit B.

22. As of the filing of this Complaint, Daily Nail has refused to cease and desist from its use of iGel Beauty's protected design claimed in the D'291 Patent.

23. iGel Beauty has been, and continues to be, harmed by Daily Nail's unauthorized use of its iGel Beauty protected design claimed in the D'291 Patent.

24. Daily Nail's conduct complained of herein has been and is done with the intent to cause confusion, mistake, or deception as to the source or affiliation of the parties' respective goods.

25. Daily Nail's conduct complained of herein has been and is done with the intent to cause confusion, mistake, or deception as to the source or affiliation of the parties' respective goods. Daily Nail has misappropriated iGel Beauty's substantial property rights in the iGel Beauty '291 Patent, as well as the substantial goodwill associated with the design elements claimed in the '291 Patent. Unless restrained and enjoined by this Court, such conduct will permit Daily Nail to gain an unfair competitive advantage over iGel Beauty, and will cause iGel Beauty irreparable harm in the form of loss of goodwill, loss of market position, and diversion and loss of customers.

### COUNT I

#### **Design Patent Infringement of the D'737 Patent, 35 U.S.C. § 271**

26. Plaintiff adopts, repeats and realleges each and every allegation previously set forth in paragraphs 1-25 in this Complaint as if fully set forth herein.

27. This is a claim for patent infringement under 35 U.S.C. § 271.

28. Defendant, through its agents, employees, and servants, knowingly, intentionally, and willfully have directly infringed—and continue directly to infringe—the D'291 Patent by making, using, selling, offering for sale, and/or

importing products having a design that would appear to an ordinary observer to be substantially similar to the design claimed in the D'291 Patent.

29. Defendants' acts of infringement of the D'291 Patent were undertaken without permission or license from iGel Beauty.

30. Defendant had actual knowledge of iGel Beauty's rights in the design claimed in the D'737 Patent.

31. Plaintiff and its iconic Nail Lamp design are well-known throughout the relevant industry, and Defendant's Nail Lamp product is a nearly identical copy of iGel Beauty's patented Nail Lamp design.

32. Defendant knew – or it was so obvious that Defendant should have known – that their actions constituted infringement of the D'291 Patent.

33. Accordingly, Defendant's actions constitute willful and intentional infringement of the D'291 Patent.

34. Alternatively, Defendant infringed the D'291 Patent with reckless disregard of iGel Beauty's patent rights.

35. Defendant's acts of infringement of the D'291 Patent were not and are not consistent with the standards of commerce for their industry.

36. As a direct and proximate result of Defendant's patent infringement Defendant has derived and received gains, profits, and advantages in an amount not presently known to iGel Beauty.



37. Pursuant to 35 U.S.C. § 284, iGel Beauty is entitled to damages for Defendant's infringing acts, in the amount of iGel Beauty's lost profits, and in an amount not less than a reasonable royalty, and treble actual damages, together with interests and costs as fixed by this Court.

38. Pursuant to 35 U.S.C. § 289, iGel Beauty is entitled to Defendant's total profits from the sale of products that infringe iGel Beauty's design patent rights.

39. Based on the intentional, willful and malicious nature of the acts of infringement alleged, iGel Beauty it is entitled to a determination that this case is exceptional.

40. Pursuant to 35 U.S.C. § 285, this case is an exceptional case and iGel Beauty is entitled to reasonable attorneys' fees for the necessity of bringing this claim.

41. Due to the aforesaid infringing acts, iGel Beauty has no adequate remedy at law.

42. Defendants will continue to directly and/or indirectly infringe iGel Beauty's patent rights to the great and irreparable injury of iGel Beauty, unless enjoined by this Court.

43. Accordingly, iGel Beauty is entitled to both a preliminary and a permanent injunction against Defendant enjoining it from further acts of

infringement of the D'291 Patent.

**COUNT II**  
**Florida's Deceptive and Unfair Trade Practices Act**

44. Plaintiff adopts, repeats and realleges each and every allegation previously set forth in paragraphs 1-25 in this Complaint as if fully set forth herein.

45. The aforesaid acts of Daily Nail constitute unfair and deceptive acts or practices in the course of a business, trade, or commerce in violation of the Florida Deceptive and Unfair Trade Practices Act, § 501.201 et seq., Fla. Stat..

46. The consuming public is likely to be damaged as a result of the deceptive trade practices or acts engaged in by Daily Nail.

47. Upon information and belief, Daily Nail's deceptive trade practices or acts were committed willfully, with full knowledge of iGel Beauty's rights, and with the intention of injuring iGel Beauty's business reputation and the goodwill associated with iGel Beauty's business, and causing harm to iGel Beauty.

48. As a direct and proximate result of Daily Nail's deceptive trade practices or acts, iGel Beauty has suffered and will continue to suffer damages in an amount that is not presently ascertainable, but will be established at trial.

49. Daily Nail's deceptive trade practices or acts have caused and, unless enjoined by this Court, are likely to continue to cause iGel Beauty to suffer irreparable harm.

50. Defendant's conduct has caused and is likely to continue to cause substantial injury to the public and to Plaintiff, entitling Plaintiff to injunctive relief and to recover damages, its costs and its reasonable attorney's fees.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff requests that judgement be entered in its favor and against Daily Nail Art Supply, LLC as follows:

A. Declaring that Daily Nail's unauthorized use of iGel Beauty's '291 Patent claim infringes under 35 U.S.C. § 271;

B. Defendant's infringement of the D'292 Patent was willful;

C. Awards to Plaintiff compensatory damages, including Plaintiff's lost profits due to the infringement, but not less than a reasonable royalty; and/or awards to Plaintiff the Defendants' total profits from such infringement pursuant to 35 U.S.C. § 289;

D. Awards to Plaintiff treble damages and/or exemplary damages because of Defendants' willful conduct pursuant to 35 U.S.C. § 284;

E. Adjudges that this is an exceptional case and awarding Plaintiff its attorney fees, expenses and costs incurred in connection with this action pursuant to 35 U.S.C. § 285;

F. Awards to Plaintiff pre-judgment and post-judgment interest; and

G. Ordering or awarding any other such relief the Court deems just and proper.

**JURY TRIAL DEMAND**

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: September 23, 2022

Respectfully submitted,

**FOX ROTHSCHILD LLP**

/s/ Patricia M. Flanagan

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