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Fellow Industries, Inc.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14 FELLOW INDUSTRIES, INC., a Delaware
15 limited liability corporation,

16 Plaintiff,

17 v.

18 TURLYN INTERNATIONAL, INC., a
19 California corporation, HAIER AMERICA
20 TRADING, LLC, a New Jersey limited liability
21 company, LTMATE GLOBAL INC., a
California corporation, and DOES 1-5,

22 Defendants.
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Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

1. **Patent Infringement (35 U.S.C. § 271)**
2. **Trade Dress Infringement and False Designation of Origin (15 U.S.C. § 1125(a))**
3. **Unfair Business Practices – California Business and Professions Code § 17200, *Et Seq.***
4. **Unjust Enrichment**

1 Plaintiff Fellow Industries, Inc. (“Fellow” or “Plaintiff”), for its claims against
2 Turnlyn International, Inc., Haier America Trading, LLC, LTMATE Global Inc., and DOES 1-5
3 (collectively “Defendants”), alleges as follows:

4 **NATURE AND SUBSTANCE OF THE ACTION**

5 1. Fellow has revolutionized the pour-over coffee and tea brewing market with its
6 wildly popular gooseneck design created for slow pour thus allowing for excellent control over
7 extraction. An image of the Fellow gooseneck kettle is depicted below:



19 2. Fellow’s creative achievements and designs have resulted in broad intellectual
20 property protections for Fellow’s innovations, including design patents and trade dress protection.
21 Fellow’s innovations have been the subject of widespread copying and misappropriation by
22 Fellow’s competitors including Defendants who have attempted to capitalize on Fellow’s elegant
23 and distinctive product designs. Instead of pursuing independent product development, Defendants
24 have chosen to slavishly copy Fellow’s elegant and distinctive designs in violation of Fellow’s
25 invaluable intellectual property rights. As alleged in detail below, Defendants have made its kettles
26 look like Fellow’s kettles through design patent and trade dress infringement as depicted below:



3. By this action, Fellow seeks to put a stop to Defendants’ unlawful and illegal misconduct and obtain compensation for the damages that Fellow has suffered so far.

4. Plaintiff alleges claims for federal patent infringement under 35 U.S.C. § 271, federal trade dress infringement and false designation of origin under 15 U.S.C. § 1125, unfair competition under the California Business & Professions Code § 17200, and unjust enrichment.

PARTIES

5. Plaintiff Fellow Industries, Inc. is a limited liability company existing under the laws of the State of Delaware with its principal place of business at 560 Alabama Street, San Francisco, California 94110.

6. Defendant Turlyn International, Inc. is a corporation existing under the laws of the State of California with its principal place of business at 1773 W. San Bernardino Rd., Suite F 85, West Covina, California 91790.

7. Defendant Haier America Trading, LLC is a limited liability company existing under the laws of the State of New Jersey with its principal place of business at 50 Tice Blvd, Suite 340, Woodcliff Lake, New Jersey 07677.

8. Defendant LTMATE Global Inc. is a corporation existing under the laws of the State of California with its principal place of business at 1313 North Grand Ave., Suite 609, Walnut, California 91789.

1 place of business is in this District and Fellow suffered harm in this district. Moreover, a substantial
2 part of the events giving rise to the claims occurred in this District.

3
4 **GENERAL ALLEGATIONS**

5 **Fellow’s Innovations and Intellectual Property**

6 14. Fellow has revolutionized the pour-over coffee and tea brewing market with its
7 wildly popular gooseneck design created for slow pour thus allowing for excellent control over
8 extraction.

9 15. Fellow has protected its innovative designs through a design patent issued by the
10 United States Patent and Trademark Office. The design patent covers the ornamental features of
11 Fellow’s kettles such as, among other things, the gooseneck spout and the unique handle. Fellow
12 owns all right, title, and interest in and to design patent D796,888, Title “Dispensing Kettle”) (the
13 “D’888 Patent”), attached hereto as Exhibit A.

14 16. In addition, and alternatively, Fellow holds trade dress protection in its inherently
15 distinctive and well-known design and appearance of its kettles which serve to identify Fellow as
16 the source of its kettles.

17 **Defendants’ Infringing Products**

18 17. Defendants have imported into and sold in the United States the knockoff kettles
19 depicted below, each of which infringe one or more of Fellow’s intellectual property rights.

20 18. Rather than innovate and develop their own design and style, Defendants chose to
21 misappropriate and copy Fellow’s innovative style and design in their infringing kettles.

22 19. When Defendants’ kettles are viewed in the marketplace and in public, there can be
23 little doubt that Defendants’ kettles would be viewed as a Fellow kettle based upon the design alone.
24 For example, a recent article at vice.com noted the following about the knockoff Poliviar kettle sold
25 by defendant LTMATE Global:

26 The Fellow electric kettle is the ‘GOAT’ (greatest of all time), but there are ‘more
27 affordable cousins’, including Poliviar. To quote the article:
28

1 Yes, the [Fellow Stagg EKG Electric Kettle](#) is the ultimate workhorse when it comes to
2 boiling water for our morning [coffees](#) and [teas](#), and it's been a viral status-item for a few
3 years now. Here are the best Fellow kettle [lookalikes](#) to impress coffee snobs...

3 **Poliviar Electric Kettle**

4 *Poliviar's gooseneck kettle is available in a range of trendy neutral colors like khaki
5 green, stark white, gray, and speckled gray. It has a leak-proof design, beeps when done,
6 has "boil" and "keep warm" modes, and can boil ice cold water within seven minutes.
7 Doesn't make a bad tabletop decor piece, either.*

8 [The 7 Best Stagg Gooseneck Kettle Dupes, Lookalikes, and Alternatives \(vice.com\)](#)

9 20. Fellow is informed and believes that Defendants' infringing kettles are manufactured
10 by a Chinese counterfeiter, Jiangmen Yongkeng Electric & Hardware Co., with an address at Block
11 1-3, No. 7 Yijing Ave., Duruan Town Pengjiang District, Jiangmen City, Guangdong, Peoples
12 Republic of China. An image depicting the infringing kettle from the website at
13 www.yongkeng.com is set forth below in a side-by-side comparison with Fellow's D'888 Patent:



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23 21. Defendants had many options in designing their kettles that did not embody Fellow's
24 trade dress. But Defendants chose to infringe Fellow's D'888 Patent and the Fellow trade dress,
25 and did so willfully to trade upon and misappropriate the goodwill that Fellow had developed in its
26 kettles, and is likely to cause potential purchasers of Defendants' kettles, as well as the public at
27 large, to believe that Defendants' kettles are genuine Fellow kettles. In addition, Defendants'
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1 unauthorized use of the Fellow trade dress dilutes, tarnishes, and whittles away the distinctiveness
2 of the trade dress.

3 22. Defendants' conduct is intentionally fraudulent, malicious, willful, and wanton.
4 Accordingly, this is an exceptional case within the meaning of 15 U.S.C. § 1117(a).

5 **Irreparable Harm**

6 23. Defendants misappropriate Fellow's intellectual property with actual knowledge of
7 Fellow's rights. Defendants have carried out and continue to carry out such acts with the intent to
8 mislead and deceive consumers and the public in general. In so doing, Defendants have caused
9 irreparable damage to Fellow's intellectual property and to the goodwill and reputation of Fellow.

10 24. Fellow exercises great care and exerts substantial effort to control the nature and
11 quality of the genuine kettles embodying Fellow's intellectual property.

12 25. Defendants are not subject to the exacting quality control specifications and
13 supervision of Fellow and do not pay royalties to Fellow.

14 26. If Defendants' goods are shoddy now or in the future, the public will come to
15 believe that Fellow no longer maintains high standards for its exemplary products, and the
16 reputation and goodwill of Fellow will be harmed.

17 27. Based on experience, Fellow is informed and believes that unless this Court enters
18 a preliminary and permanent injunction in this case, Defendants will continue to sell infringing
19 and knockoff kettles and will destroy all evidence relating to the manufacture, importation,
20 advertisement, and sale of the infringing and knockoff kettles, and disclaim any knowledge of the
21 persons from whom they bought and to whom they have sold such kettles.

22 28. As such, Defendants' unlawful conduct constitutes an ongoing irreparable harm to
23 Fellow that will only cease if Defendants are enjoined.

24 **FIRST CLAIM FOR RELIEF**

25 **(INFRINGEMENT OF THE D'888 PATENT UNDER 35 U.S.C. § 271)**

26 29. Fellow realleges and incorporates herein the allegations above.

27 30. Defendants have infringed and continue to infringe the D'888 Patent by using,
28 selling, and/or offering to sell in the United States, and/or importing into the United States one or

1 more of the knockoff and infringing kettles identified in this Complaint, which embody the design
2 covered by the D'888 Patent.

3 **SECOND CLAIM FOR RELIEF**
4 **(TRADE DRESS INFRINGEMENT AND FALSE DESIGNATION OF ORIGIN UNDER 15**
5 **U.S.C. § 1125(a))**

6 31. Fellow realleges and incorporates herein the allegations above.

7 32. Fellow is the owner of all right and title to the distinctive gooseneck kettle trade
8 dress embodied in the Fellow kettles. This trade dress has acquired secondary meaning and is not
9 functional. In addition, this trade dress is inherently distinctive and well known.

10 33. In addition, based on extensive and consistent advertising, promotion, and sales
11 throughout the United States, the Fellow trade dress has acquired distinctiveness and enjoys
12 secondary meaning among consumers, thus identifying Fellow as the source of the Fellow kettles.

13 34. Fellow's extensive promotion of the distinctive Fellow trade dress has resulted in
14 Fellow's acquisition of valuable, legally protected rights in the Fellow trade dress, as well as
15 considerable customer goodwill.

16 35. Defendants have knowingly misappropriated the Fellow trade dress by mimicking a
17 combination of several elements of that trade dress.

18 36. Defendants' misappropriation of the Fellow trade dress is likely to confuse,
19 mislead, or deceive customers and members of the general public as to the origin, source,
20 sponsorship, or affiliation of Defendants' goods and services, and is likely to cause such people to
21 believe in error that Defendants' goods and services have been authorized, sponsored, approved,
22 endorsed, or licensed by Fellow, or that Defendants are in some way affiliated with Fellow.

23 37. Defendants' wrongful actions constitute unfair competition and false designation of
24 origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

25 38. Defendants' wrongful actions are intentional, willful, and without regard to
26 Fellow's trade dress, and thus render this case exceptional within the meaning of 15 U.S.C. §
27 1117(a).

28 39. By reason of Defendants' actions, Fellow has suffered irreparable harm. Unless
Defendants are restrained from their actions, Fellow will continue to be irreparably harmed.

1 40. Fellow has no remedy at law that will compensate for the continued and irreparable
2 harm that will be caused if Defendants' acts are allowed to continue.

3 41. Defendants have gained substantial profits by virtue of their infringement of
4 Fellow's trade dress.

5 42. Fellow has also sustained damages as a direct and proximate result of Defendants'
6 infringement of the Fellow trade dress in an amount to be proven at trial.

7 43. As a direct and proximate result of Defendants' conduct, Fellow is entitled to treble
8 its damages or Defendants' profits whichever is greater, and/or the equitable remedy of an
9 accounting for, and disgorgement of, all revenues or profits wrongfully derived by Defendants
10 from their unfair competition and false designations of origin pursuant to 15 U.S.C. § 1117.
11 Fellow is also entitled to an award of costs, and, this being an exceptional case, reasonable
12 attorneys' fees pursuant to 15 U.S.C. § 1117(a).

13 **THIRD CLAIM FOR RELIEF**
14 **(UNFAIR BUSINESS PRACTICES – CALIFORNIA BUSINESS AND PROFESSIONS**
15 **CODE § 17200, *ET SEQ.*)**

15 44. Fellow realleges and incorporates herein the allegations above.

16 45. The acts of Defendants described above constitute fraudulent and unlawful
17 business practices as defined by the California Business & Professions Code §§ 17200, *et seq.*

18 46. As set forth above, Fellow has valid and protectable prior intellectual property
19 rights that do not serve any function other than to identify Fellow as the source of its kettles.

20 47. Defendants' misappropriation of Fellow's intellectual property is likely to cause
21 confusion as to the source of Defendants' kettle and is likely to cause others to be confused or
22 mistaken into believing that there is a relationship between Defendants and Fellow or that
23 Defendants' kettles are affiliated with or sponsored by Fellow.

24 48. The above-described acts and practices by Defendants are likely to mislead or
25 deceive the general public and therefore constitute fraudulent business practices in violation of the
26 California Business & Professions Code §§ 17200, *et seq.*

27 49. Defendants acted willfully and intentionally in designing its infringing trade dress
28 with full knowledge of Fellow's prior rights and with an intent to cause confusion or mistake or to

1 deceive consumers into believing that there is an affiliation between Defendants and Fellow or
2 between Defendants' kettles and Fellow's kettles.

3 50. The unlawful and fraudulent business practices of Defendants as described above
4 present a continuing threat to, and is meant to deceive members, of the public in that Defendants
5 continue to promote their products by wrongfully trading on the goodwill of Fellow's intellectual
6 property.

7 51. As a direct and proximate result of Defendants' wrongful conduct, Defendants have
8 received, and will continue to profit from, Fellow's intellectual property.

9 52. As a direct and proximate result of Defendants' wrongful conduct, Fellow has been
10 injured in fact and has lost money and profits, and such harm will continue unless Defendants'
11 acts are enjoined by the Court. Fellow has no adequate remedy at law for Defendants' continuing
12 violations of Fellow's rights.

13 53. Defendants should be required to restore to Fellow any and all profits earned as a
14 result of their unlawful and fraudulent actions, or provide Fellow with any restitutionary relief as
15 the Court deems appropriate.

16 **FOURTH CLAIM FOR RELIEF**
17 **(UNJUST ENRICHMENT)**

18 54. Fellow realleges and incorporates herein the allegations above.

19 55. As a direct and proximate result of the conduct alleged herein, Defendants have been
20 unjustly enriched to Fellow's detriment. Fellow seeks a world-wide accounting and disgorgement
21 of all ill-gotten gains and profits resulting from Defendants' inequitable activities.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Fellow prays for judgment against Defendants as follows:

24 1. A judgment that Defendants have infringed one or more claims of the D'888
25 Patent.

26 2. An order and judgment preliminarily and permanently enjoining Defendants and
27 their officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in
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1 privity or in concert with them, and their parents, subsidiaries, divisions, successors, and assigns,
2 from further acts of infringement of the D'888 Patent.

3 3. A judgment awarding Fellow all damages adequate to compensate Fellow for
4 Defendants' infringement of the D'888 Patent, and in no event less than a reasonable royalty for
5 Defendants' acts of infringement, including all pre-judgment and post-judgment interest at the
6 maximum rate permitted by law.

7 4. A judgment awarding Fellow all damages, including treble damages, based on
8 any infringement found to be willful, pursuant to 35 U.S.C. § 284, together with prejudgment
9 interest.

10 5. That a preliminary and permanent injunction be issued enjoining Defendants, and
11 their officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in
12 privity or in concert with them, and their parents, subsidiaries, divisions, successors, and assigns
13 from:

14 (a) imitating, copying, or making unauthorized use of any of the Fellow trade
15 dress or any confusingly similar variations thereof;

16 (b) importing, manufacturing, producing, distributing, circulating, selling,
17 offering for sale, advertising, promoting, or displaying any good or service using any
18 simulation, reproduction, counterfeit, or copy of any of the Fellow trade dress or any
19 confusingly similar variations thereof;

20 (c) using any false designation of origin or false description, or performing any
21 act, which can, or is likely to, lead members of the trade or public to believe that Defendants
22 or any good or service of Defendants is in any manner associated or connected with Fellow;

23 (d) transferring, consigning, selling, shipping, or otherwise moving any goods,
24 packaging, or other materials in Defendants' possession, custody, or control bearing a design
25 or mark substantially similar to any of the Fellow trade dress;

26 (e) engaging in any other activity constituting unfair competition with Fellow
27 with respect to the Fellow trade dress; and
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1 (g) instructing, assisting, aiding, or abetting any other person or business entity
2 in engaging in or performing any of the activities described in subparagraphs (a) through (f)
3 above.

4 6. Under all claims for relief, for an order enjoining Defendants from selling,
5 distributing, discarding, giving away, or otherwise disposing of goods in Defendants' possession or
6 under Defendants' control bearing counterfeits of any of the Fellow trade dress, and requiring
7 Defendants to sequester such goods in a separate and safe location at Defendants' place of business,
8 as well as all business records related to such goods, including any computers or other digital media
9 containing business records related to such goods, to be made available for Plaintiff and its
10 representatives to examine, photograph, and copy.

11 7. For an order directing Defendants to deliver to Fellow and its counsel for
12 destruction all products, labels, tags, signs, prints, packages, videos, and advertisements in their
13 possession or under their control, bearing or using any of the Fellow trade dress or any confusingly
14 similar variation thereof, and all plates, molds, matrices and other means of making the same,
15 pursuant to 15 U.S.C. § 1118.

16 8. For an order directing such other relief as the Court may deem appropriate to
17 prevent consumers and the public in general from deriving the erroneous impression that any good
18 or service manufactured, sold, or otherwise circulated or promoted by Defendants is authorized by
19 Fellow, or related in any way to Fellow' products or services.

20 9. For an order directing Defendants to file with the Court and serve upon Fellow's
21 counsel within thirty (30) days after entry of such judgment, a report in writing under oath, setting
22 forth the manner and form in which Defendants have complied with the above.

23 10. For an order permitting Fellow and auditors for Fellow to audit and inspect the
24 books and records of Defendants to determine the scope of Defendants' past use of the Fellow trade
25 dress, including all revenues and sales related to Defendants' use of the Fellow trade dress, as well
26 as Defendants' compliance with orders of this Court.

27 11. For an award of Fellow's costs and disbursements incurred in this action,
28 including Fellow's reasonable attorneys' fees under 15 U.S.C. § 1117(a).

1 12. For an order requiring Defendants to file with the Court and provide to Fellow
2 an accounting of all sales and profits realized through Defendants' misappropriation of Fellow's
3 intellectual property.

4 13. For judgment in an amount equivalent to three times Defendants' profits, plus
5 Fellow's reasonable attorneys' fees, because of Defendants' intentional, willful, and knowing use
6 of counterfeits of the Fellow trade dress pursuant to 15 U.S.C. § 1117(b).

7 14. Actual damages suffered by Fellow as a result of Defendants' unlawful conduct,
8 in an amount to be proven at trial, as well as prejudgment interest as authorized by law.

9 15. Reasonable funds for corrective advertising.

10 16. Punitive damages pursuant to California Civil Code § 3294.

11 17. Restitutionary relief against Defendants and in favor of Fellow, including
12 disgorgement of wrongfully obtained profits and any other appropriate relief.

13 18. Costs of suit and reasonable attorneys' fees.

14 19. Any other remedy to which Fellow may be entitled, including all remedies
15 provided for in 15 U.S.C. § 1117, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, 17500, *et seq.*, and
16 under any other California law.

17 20. For an award of interest, including pre-judgment interest, on the foregoing sums.

18 21. For such other and further relief as the Court may deem just and proper.

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1 DATED: May 10, 2023

GOODWIN PROCTER, LLP

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