

TARTER KRINSKY & DROGIN LLP

Attorneys for Plaintiff

Aasheesh V. Shravah

Philip Y. Braginsky

1350 Broadway, 11th Fl.

New York, New York 10018

Telephone: 212-216-8000

Facsimile: 212-216-8001

Email: ashravah@tarterkrinsky.com

Email: pbraginsky@tarterkrinsky.com

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WEST COAST IMPORTS, INC.,

Plaintiff,

-against-

EMSON, INC. and
E. MISHAN & SONS, INC.,

Defendants.

Case No. 22-cv-8537

**COMPLAINT FOR
PATENT INFRINGEMENT
AND JURY TRIAL DEMAND**

Plaintiff, West Coast Imports, Inc. (“WCI” or “Plaintiff”) by its attorneys, Tarter Krinsky & Drogin LLP, by way of its Complaint against Defendants, Emson, Inc. and E. Mishan & Sons, Inc. (collectively, “Defendants”), alleges and states as follows:

NATURE OF ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §§ 271 and 281-285. This Court has exclusive subject matter jurisdiction pursuant to 35 U.S.C. §§ 1331 and 1338(a).

PARTIES

2. Plaintiff West Coast Imports, Inc. is a California corporation with its principal place of business located at 6000 Bandini Blvd, Commerce, California 90040.

3. WCI is a wholesale business that sells, among other items, various consumer lighting products such as flashlights, accent lights, mood lights, work lights, flood lights and other indoor and outdoor lighting products. Since 2007, WCI has created innovative successful designs for lighting products that are marketed, distributed, and sold under well-known registered brand names such as I-ZOOM®, ROTA8®, FARPOINT®, HOME SOLUTIONS®, TOOL SOLUTIONS® and OUTDOORSMAN®, among others. As a leading innovator in the consumer lighting industry, WCI has been awarded several United States and worldwide utility and design patents related to their lighting products as well as other products. WCI attends several national trade shows each year throughout the United States where they are well known for their successful and innovative products.

4. On information and belief, Defendant Emson, Inc. is a New York corporation with its principal place of business located at 230 5th Avenue, Suite 800, New York, NY 10001.

5. On information and belief, Defendant E. Mishan & Sons, Inc. is a New York corporation with its principal place of business located at 230 5th Avenue, Suite 800, New York, NY 10001.

6. On information and belief, Defendants conduct business in this judicial district through their principal place of business in New York, NY from which they distribute and sell a variety of consumer products including the Bell+Howell Color Changing Swivel LED Lights.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over each of the Defendants because they are corporations organized and existing under the laws of New York State and conduct substantial business within this district.

8. This Court has original jurisdiction over this action under 28 U.S.C. §§ 1331 and

1338(a), as Plaintiff alleges substantial claims arising under the patent laws of the United States, Title 35, United States Code.

9. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and (c) and 28 U.S.C. § 1400(b) because Defendants have committed acts of infringement and have regular and established places of business in this judicial district.

FACTUAL BACKGROUND

i. WCI Innovation

10. In early 2018, Vinay Saboo, the inventor of the patents-in-suit and President of WCI, recognized a need in the consumer lighting industry for a wireless portable light for various uses. As an inventor on several United States design and utility patents for lighting products, Mr. Saboo used his dozens of years of experience in the industry in designing the innovations claimed in the patents-in-suit. Mr. Saboo designed several potential products based on these innovations, and dozens of factory molds were created and paid for by WCI before a final product was selected. Significant investments in time and money were made until the final product was selected, which resulted in a wireless portable light that can be used separately, and also secured within a holder and rotated within that holder. These novel features and others are the subject of the patents-in-suit.

11. Through displays at dozens of national trade shows since at least 2019, as well as through thousands of customers, WCI has enjoyed tremendous success with the products that are the subject of the innovation of the patents-in-suit.

12. In late 2021, WCI became aware that Defendants were marketing and selling “Color Changing Swivel LED Lights” under their Bell+Howell brand (the “Accused Product”), which copies WCI’s patented swivel lights, as described in greater detail below. Upon information

and belief, the Accused Products were and are manufactured, marketed and sold by Defendants. Defendants attend many of the same national trade shows as WCI. On information and belief, Defendants learned of Plaintiff's patented swivel products at these national trade shows, intentionally copied these products and then proceeded to market and sell the Accused Products at the same national trade shows attended by Plaintiff.

ii. WCI's United States Patents

13. The United States Patent and Trademark Office duly and legally issued U.S. Patent No. 11,428,390, entitled "Rotating Light" ("the '390 Patent") on August 30, 2022. A true and correct copy of the '390 Patent is attached hereto as **Exhibit A**.

14. Through assignment, WCI is the owner of all right, title, and interest in and to the '390 Patent, and, as such, has the right to sue and recover for past, present, and future infringement of the '390 Patent and to obtain the relief claimed in this Complaint. The '390 Patent is in full force and effect.

15. The '390 Patent describes and claims a rotating light within a holder. As set forth in Claim 19 of the '390 Patent, the light set comprises a light portion comprising a body configured to retain one or more batteries, the body having a transparent enclosure, a printed circuit board in the body containing one or more light-emitting diodes configured to project light from the transparent enclosure, a first projection extending outward from an outer surface of the body, and a second projection extending outward from an outer surface of the body, the second projection being diametrically opposite to the first projection, and a holder for holding the light portion, comprising a rear portion, a left wing extending from and perpendicular to the rear portion, the left wing having an outer wall and an inner wall, the inner wall having a first opening at a top portion leading into a first recess that does not project into the outer wall, and a right wing extending from

and perpendicular to the rear portion, the right wing having an outer wall and an inner wall, the inner wall having a second opening at a top portion leading into a second recess that does not project into the outer wall, wherein the first projection is secured to the first recess through the first opening and the second projection is secured to the second recess through the second opening to hold the light portion within the holder, wherein the first and second openings are configured to allow the light portion to be easily removable from the holder. (*See Ex. A*).

16. The United States Patent and Trademark Office duly and legally issued U.S. Design Patent No. D909,646, entitled “Circular Light” (“the ‘646 Patent”) on February 2, 2021. A true and correct copy of the ‘646 Patent is attached hereto as **Exhibit B**.

17. Through assignment, WCI is the owner of all right, title, and interest, in and to the ‘646 Patent, and, as such, has the right to sue and recover for past, present, and future infringement of the ‘646 Patent and to obtain the relief claimed in this Complaint. The ‘646 Patent is in full force and effect.

18. The ‘646 Patent describes and claims an ornamental design for a circular light as illustrated in the figures of the ‘646 Patent. (*See Ex. B*).

19. Each of the aforesaid patents (collectively the “patents-in-suit”) are valid and subsisting and were valid and subsisting at all times affecting the matters complained of herein. (*See Exs. A-B*).

20. At all times relevant hereto, WCI complied with the statutory requirement of 35 U.S.C. § 287 placing a notice of the aforesaid patents-in-suit on all necessary products it manufactures and sells.

iii. Defendants’ Acts of Infringement

21. Upon information and belief, Defendants are wholesale suppliers of various

consumer products, such as lighting products, kitchenware and other consumer products as shown on their website (<https://emsoninc.com/products>).

22. Upon information and belief, Defendants intentionally copied each of the patented features of WCI's patents-in-suit, respectively, in the Accused Product.

23. On or about December 29, 2021, WCI gave notice to Defendants that the Accused Product infringes at least the '646 Patent and demanded, among other things, that Defendants stop making, importing, offering to sell or selling the Accused Product.

24. Upon information and belief, despite notice being provided to Defendants of their infringing conduct, Defendants have not complied with WCI's demands and have knowingly and willfully made, imported, offered for sale and sold the Accused Product.

25. Each of the Accused Products infringes the claims of the '390 Patent, as exemplified by at least Claim 12 and Claim 19, in that each Accused Product contains each and every element of claims 12 and 19, or their equivalent. For example, claim 19 recites a light set comprising:

-a light portion comprising:

- a body configured to retain one or more batteries, the body having a transparent enclosure

- a printed circuit board in the body containing one or more light-emitting diodes configured to project light from the transparent enclosure;

- a first projection extending outward from an outer surface of the body, and

- a second projection extending outward from an outer surface of the body, the second projection being diametrically opposite to the first projection, and

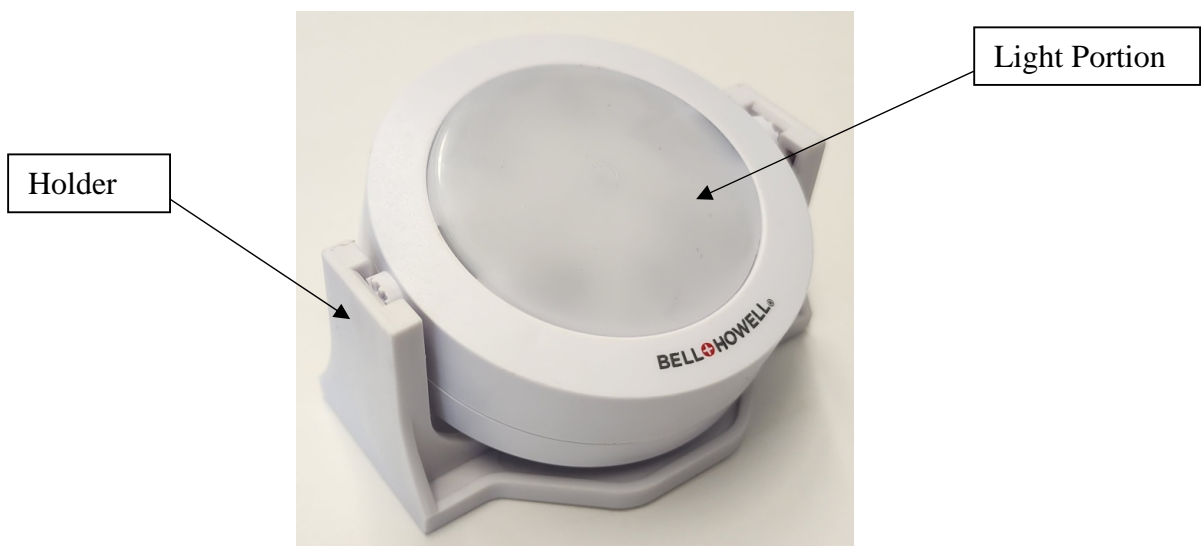
- a holder for holding the light portion comprising:

- a rear portion;
- a left wing extending from and perpendicular to the rear portion, the left wing having an outer wall and an inner wall, the inner wall having a first opening at a top portion leading into a first recess that does not project into the outer wall; and
- a right wing extending from and perpendicular to the rear portion, the right wing having an outer wall and an inner wall, the inner wall having a second opening at a top portion leading into a second recess that does not project into the outer wall;
- wherein the first projection is secured to the first recess through the first opening and the second projection is secured to the second recess through the second opening to hold the light portion within the holder;
- wherein the first and second openings are configured to allow the light portion to be easily removable from the holder.

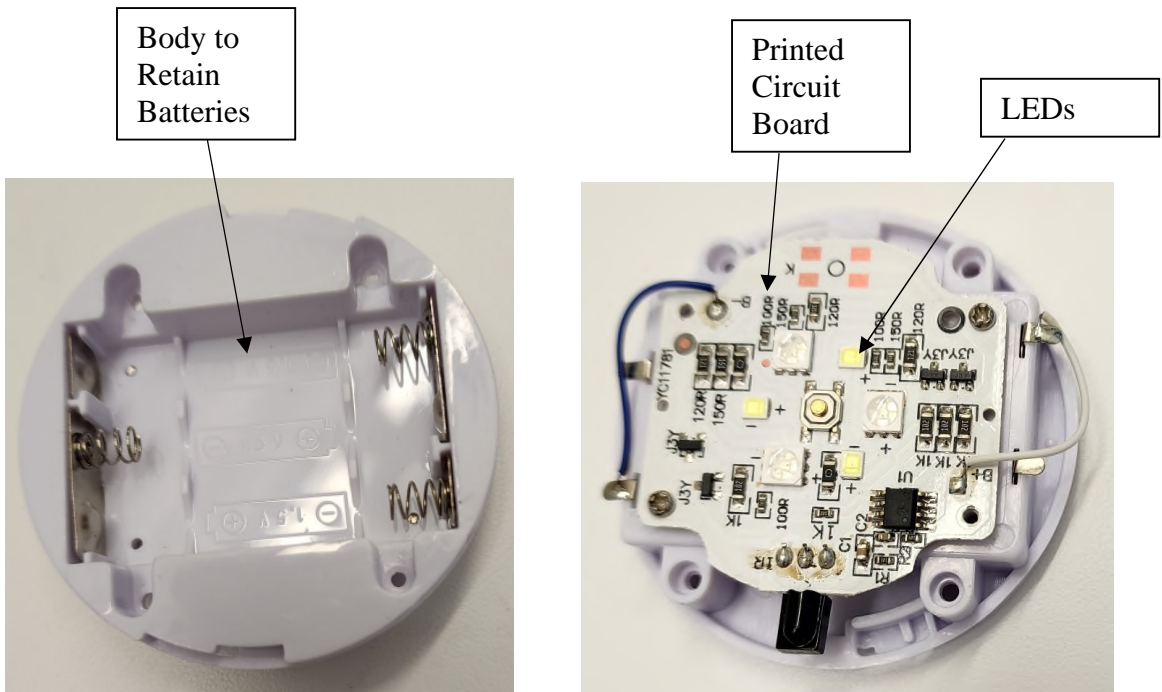
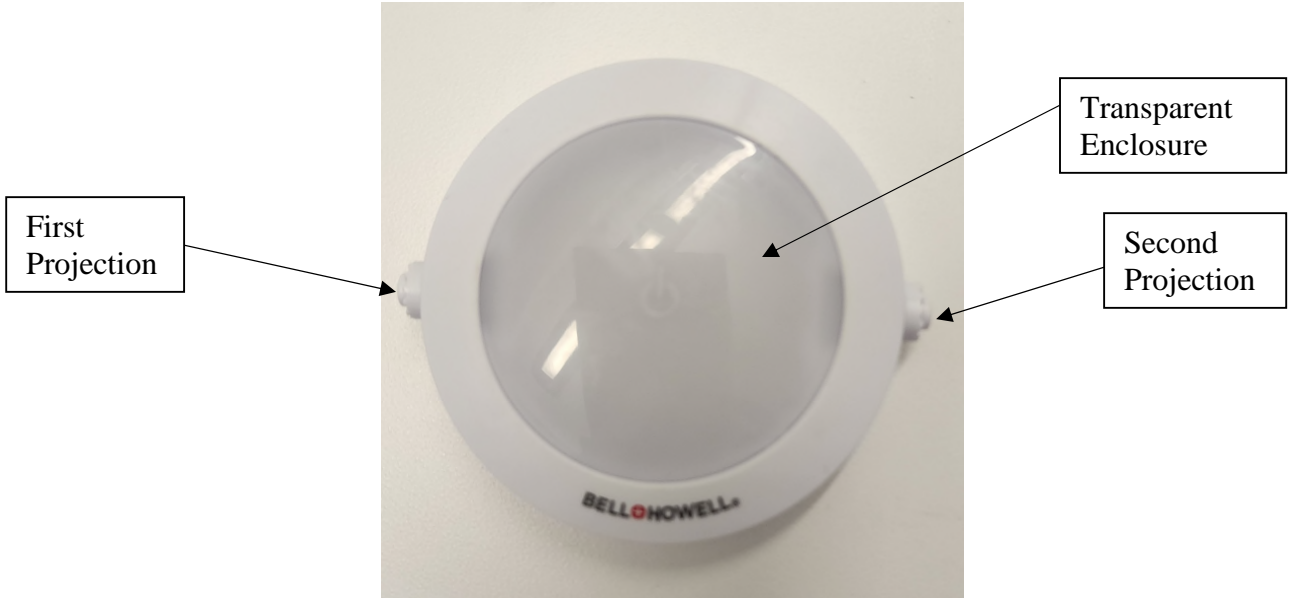
26. As shown below, the Accused Product contains each and every element of claim

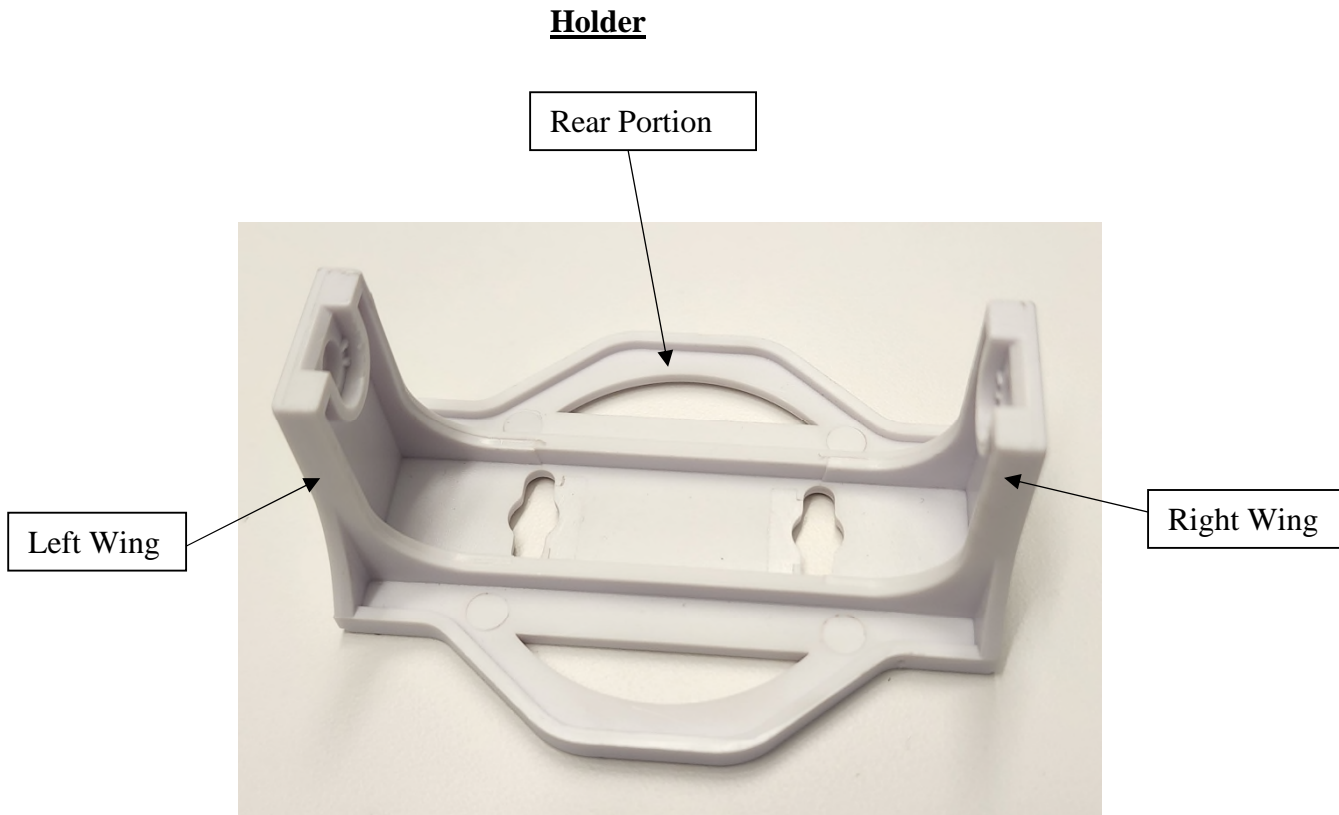
19:

Accused Product

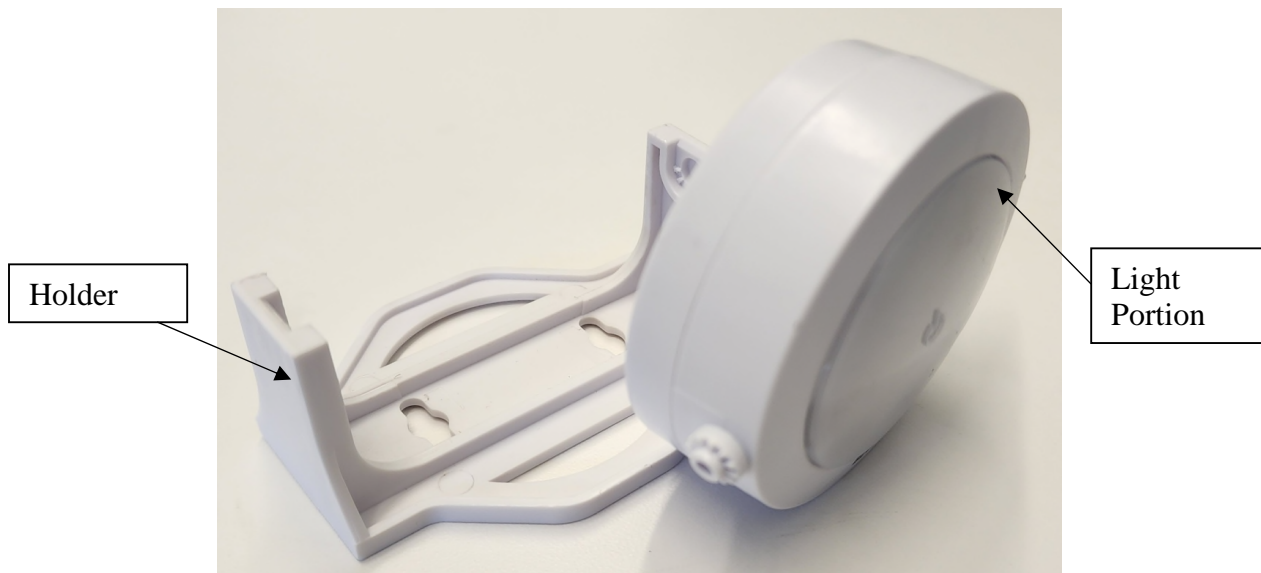


Light Portion





Light Portion removable from Holder

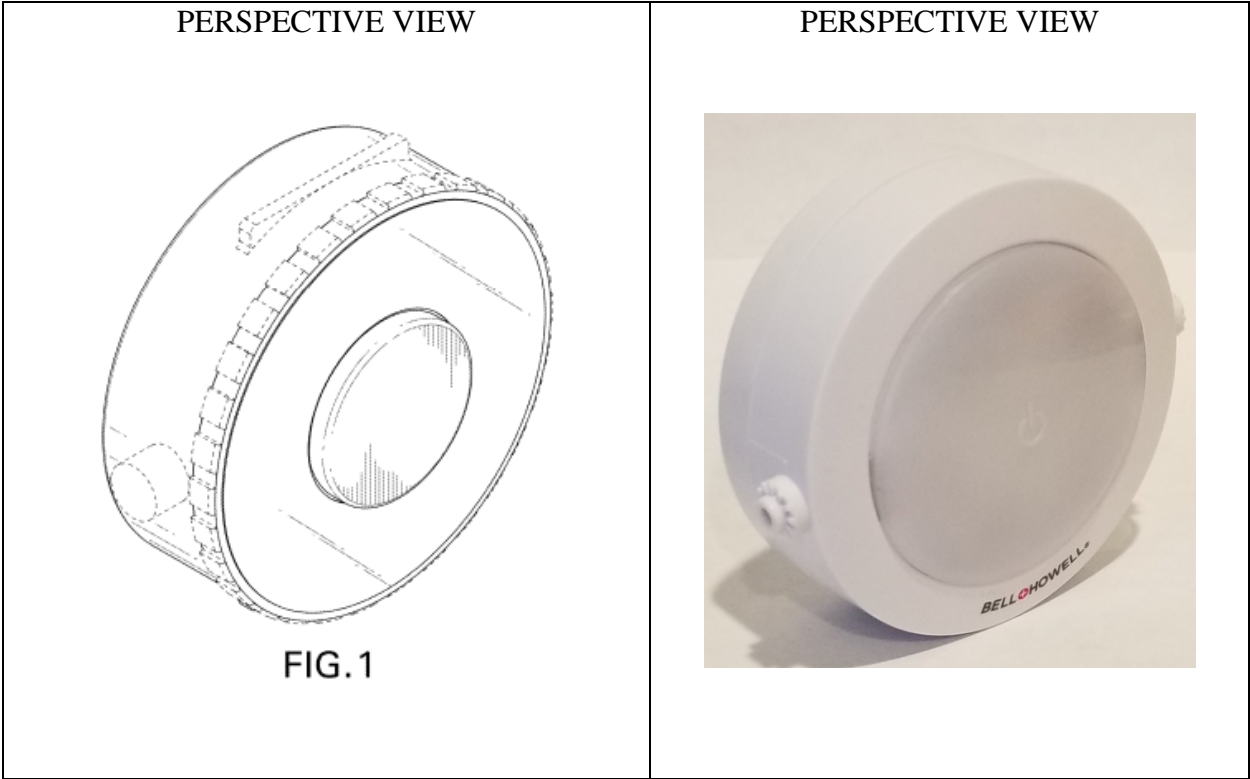


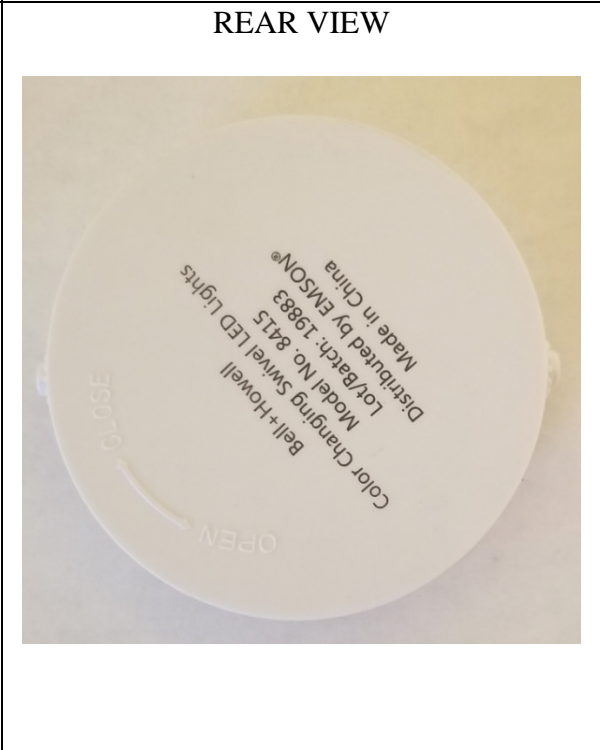
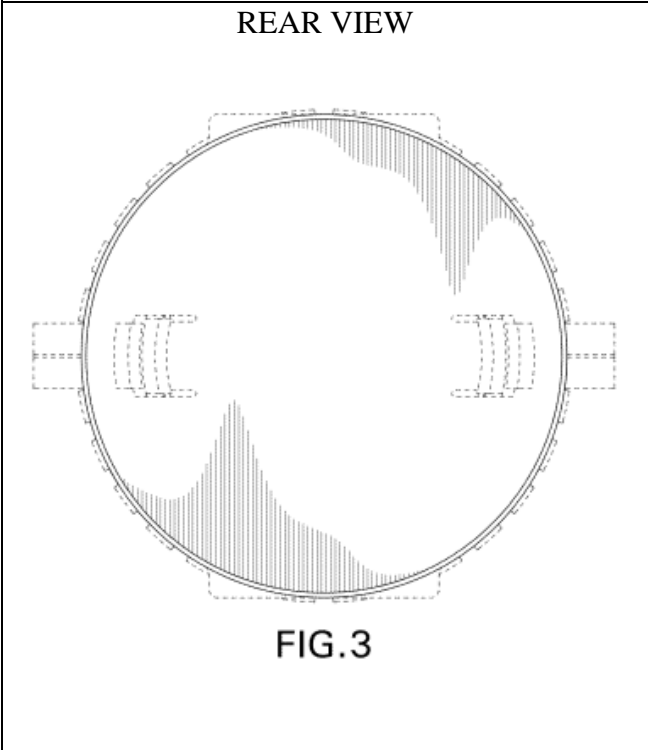
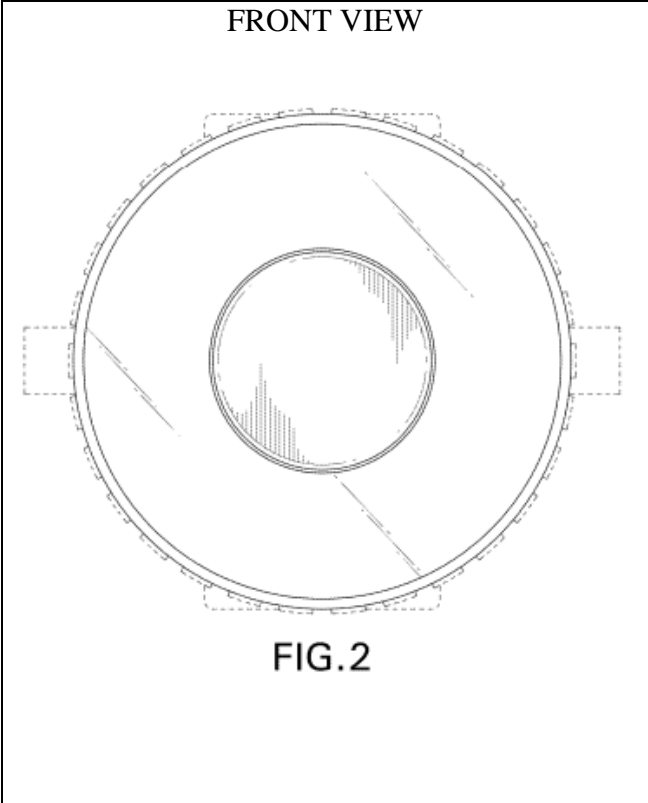
27. As shown above, the Accused Product infringes at least claim 19 of the '390 Patent because it contains each and every element of claim 19, or its equivalent.

28. Each of the Accused Products infringes the claims of the '646 Patent, as exemplified by the figures of the '646 Patent as shown in the comparison below:

Design Patent No. D909,646

Accused Product





FIRST SIDE VIEW

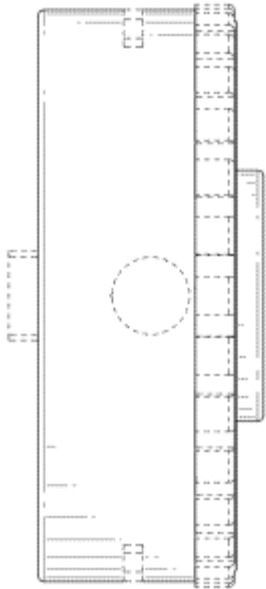


FIG. 4

FIRST SIDE VIEW



SECOND SIDE VIEW

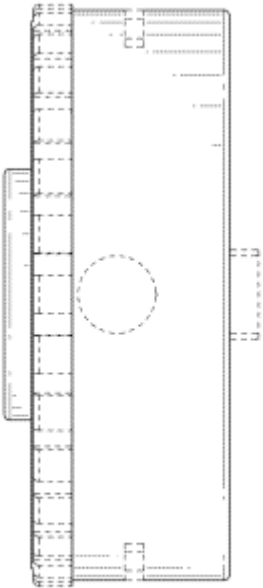
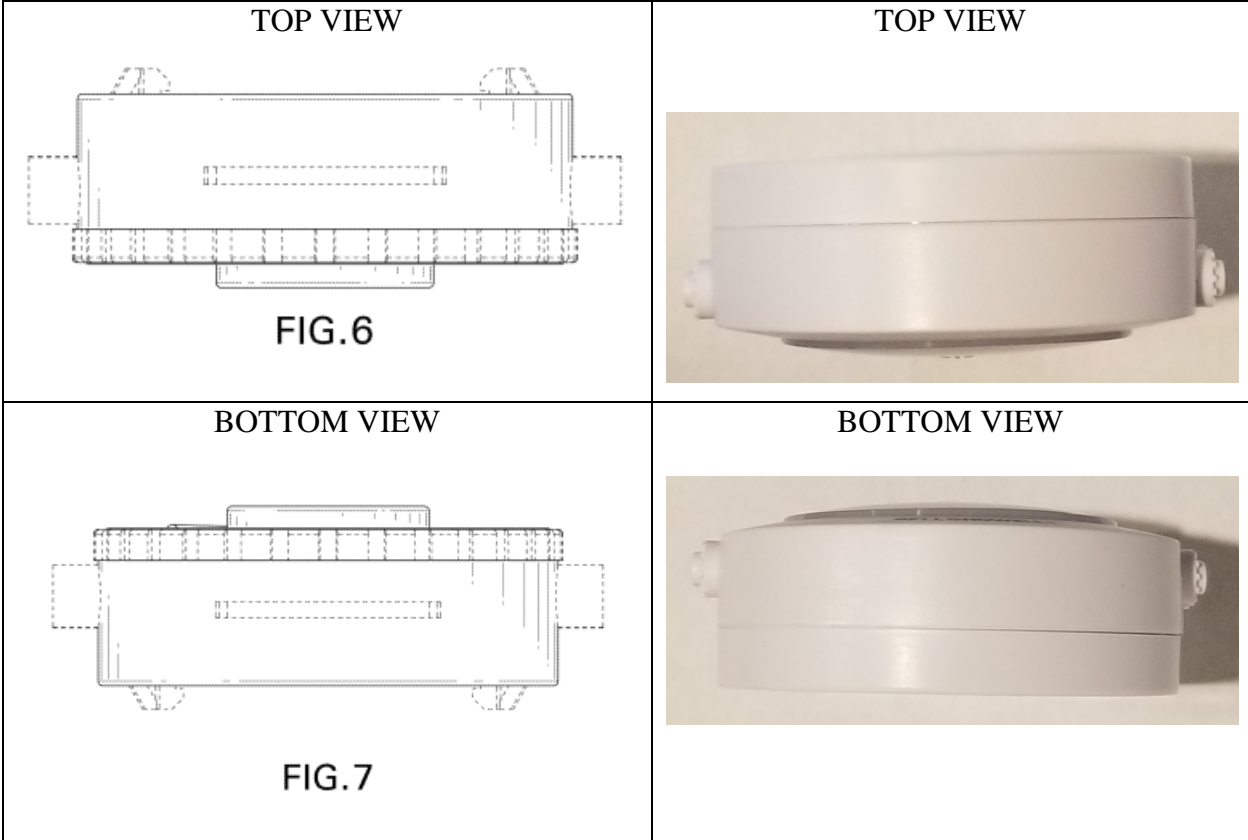


FIG. 5

SECOND SIDE VIEW





29. As shown in the images, the Accused Product and figures of the '646 Patent are so similar, as to be nearly identical, such that an ordinary observer, giving such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the designs and be induced to purchase the Accused Product believing them to be substantially the same as the designs protected by the patents-in-suit.

30. WCI has not granted a license or any other authorization to Emson, Inc. to make, use, offer for sale or sell any product that is covered by the claims of the '390 Patent or the '646 Patent.

31. WCI has not granted a license or any other authorization to E. Mishan & Sons, Inc. to make, use, offer for sale or sell any product that is covered by the claims of the '390 Patent or the '646 Patent.

COUNT I
(INFRINGEMENT OF THE ‘390 PATENT, 35 U.S.C. §§ 271 AND 281)

32. WCI repeats, reiterates, and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

33. Upon information and belief, Defendants are making, using, offering to sell, selling and/or importing in the United States products, including specifically the Accused Product, that infringes the claims of the ‘390 Patent in violation of 35 U.S.C. § 271(a). Defendants infringe directly or under the doctrine of equivalents, the claims of the ‘390 Patent because the Accused Product contains each element or its equivalent of at least Claims 12 and 19 of the ‘390 Patent.

34. WCI provided actual notice to Defendants of its infringement on repeated occasions at least as early as December 2021, including, without limitation, the filing of this Complaint, as well as marking its own products in compliance with 35 U.S.C. § 287.

35. Upon information and belief, Defendants’ infringement has been intentional and willful, making this an exceptional case.

36. By reason of Defendants’ infringement, WCI has suffered, and unless Defendants are permanently enjoined, will continue to suffer, actual damages and irreparable harm, as to which it has no adequate remedy at law.

COUNT II
(INFRINGEMENT OF THE ‘646 PATENT, 35 U.S.C. §§ 271 AND 281)

37. WCI repeats, reiterates, and realleges each the allegations contained in the foregoing paragraphs as if fully set forth herein.

38. Upon information and belief, Defendants are making, using, offering to sell, selling and/or importing in the United States products, including specifically the Accused Product, that infringe the claims of the ‘646 Patent in violation of 35 U.S.C. §271(a).

39. Defendants infringe the '646 Patent because, *inter alia*, in the eye of an ordinary observer, giving such attention as a purchaser usually gives, the ornamental design of the '646 Patent and the ornamental design of the Accused Product is substantially the same, the resemblance being such as to deceive such an ordinary observer, inducing him/her to purchase one supposing it to be the other.

40. WCI provided actual notice to Defendants of its infringement on repeated occasions at least as early as December 2021, including, without limitation, the filing of this Complaint, as well as marking its own products in compliance with 35 U.S.C. § 287.

41. Upon information and belief, Defendants' infringement has been intentional and willful, making this an exceptional case.

42. By reason of Defendants' infringement, WCI has suffered, and unless Defendants are permanently enjoined, will continue to suffer, actual damages and irreparable harm, as to which it has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court for an order and judgment in favor of Plaintiff West Coast Imports, Inc. and against Defendants as follows:

- A. Holding that Defendants have infringed the '390 Patent in violation of 35 U.S.C. § 271;
- B. Holding that Defendants have infringed the '646 Patent in violation of 35 U.S.C. §271;
- C. Granting Plaintiff preliminary and permanent injunctive relief enjoining each Defendant and its officers, agents, servants, employees, attorneys, and those in active concert or participation with each or any of them, from any further acts of infringement, inducement of infringement, or contributory infringement of the '390 Patent;
- D. Granting Plaintiff preliminary and permanent injunctive relief enjoining each Defendant

and its officers, agents, servants, employees, attorneys, and those in active concert or participation with each or any of them, from any further acts of infringement, inducement of infringement, or contributory infringement of the '646 Patent;

- E. Awarding Plaintiff its actual damages under 35 U.S.C. § 284 in an amount to be determined at trial;
- F. Ordering, adjudging, and decreeing that the infringement by Emson, Inc. has been deliberate, willful and wanton;
- G. Ordering, adjudging, and decreeing that the infringement by E. Mishan & Sons, Inc. has been deliberate, willful and wanton;
- H. Ordering, adjudging and decreeing that infringement by Emson, Inc. has been exceptional under 35 U.S.C. §285;
- I. Ordering, adjudging and decreeing that infringement by E. Mishan & Sons, Inc. has been exceptional under 35 U.S.C. §285;
- J. Awarding Plaintiff trebled damages under 35 U.S.C. § 284, as a result of Defendants' knowing and willful infringement;
- K. Awarding Plaintiff the disgorged total profits of each Defendant and its customers that sold or offered for sale the Accused Products under 35 U.S.C. § 289 from infringing the '646 Patent in an amount to be determined at trial;
- L. Awarding Plaintiff its actual costs and reasonable attorneys' fees, as authorized by 35 U.S.C. § 285; and
- M. Granting Plaintiff such other and further relief as this Court may deem just and proper under the circumstances.

JURY DEMAND

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

Dated: New York, New York
October 6, 2022

TARTER KRINSKY & DROGIN LLP
Attorneys for Plaintiff

By: s/ Aasheesh V. Shravah
Aasheesh V. Shravah
Philip Y. Braginsky
1350 Broadway, 11th Floor
New York, New York 10018
Tel.: (212) 216-8000
Email: ashravah@tarterkrinsky.com
Email: pbraginsky@tarterkrinsky.com