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

HUB PEN COMPANY, LLC, a Delaware
limited liability company,

Plaintiff

v.

KATHLEEN HUH, an individual resident of
New York, AWE-HUH CREATIVE
SERVICES LLC, a New York limited
liability company, and DOES 1-10.

Defendants.

COMPLAINT

Case No. 7:22-cv-9176

Plaintiff Hub Pen Company, LLC (hereinafter “Plaintiff” or “Hub”), by and through its counsel, hereby files this Complaint with Jury Demand against the Kathleen Huh (“Huh”), Awe-Huh Creative Services LLC (“Awe-Huh”) and DOES 1-10 (together “Defendants”).

COMPLAINT

Plaintiff complains and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Hub is a Delaware limited liability company having a principal place of business at 525 Washington Street, Braintree, Massachusetts 02184.
2. Upon information and belief, Defendant Huh is an individual resident of the State of New York residing at 820 Armonk Road, Mount Kisco, New York 10549. Defendant Huh is sometimes also known as Kathleen Huh Raynor or Kathleen Raynor.

3. Upon information and belief, Defendant Awe-Huh is a limited liability company formed under the laws of the State of New York having a principal place of business at 820 Armonk Road, Mount Kisco, New York 10549.

4. Plaintiff brings this action under U.S. patent laws, 35 U.S.C. §§ 1 et seq.

5. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331, 1332, 1338 and 1367.

6. This Court has supplemental jurisdiction over any state law, or statutory and common law claims pursuant to 28 U.S.C. § 1367.

7. Upon information and belief, this Court has specific personal jurisdiction over Defendant because Defendant purposefully directs its infringing activities at residents in the State of New York, the claims made herein arise out of and relate to such activities so directed, and personal jurisdiction in New York is reasonable and fair.

8. Upon information and belief, this Court has general personal jurisdiction over the Defendant because Defendant has substantial, continuous contacts with the state of New York.

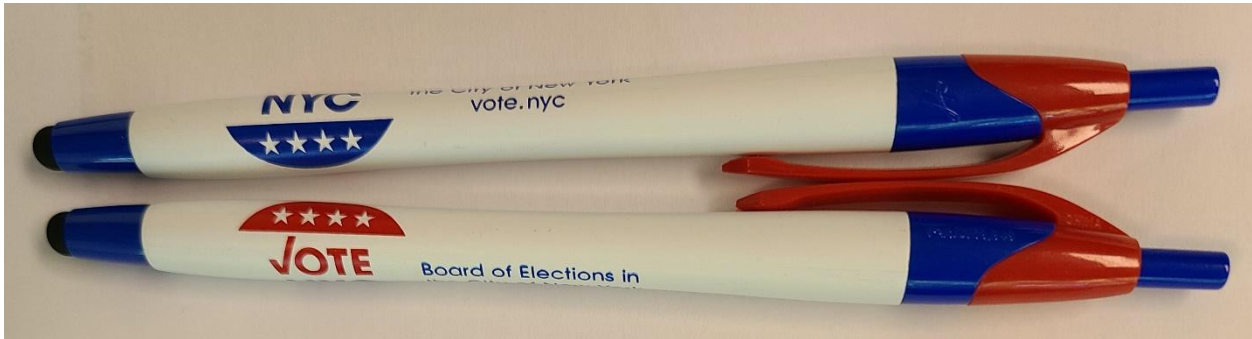
9. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 and § 1400 at least because, upon information and belief, Defendant has committed acts of infringement in this district, is a resident of this district, conducts business in this district directly related to the patents and trademarks at issue in this case, is subject to the court's personal jurisdiction in this case, and a substantial part of the infringing activity giving rise to the Plaintiff's causes of action occurred in this judicial district.

BACKGROUND

10. Hub is an industry leader in developing, manufacturing, marketing, distributing, and selling various writing implements, including pen and stylus products.

Hub' Product and Intellectual Property Rights

11. One of Hub's pen and stylus products is marketed as Javalina® and is shown below.



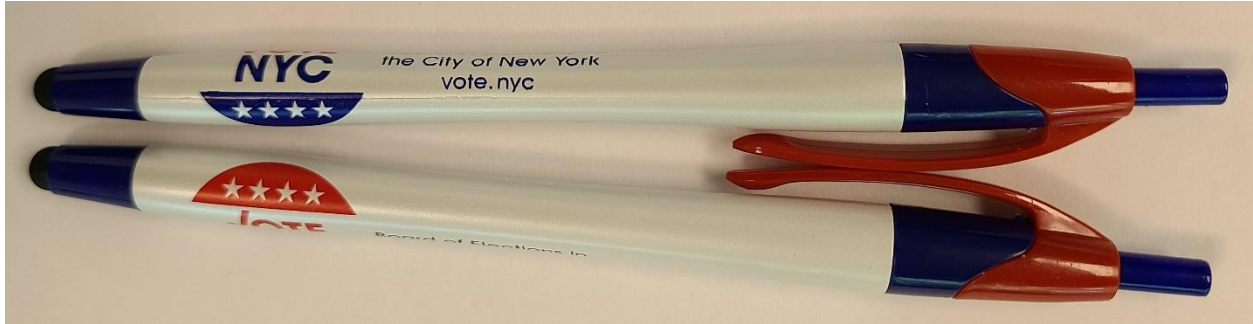
12. Hub has been awarded and is the owner of a design patent relating to and covering its Javalina® product, U.S. Patent No. D709,949 (the “949 Patent”), attached as Exhibit A.

13. In accordance with 35 U.S.C. § 287, Hub has given notice to the public of the ‘949 Patent by duly and properly marking all articles covered by the patent that have been sold, offered for sale, or imported by Hub, including with prominent marking on Hub’s website.

14. Hub has previously supplied the Javalina® pen and stylus to the New York City Board of Elections (“BOE”) with a red, white and blue color scheme, with the BOE agency name and “Vote NYC” logo, as shown above.

Defendants Supply Infringing Product to BOE

15. Hub was notified by its manufacturing partners in China that an unknown manufacturer was producing the pen and stylus product shown below (“Accused Product”).



16. Upon information and belief, instead of continuing to order Hub’s Javalina® product, the BOE accepted a bid from Huh and Awe-Huh to supply the Accused Products at a lower price. Based on information provided to Hub from the BOE, Huh and Awe-Huh have entered into a contract with the BOE to supply the Accused Product for a period of four years, and have already delivered at least two million units of the Accused Product to the BOE.

17. Upon information and belief, Does 1-10 include manufacturers, importers and/or distributors that are responsible for producing, shipping and importing into the United States, and distributing the Accused Product.

18. Neither Huh, Awe-Huh, nor any manufacturer, importer or distributor has obtained permission from Hub to use any of the rights attendant to the ‘949 Patent with the Accused Product.

19. By reason of these infringing acts, Hub has suffered damage in an amount to be determined at trial. The harm to Hub from the infringing activities is not fully compensable by monetary damages, and Hub will continue to suffer irreparable harm unless the infringing

conduct is enjoined, including ongoing deliveries from Defendants to the BOE of Accused Product.

20. Upon information and belief, Defendants have acted in an objectively reckless manner with respect to Hub' patent rights. Upon information and belief, Defendants have used, made, sold, offered to sell, and/or imported into the United States the Accused Product knowing that it was highly likely that its acts would infringe the '949 Patent. As a result, Defendants have engaged in willful infringement of the '949 Patent, and Hub is therefore entitled to treble damages, interest, costs, and attorney's fees in accordance with 35 U.S.C. §§ 284 and 285.

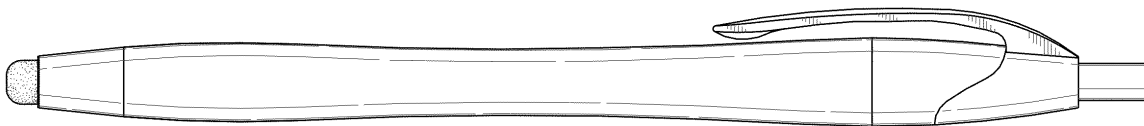
**FIRST CAUSE OF ACTION
(Infringement of the '949 Patent)**

21. Plaintiff hereby incorporates and realleges paragraphs 1-20 of this Complaint.

22. Upon information and belief, the Accused Product infringes the claim of the '949 Patent.

23. Upon information and belief, by making, using, selling, offering for sale, and/or importing into the United States the Accused Product, Defendants have in the past, do now, and continues to directly infringe, contributorily infringe, and/or induce others to infringe the claim of the '949 patent in violation of 35 U.S.C. § 271.

24. The claim of the '949 patent covers the design as shown in the following drawing:



25. The Accused Product infringes the claim of the '949 patent because it is an identical copy of the claimed design, as shown in the claim chart attached as Exhibit B.

26. Upon information and belief, Defendants knew about the '949 Patent at least because Hub's Javalina® products, including those previously delivered to the BOE and, upon information and belief used by Defendants to produce the Accused Product, are properly marked with the patent.

27. By reason of Defendants' infringement of the claims of the '949 Patent alleged herein, Hub has suffered damage in an amount to be proven at trial. The harm to Hub from Defendants' infringing activities are not fully compensable by monetary damages, and Hub will continue to suffer irreparable harm unless Defendants' infringing conduct is enjoined.

28. Upon information and belief, Defendants acted in an objectively reckless manner with respect to Hub's patent rights. Upon information and belief, Defendants have made, used, sold, offered to sell, and/or imported into the United States the Accused Product knowing that it was highly likely that its acts would infringe the '949 Patent. As a result, Defendants have engaged in willful infringement of the '949 Patent, and Hub is therefore entitled to treble damages, interest, costs, and attorney's fees in accordance with 35 U.S.C. §§ 284 and 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor and award Plaintiff relief as follows:

A. A judgment that Defendants are liable to Plaintiff for infringing the claims of the '949 Patent;

B. A judgment that Defendants are liable to Plaintiff for contributory infringement and/or induced infringement of the '949 Patent.

C. Preliminary and permanent injunctions against Defendants, and all their officers, agents, servants, employees, successors, assigns and all other persons in active concert or participation with any of them, enjoining them from directly or indirectly infringing in any manner the claims of the '949 Patent;

D. A judgment granting Plaintiff damages adequate to compensate it for Defendants' infringement of the '949 Patent, including an award of Defendants' total profits, in amounts to be proven at trial;

E. An order finding that Defendants willfully infringed the '949 Patent, that this is an exceptional case, and award Plaintiff enhanced damages, costs, and attorney's fees in accordance with 35 U.S.C. § 285 or other applicable law;

F. Such other and further relief as shall seem just and proper to the Court under the circumstances.

JURY DEMAND

Plaintiff demands that all claims and causes of action raised in this Complaint be tried to a jury to the fullest extent possible under the United States and New York Constitutions.

DATED this 26th day of October, 2022

Respectfully submitted,

/s/ John H. Choi

John H. Choi (local counsel)
John H. Choi & Associates LLC
65 Challenger Road, Suite 100
Ridgefield Park, NJ 07660
Tel: (201) 580-6600
Fax: (201) 625-1108
jchoi@jchoilaw.com

Peter M. de Jonge (*pro hac* admission anticipated)

Kurtis M. Hendricks (*pro hac* admission anticipated)

Thorpe North & Western LLP

175 S Main Street, Ste. 900

Salt Lake City, UT 84043

Tel: (801) 566-6633

Fax: (801) 566-0750

dejonge@tnw.com

kurt.hendricks@tnw.com

Attorneys for Plaintiff

Hub Pen Company, LLC