

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

HFA, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:23-CV-00794
)	
ATX PACKAGING LLC)	COMPLAINT
)	
Defendant.)	DEMAND FOR JURY TRIAL
)	

COMPLAINT

Plaintiff HFA, Inc. (“HFA” or “Plaintiff”) complains against defendant ATX Packaging LLC (“ATX” or “Defendant”) and alleges as follows, upon knowledge with respect to itself and its own acts, and upon information and belief as to all other matters:

Nature of the Action

1. This is an action for design patent and utility patent infringement under the United States patent laws, 35 USC. §§ 271 *et seq.*, in which Plaintiff asserts that its U.S. Design Patent No. D802,361 and U.S. Utility Patent No. 10,093,452 (collectively, “the Asserted Patents”) have been and continue to be infringed by virtue of Defendant’s unauthorized manufacture, use, offer for sale, and/or import into the United States of products, including the ATX 1/3 Foil Pan Lid with a full curl edge (“the Accused Products”). Plaintiff is seeking an injunction prohibiting further sales of all infringing products by Defendant, including the accused ATX 1/3 Foil Pan Lid together with monetary damages and related remedies.

The Parties

2. Plaintiff is an Illinois corporation with a principal place of business at 135 E. Hintz Road, Wheeling, Illinois 60090.

3. Plaintiff HFA, Inc. is a privately owned manufacturer of recyclable aluminum products committed to quality, convenience, and innovation which sells products under its well-known trade names Handi-foil of America and Handi-Foil® and various other brands. In the industry since its inception in 1950, Plaintiff has accumulated the knowledge and experience necessary to stay on the cutting edge of innovation and technology. As the industry leader, Plaintiff offers a complete line of foil containers and foil lids and plastic dome lids, as well as foil rolls and traditional, high-end, and seasonal bakeware items.

4. Among these products, Plaintiff has developed, patented, and currently sells aluminum lids for its aluminum stable table pans in 1/4, 1/3, 1/2 and full sizes which include a full curl™ edge on each of the four corners of the lid to promote safer handling. Conventionally, the corners of the lid would be crimped but not rolled, which leaves a sharp edge from which consumers and servers can cut themselves. However, the full curl edge comprises a rolled lip formed around the entire periphery of the skirt of the lid including all four corners. Plaintiff has invested considerable resources in developing, marketing, promoting, and advertising these lids with the full curl edge.

Looking for better food safety & handling? We've got you covered with Full Curl™ packaging



Steam Table Lids:

Our Full Curl™ Lids for Quarter, Third, Half and Full Steam Table Pans feature:

- Full Curl™ edge on all 4 corners promotes safer handling
- Comfort-Edge preferred by servers and consumers
- Another breakthrough for the foodservice industry from HFA

(available at <https://www.handi-foil.com/hfa/full-curl/>)

5. Defendant is a Texas limited liability company with a principal place of business at 117 TK Industrial, Suite 101, Hutto, Texas 78634. Defendant does regular business in this judicial district, including providing products in this judicial district accused of infringement herein. Defendant may be served by serving its registered agent, Corey Buter, at 117 TK Industrial, Suite 101, Hutto, Texas 78634, or wherever it may be found.

Jurisdiction and Venue

6. Exclusive original jurisdiction over the design patent and utility patent subject matter is conferred on this Court under 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 271 *et seq.*

7. Defendant is subject to personal jurisdiction in this judicial district because it is incorporated in Texas and has a principal place of business within this judicial district.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because a substantial part of the events giving rise to the claims asserted herein occurred in this district and because Defendant is regularly doing and transacting business in this judicial district and is subject to personal jurisdiction in the district.

Asserted Patents

9. On November 14, 2017, United States Design Patent No. D802,361 (the “D361 Patent”) entitled “LID FOR A PAN” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the D361 Patent is attached hereto as **Exhibit 1** and incorporated by reference as if set forth in full.

10. On October 9, 2018, United States Patent No. 10,093,452 (the “‘452 Patent”) entitled Method of Manufacturing an Improves Disposable Lid was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ‘452 Patent is attached hereto as **Exhibit 2** and incorporated by reference as if set forth in full.

11. Plaintiff is the assignee and owner of all rights, title, and interest in the D361 and ‘452 Patents, with full rights to sue and collect damages for the past and current infringement, and to enjoin further infringement of the D361 and ‘452 Patents.

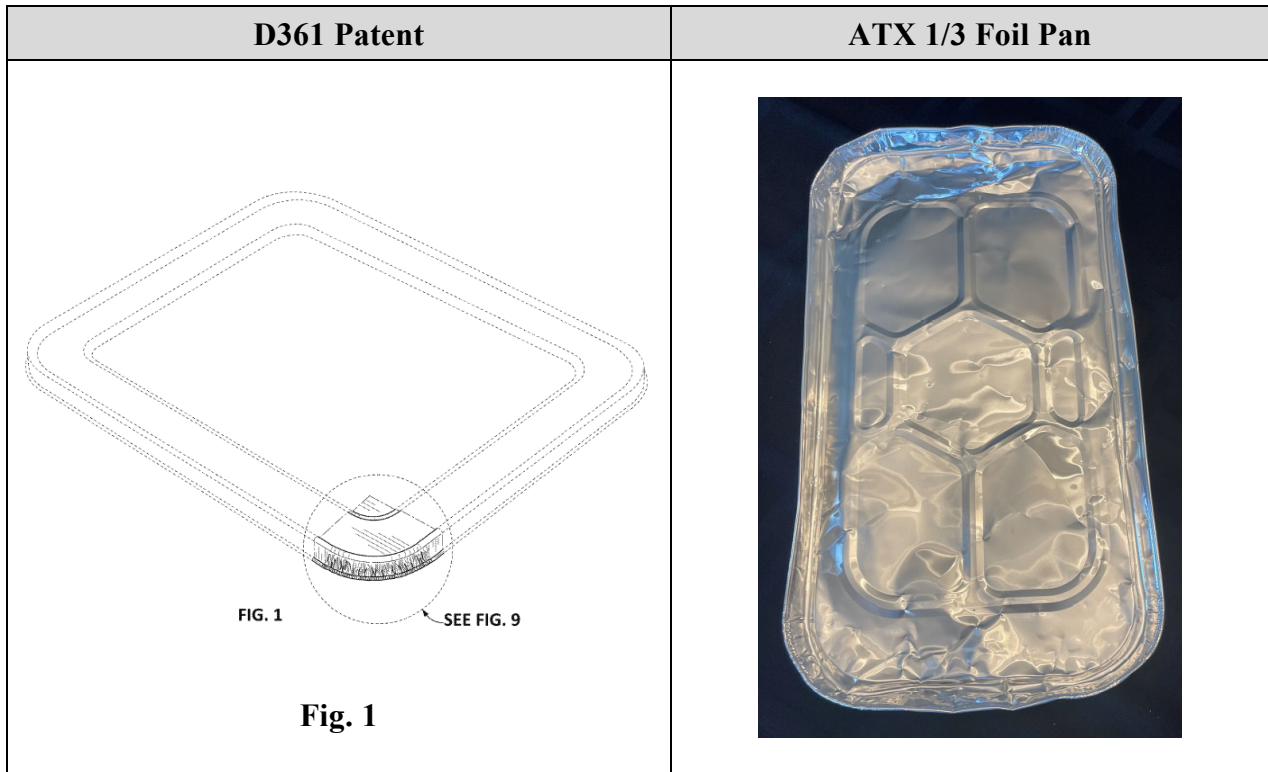
COUNT I:

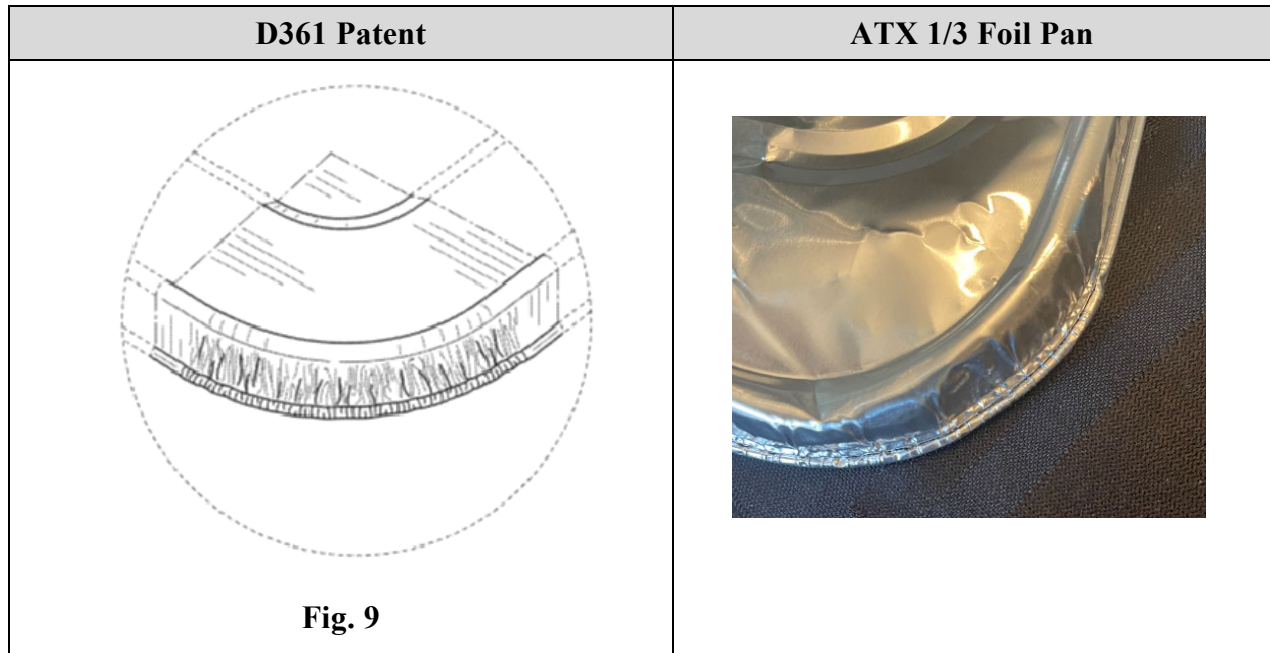
Infringement of U.S. Design Patent No. D802,361

12. Plaintiff realleges and incorporates by reference paragraphs 1 through 11 of the Complaint as though set forth in full herein.

13. Under 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe the D361 Patent by making, using, selling, and/or offering for sale in the United States, or importing into the United States, unauthorized products including the accused ATX 1/3 Foil Pan Lid that infringes the design claim of the D361 Patent.

14. Pictured below is a juxtaposition comparison of the Defendant's ATX 1/3 Foil Pan Lid and the Figure 1 perspective view and the Figure 9 enlarged top front left side perspective view of the D361 Patent.





15. Defendant's ATX 1/3 Foil Pan Lid has adopted the claimed design of Plaintiff's D361 Patent and has an overall appearance that is confusingly similar and substantially the same as the claimed design, in view of the prior art and in the eyes of the ordinary observer.

16. Defendant is infringing and has infringed the design claim of the D361 Patent by making, using, selling, offering for sale, and/or importing its ATX 1/3 Foil Pan Lid with a full curl edge.

17. By e-mail and Federal Express on March 15, 2023, Plaintiff notified Defendant that the ATX 1/3 Foil Pan Lid infringed Plaintiff's patents and requested Defendant to cease and desist from its infringement and contact Plaintiff to address the matter, which constitutes actual knowledge of infringement as alleged herein.

18. Despite such actual knowledge, Defendant continues to make, use, sell, offer for sale, and/or import its ATX 1/3 Foil Pan Lid that infringes the D361 Patent.

19. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount to be determined at trial.

20. Defendant has wrongfully earned profits on the sales of its ATX 1/3 Foil Pan Lid in an amount to be determined at trial.

21. Defendant's infringement of the D361 Patent is causing irreparable harm to Plaintiff for which there is no adequate remedy at law. Defendant's infringement will continue to cause irreparable harm to Plaintiff unless Defendant's infringement is enjoined by this Court.

22. Upon information and belief, Defendant's infringement of the D361 Patent was and is willful and deliberate, entitling Plaintiff to enhanced damages under 35 U.S.C. § 284 and attorney's fees and non-taxable costs under 35 U.S.C. § 285.

COUNT II:

Infringement of U.S. Patent No. 10,093,452

23. Plaintiff realleges and incorporates by reference paragraphs 1 through 22 of the Complaint as though set forth in full herein.

24. Under 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe the '452 Patent by making, using, selling, and/or offering for sale in the United States, or importing into the United States, unauthorized products including the accused ATX 1/3 Foil Pan Lid that infringes one or more claims of the '452 Patent.

25. Defendant has directly and/or indirectly infringed at least claims 1 and 3 of the '452 Patent, literally or by the doctrine of equivalents, as set forth in the '452 Patent Claim Chart attached hereto as **Exhibit 3** and incorporated by reference as if set forth in full.

26. Defendant is infringing and has infringed the claims of the '452 Patent by making, using, selling, offering for sale, and/or importing its ATX 1/3 Foil Pan Lid with a full curl edge.

27. By e-mail and Federal Express letter on March 15, 2023, Plaintiff notified Defendant that the ATX 1/3 Foil Pad Lid infringed its patents and requested Defendant to cease and desist from its infringement and contact Plaintiff to address this matter, which constitutes actual knowledge of infringement as alleged herein.

28. Despite such actual knowledge, Defendant continues to make, use, sell, offer for sale, and/or import its ATX 1/3 Foil Pan Lid that infringe the '452 Patent.

29. Defendant's acts of infringement have caused damage to Plaintiff, and Plaintiff is entitled to recover from Defendant the damages sustained by Plaintiff as a result of Defendant's wrongful acts in an amount to be determined at trial.

30. Defendant has wrongfully earned profits on the sales of its ATX 1/3 Foil Pan Lid in an amount to be determined at trial.

31. Defendant's infringement of the '452 Patent is causing irreparable harm to Plaintiff for which there is no adequate remedy at law. Defendant's infringement will continue and cause irreparable harm to Plaintiff unless Defendant's infringement is enjoined by the Court.

32. Upon information and belief, Defendant's infringement of the '452 Patent was and is willful and deliberate, entitling Plaintiff to enhanced damages under 35 U.S.C. § 284 and attorney's fees and non-taxable costs under 35 U.S.C. §285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and that that this Court grant Plaintiff the following relief:

A. Judgment that ATX has directly and willfully infringed the D361 Patent and the '452

Patent;

- B. Permanent injunctive relief to prevent ATX, its officers, agents, servants, employees, attorneys, and all others acting in concert or participation with ATX, from further infringement of the D361 Patent and the '452 Patent;
- C. An award of damages to Plaintiff and assessed against ATX for ATX's infringement of the D361 Patent and the '452 Patent as shall be proven at trial, including, either (1) total profits from the infringer's sales under 35 U.S.C. § 289, (2) damages in the form of the Plaintiff's lost profits or a reasonable royalty under 35 U.S.C. § 284, or (3) statutory damages under 35 U.S.C. § 289, whichever is greater, together with pre-judgment and post-judgment interest;
- D. A trebling of the award of damages to Plaintiff under 35 U.S.C. § 284, or such other enhancement of the award of damages that the Court deems just and appropriate;
- E. An award to Plaintiff and assessed against ATX of Plaintiff's costs, disbursements, and attorney's fees for this action, and such other compensatory damages as this Court may determine to be fair and appropriate pursuant to 35 U.S.C. § 285; and
- F. Such other and further relief as this Court may deem just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial as to all issues triable by jury.

Dated: July 14, 2023

Respectfully submitted,

/s/ Brett M. Pinkus

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