



## **JURISDICTION AND VENUE**

3. This action arises under the Patent Laws of the United States, specifically Title 35 of the United States Code.

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this Judicial District under 28 U.S.C. § 1400(b) because Mirrotek resides in and has a regular and established place of business in this Judicial District, at least due to the presence of its principal place of business located at 3321 E. Princess Anne Road Norfolk, Virginia 23502.

6. This Court has personal jurisdiction over Mirrotek because, upon information and belief, Mirrotek has transacted business and otherwise conducted sales activities in this District, has a regular and established place of business in this District, and has committed, contributed to, and induced acts of patent infringement in this District.

## **FACTS**

### **A. Patent Infringement**

7. MCS owns a portfolio of patents covering over-the-door mirrors and over-the-door hanging apparatus, including United States Patent No. 9,622,600 (hereinafter “the ‘600 Patent”).

8. On November 17, 2020, the USPTO duly and legally issued the ‘600 Patent, entitled “Over-the-Door Hanging Apparatus.” A copy of the ‘600 Patent is attached hereto as

#### **Exhibit A.**

9. MCS owns all right, title, and interest in and to the ‘600 Patent.

10. MCS is in the business of designing, developing, manufacturing, and selling frames and other hanging products. MCS considers its over-the-door mirror a signature product and has

invested substantial resources in developing its over-the-door mirror and protecting its intellectual property interests in the same.

11. Mirrotek is a retailer whose business includes selling a variety of mirror-related consumer products, including selling, offering for sale, and/or importing into Virginia, specifically including within this Judicial District, and elsewhere within the United States, over-the-door mirrors that infringe the ‘600 Patent (hereinafter “the Infringing Products”). Amazon.com listings of such Infringing Products (the “Amazon Listings”) are attached hereto as **Exhibit B** and include the following Model Numbers: DM1448CH, DM1448WT, DM1442WT, MT1029, MT1005, and MT1012.

12. MCS purchased an Infringing Product from Amazon.com.

13. Mirrotek has not sought nor obtained a license under the ‘600 Patent and is not authorized or permitted to market, manufacture, use, perform, offer for sale, or sell any of the inventions claimed in the ‘600 Patent.

14. Further, upon information and belief, Mirrotek’s infringement is knowing and willful, as MCS has previously notified Mirrotek that it holds various patents relating to over-the-door mirrors and hanging apparatus, specifically including the family of patents that include the ‘600 Patent. Further, as discussed in detail below, MCS sent Mirrotek a notice letter on June 21, 2023 (the “Notice Letter”) providing Mirrotek with notice of Mirrotek’s specific infringement of the ‘600 Patent. A copy of the Notice Letter is attached hereto as **Exhibit C**. Notwithstanding this notice, Mirrotek continues to manufacture and sell products that infringe the ‘600 patent.

**B. Breach of Prior Settlement Agreement**

15. In 2022, MCS confronted Mirrotek for selling over-the-door mirrors that MCS alleged infringed its patents.

16. Following the confrontation, MCS and Mirrotek reached a Settlement Agreement effective November 7, 2022. A redacted version of the Settlement Agreement is attached hereto as **Exhibit D**.

17. The Settlement Agreement defines “Mirrotek Inventory” in Section 1 as “all Accused Product in the possession or control of Mirrotek, whether stored at Mirrotek or a third-party facility, or in transit.” Settlement Agreement (Exhibit D).

18. According to Section 2 of the Settlement Agreement, as of the Effective Date, the Mirrotek Inventory consisted of more than 5,000 units of Accused Product. *Id.*

19. Pursuant to Section 6 of the Settlement Agreement, Mirrotek was permitted to sell this Mirrotek Inventory as “Modified Mirrotek Products,” provided the brackets (“Original Brackets”) of the Modified Mirrotek Products were replaced with new, non-infringing brackets (“Replacement Brackets”). *Id.*

20. Section 7 of the Settlement Agreement, however, further required that, upon Mirrotek making the Modified Mirrotek Product commercially available, Mirrotek would send one of the Modified Mirrotek Products to MCS’s patent attorneys for evaluation of infringement of the MCS Patents. *Id.*

21. Section 7 of the Settlement Agreement further required Mirrotek to provide MCS notice when the Modified Mirrotek Product was being sent to MCS’s patent attorneys. *Id.*

22. The Infringing Products are Modified Mirrotek Product, as defined by the Settlement Agreement, because, upon information and belief, the Infringing Products form part of the 5,000 units of Accused Product that was sold using Replacement Brackets.

23. Mirrotek made the Infringing Products, which are Modified Mirrotek Products, commercially available at least as early as April 11, 2023. A receipt showing purchase of an Infringing Product on April 11, 2023 (the “Receipt of Purchase”) is attached hereto as **Exhibit E**.

24. Mirrotek did not provide to MCS, and MCS did not receive from Mirrotek, any Mirrotek product since the November 7, 2022, effective date of the Settlement Agreement as required by Section 7 of the Settlement Agreement.

25. Mirrotek did not provide to MCS, and MCS did not receive from Mirrotek, any notice that any Mirrotek product was being sent to MCS’s patent attorneys.

26. By the Notice Letter dated June 21, 2023 (Exhibit C), MCS’s attorneys sent Mirrotek’s representative Schmiley Schick a letter providing Mirrotek notice of Mirrotek’s breach of the Settlement Agreement, notice of Mirrotek’s infringement of the ‘600 Patent, and a demand that Mirrotek cease and desist from importing, offering for sale, making, selling, and/or otherwise commercializing the Infringing Products in the United States.

27. After MCS’s Notice Letter was sent, MCS’s attorney Brian Belles and Mirrotek’s attorney Max Moskowitz had a phone call to discuss the Notice Letter.

28. During the phone call, Mr. Moskowitz indicated he would follow-up with Mr. Belles regarding the issues raised in the Notice Letter.

29. After the phone call, no representative of Mirrotek followed up with Mr. Belles or MCS, despite Mr. Belles sending two follow-up emails to Mr. Moskowitz.

30. In blatant disregard of the clear terms of the Settlement Agreement and MCS’s known patents for over-the-door mirrors, Mirrotek continues to sell the Infringing Products throughout the United States through at least Amazon.com.

31. MCS now seeks relief from this Court as more fully discussed below.

**COUNT I**  
**DIRECT INFRINGEMENT OF US PATENT NO. 9,622,600**

32. The allegations of the foregoing paragraphs are incorporated as fully set forth.

33. Upon information and belief, the Defendant makes, uses, advertises, offers for sale, and sells the Infringing Products, which embody the inventions of at least Claims 18 and 19 of the ‘600 Patent. See Claim-Chart attached at **Exhibit F**, which provides a detailed demonstration of how the Infringing Products read on the inventions claimed within the ‘600 patent.

34. Through the manufacture, use, sale, offer for sale, and/or importation of the Infringing Products in Virginia, including within this Judicial District, and elsewhere within the United States, Mirrotek has directly infringed the ‘600 Patent under 35 U.S.C. § 271 (a) and will continue to do so unless enjoined by this Court.

35. Mirrotek received written notice of its infringement of the ‘600 Patent by no later than the Notice Letter from MCS’s attorney to Mr. Schick dated June 21, 2023. *See* Notice Letter attached hereto as **Exhibit C**.

36. As a result of the aforesaid acts, Mirrotek has damaged, and is continuing to damage, MCS.

37. As described more fully herein, Mirrotek is deliberately and willfully infringing the ‘600 Patent with full knowledge of the ‘600 Patent, rendering this case “exceptional” under 35 U.S.C. § 285.

38. MCS has suffered monetary damages as a result of the infringing actions of Mirrotek with respect to the ‘600 Patent.

39. MCS has suffered and continues to suffer irreparable harm, for which there may be no adequate remedy at law, unless enjoined by this Court.

40. Upon information and belief, Mirrotek will continue to infringe the '600 Patent unless enjoined by this Court.

**COUNT II**  
**INDUCED INFRINGEMENT OF THE '600 PATENT**

41. The allegations of the foregoing paragraphs are incorporated as fully set forth.

42. Mirrotek has induced and continues to induce the direct infringement of the '600 Patent by its customers and suppliers by, among other activities: (1) advising, encouraging, and intending for its customers to assemble and use the Infringing Products in such a manner as to infringe the '600 Patent; and (2) advising, encouraging, and intending for its suppliers to import the Infringing Products into the United States, which infringes the '600 Patent, as shown in Mirrotek's Amazon listings attached. *See* Amazon Listings attached hereto as **Exhibit B**.

43. Mirrotek received written notice of its infringement of the '600 Patent by the Notice Letter dated June 21, 2023 (**Exhibit C**).

44. By continuing the aforesaid acts, Mirrotek has the specific intent to induce the infringement of the '600 Patent and is therefore liable under 35 U.S.C. § 271(b).

45. As a result of the aforesaid acts, Mirrotek has damaged, and is continuing to damage, MCS.

46. Upon information and belief, Mirrotek is deliberately and willfully infringing the '600 Patent with full knowledge of the '600 Patent, rendering this case "exceptional" under 35 U.S.C. § 285.

47. MCS has suffered monetary damages as a result of the infringing actions of Mirrotek with respect to the '600 Patent.

48. MCS has suffered and continues to suffer irreparable harm, for which there may be no adequate remedy at law, unless enjoined by this Court.

49. Upon information and belief, Mirrotek will continue to infringe the '600 Patent unless enjoined by this Court.

**COUNT III**  
**CONTRIBUTORY INFRINGEMENT OF THE '600 PATENT**

50. The allegations of the foregoing paragraphs are incorporated as fully set forth.

51. Mirrotek has contributed, and continues to contribute, to the direct infringement of the '600 Patent by its customers by, among other activities, offering to sell or by selling within the United States the Infringing Products, knowing that the Infringing Products are especially made or adapted for use in infringing the '600 Patent when assembled and/or used.

52. The Infringing Products, including its components, are not staple articles or commodities of commerce suitable for substantial noninfringing use. The Infringing Products, and components thereof, have no substantial noninfringing uses because they cannot be used, in any practical sense, for purposes other than causing and/or contributing to the infringement of the '600 Patent.

53. Mirrotek received written notice of its infringement of the '600 Patent by the Notice Letter dated June 21, 2023 (**Exhibit C**).

54. By continuing the aforesaid acts, Mirrotek has the specific intent to contribute to the infringement of the '600 Patent and is therefore liable under 35 U.S.C. § 271(c).

55. As a result of the aforesaid acts, Mirrotek has damaged, and is continuing to damage, MCS.

56. Upon information and belief, Mirrotek is deliberately and willfully infringing the '600 Patent with full knowledge of the '600 Patent, rendering this case "exceptional" under 35 U.S.C. § 285.



57. MCS has suffered monetary damages as a result of the infringing actions of Mirrotek with respect to the '600 Patent.

58. MCS has suffered and continues to suffer irreparable harm, for which there may be no adequate remedy at law, unless enjoined by this Court.

59. Upon information and belief, Mirrotek will continue to infringe the '600 Patent unless enjoined by this Court.

**COUNT IV**  
**BREACH OF CONTRACT**

60. The allegations of the foregoing paragraphs are incorporated as fully set forth.

61. The Settlement Agreement is a valid and enforceable contract that was entered into between MCS and Mirrotek.

62. The Infringing Products are Modified Mirrotek Product as defined by the Settlement Agreement.

63. Pursuant to the Settlement Agreement, Mirrotek was obligated, upon Mirrotek making the Infringing Products commercially available: (a) to send one of the Infringing Products to MCS's patent attorneys for evaluation of infringement of the MCS Patents; and (b) to provide MCS notice when the Infringing Product was being sent to MCS's patent attorneys.

64. Mirrotek made the Infringing Products commercially available: (a) without sending one of the Infringing Products to MCS's patent attorneys or any other MCS representative; and (b) without providing MCS notice when an Infringing Product was being sent to MCS's patent attorneys, and thereby breached the Settlement Agreement.

**DAMAGES AND PERMANENT INJUNCTION**

65. Mirrotek's infringement of one or more claims of the '600 Patent has and will continue to damage MCS.

66. MCS seeks an award of damages to compensate it for Mirrotek's infringement.

67. In addition, MCS further seeks to permanently enjoin Mirrotek from infringing the '600 Patent. Mirrotek's sale of the Infringing Products is damaging the market and MCS's ability to commercialize the inventions of the '600 Patent, including eroding the market and price for the inventions claimed in the '600 Patent. Accordingly, if Mirrotek is not permanently enjoined, MCS will suffer irreparable harm in the form of lost market share, permanent price erosion, goodwill, harms, and losses for which there is no adequate remedy at law.

68. Mirrotek's continued offer for sale and sale of the Infringing Products despite being expressly notified of MCS's patents surrounding over-the-door mirrors supports a finding of willful infringement of the '600 Patent. Moreover, MCS intends to seek discovery on the issue of Mirrotek's deliberate infringement and reserves all of its rights to seek a finding of willful and malicious conduct regarding Mirrotek's acts of infringement prior to the filing of this Lawsuit with respect to the '600 Patent and/or post-suit acts of infringement with respect to the '600 Patent.

69. MCS seeks that this Court grant: (1) enhanced damages up to treble the amount found or assessed; (2) declare this case "exceptional" and award MCS its reasonable attorneys' fees; and (3) grant MCS such other relief as is just and proper.

70. As a direct and proximate result of Mirrotek's breaches of the Settlement Agreement, MCS has suffered and continues to suffer damages in lost sales and business opportunity, in an amount to be determined at trial.

71. As a direct and proximate result of Mirrotek's breaches of the Settlement Agreement, MCS may further suffer in lost damages for patent infringement, since Mirrotek's failure to provide the Infringing Product delayed MCS in its ability to provide actual notice of patent infringement pursuant to 35 U.S.C. § 287.

**JURY DEMAND**

MCS hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure on all issues so triable.

**PRAYER FOR RELIEF**

As a result of, and in light of the foregoing, MCS respectfully requests that the Court find in its favor and against Mirrotek, and that the Court grant MCS the following relief:

(a) A judgment in favor of MCS that Mirrotek has directly infringed the ‘600 Patent, and/or that Mirrotek has indirectly infringed the ‘600 Patent by way of inducing and/or contributing to the direct infringement by its customers;

(b) A permanent injunction, pursuant to 35 U.S.C. § 283, enjoining Mirrotek and its officers, directors, agents, affiliates, employees, installers, branches, subsidiary and parent entities, and all others acting in active concert therewith, from infringing, inducing the infringement of, or contributing to the infringement of the ‘600 Patent;

(c) An award to MCS of damages adequate to compensate MCS for Mirrotek’s acts of infringement, together with pre-judgment and post-judgment interest thereon;

(d) A declaration by this Court that this is an exceptional case and including an award to MCS of their reasonable attorneys’ fees and costs in accordance with 35 U.S.C. §285;

(e) A judgement in favor of MCS that Mirrotek has breached the Settlement Agreement;

(f) An award to MCS of damages adequate to compensate MCS for Mirrotek’s breach of the Settlement Agreement, together with pre-judgment and post-judgment interest thereon; and

(g) Any and all further relief that this Court deems just and proper.

Dated: September 20, 2023

MCS INDUSTRIES, INC.

/s/ Stephen M. Faraci, Sr.

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