

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

BTL INDUSTRIES, INC.,

Plaintiff,

v.

PARI'S MEDSPA and SYED NAJAM
JAFFRI,

Defendants.

CASE NO.: 4:23-cv-00985

**COMPLAINT FOR
PATENT INFRINGEMENT,
TRADEMARK INFRINGEMENT,
AND UNFAIR COMPETITION**

DEMAND FOR JURY TRIAL

Plaintiff BTL Industries, Inc. ("BTL") files this Complaint for patent infringement, trademark infringement, and unfair competition against Pari's Medspa and Syed Najam Jaffri ("Defendants"), and alleges as follows:

PARTIES

1. BTL is a Delaware corporation with a principal place of business at 362 Elm Street, Marlborough, Massachusetts 01752.
2. On information and belief, Pari's Medspa is a Texas business entity with a principal place of business at 2601 Little Elm Parkway, Suite 1402, Little Elm, Texas 75068.
3. On information and belief, Syed Najam Jaffri is an individual residing at 450 Lakecrest Drive, Lakewood Village, Texas 75068.

JURISDICTION AND VENUE

4. Subject-matter jurisdiction over BTL’s claims arising under the patent laws of the United States, 35 U.S.C. § 100, *et seq.*, and the Lanham Act, 15 U.S.C. §§ 1051 and 1121, exists pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a)-(b).

5. Subject-matter jurisdiction for the trademark and unfair competition claims exists with respect to the claims asserted in this Complaint pursuant to 28 U.S.C. §§ 1331 and 1338.

6. This Court has personal jurisdiction over Defendants because they or their employees have committed acts of patent infringement under 35 U.S.C. § 271(a), (b), or (c), and are subject to this Court’s jurisdiction under 28 U.S.C. § 1400(b).

7. This Court has personal jurisdiction over Pari’s Medspa because, on information and belief, it is a Texas business entity and has a principal place of business in this District.

8. This Court has personal jurisdiction over Syed Najam Jaffri because, on information and belief, they are a resident of this District.

9. Further, the acts complained herein occurred in this District.

10. Similarly, the exercise of personal jurisdiction over Defendants comports with the due process requirements of the United States Constitution because:

(a) Defendants have purposefully established “minimum contacts” with the State of Texas and this District; and

(b) the exercise of personal jurisdiction over Defendants will not offend the traditional notions of fair play and substantial justice.

11. Therefore, this Court has specific and general jurisdiction over Defendants.

12. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1) and 1400(b) at least because Pari’s Medspa has its principal place of business in this District, Syed Najam Jaffri, on

information and belief, is a resident of this District, and both Defendants are subject to personal jurisdiction in this District.

BACKGROUND

13. BTL specializes in the innovation, development, and sale of equipment and treatments for the aesthetics industry in the United States. BTL and their affiliates developed proprietary technology that uses high-intensity, electromagnetic stimulation to tone and strengthen muscles in targeted areas. BTL applied their technology to develop a series of new and innovative FDA-cleared devices and developed protocols for using the technology for aesthetic therapies. BTL denotes their products and services that feature this technology with their HIFEM[®] brand and other trademarks.

14. The first such device that BTL developed was the EMSCULPT[®] device, a standalone, non-invasive, FDA-cleared aesthetic body-contouring device. *See Exhibit 1*, attached hereto (BTL Webpage Printout).

15. BTL's EMSCULPT[®] device created a new market in which it quickly became the innovative industry leader. Before BTL launched the EMSCULPT[®] device in 2018, no other product used high-intensity, focused, electromagnetic technology to tone and firm muscle for non-invasive, aesthetic body contouring.

16. The aesthetic industry has recognized BTL's innovation, hailing them as having taken "the aesthetics industry by storm;" praising BTL as being the first to apply high-intensity, focused, electromagnetic energy technology for aesthetics; and lauding the EMSCULPT[®] device as having "transformed treatment protocols." *See Exhibit 2*, attached hereto (BTL March 2019 Press Release).

17. BTL's EMSCULPT NEO[®] device is FDA-cleared and uses high-intensity, electromagnetic energy to induce powerful muscle contractions—unachievable through typical voluntary contractions—to contour an individual's physique. *See Exhibit 1*. The EMSCULPT NEO[®] device is currently cleared by the FDA as a non-invasive treatment for the abdomen, buttocks, arms, calves, and thighs. BTL markets and distributes their EMSCULPT NEO[®] device to healthcare professionals and licenses these professionals to provide treatment services using the device.

18. The EMSCULPT NEO[®] device has been a breakthrough development in the aesthetics industry, receiving plaudits from some of the industry's largest companies. For example, the EMSCULPT NEO[®] device won Dermascope.com's Aesthetician's Choice Award in 2022 and Glamour magazine described the device as "revolutionary." *See Exhibit 3*, attached hereto (Dermascope and Glamour Awards).

A. The Asserted Patent

19. On November 19, 2019, the United States Patent and Trademark Office ("USPTO") duly and lawfully issued U.S. Patent No. 10,478,634 (the "'634 Patent"), entitled "Aesthetic Method of Biological Structure Treatment by Magnetic Field" to BTL Medical Technologies S.R.O. A true and correct copy of the '634 patent is attached to this Complaint as **Exhibit 4**, attached hereto (US10478634). The '634 patent was exclusively licensed to BTL, and BTL possesses the exclusive right of recovery for any past, present, or future infringement of the '634 patent, including equitable relief and damages.

B. BTL's Trademarks

20. BTL uses and licenses registered and unregistered trademarks and trade dress to market their aesthetic equipment and treatments in the United States, including the following federally registered trademarks for EMSCULPT[®], EM[®], EMSCULPT NEO[®], and HIFEM[®] (collectively, the “BTL Trademarks”):

(a) Registration No. 5,572,801 for EMSCULPT[®] in Class 10 for, among other services, “medical apparatus and instruments for body toning and body shaping” and “medical apparatus and instruments for the removal of fat;” and

(b) Registration No. 6,069,279 for EMSCULPT[®] in Class 44 for, among other services, “medical services.”

(a) Registration No. 6,373,947 for EMSCULPT NEO[®] in Class 10 for, among other services, “medical apparatus and instruments for body toning and body shaping” and “medical apparatus and instruments for the removal of fat” and in Class 44 for, among other services, “medical services;”

(b) Registration No. 6,206,098 for stylized EM[®] in Class 10 for, among other things, “apparatus and instruments for body toning and body shaping, and apparatus and instruments for the removal of fat” and in Class 44 for, among other things, “beauty salon services”;

(c) Registration No. 5,688,619 for HIFEM[®] in Class 10 for, among other things, “surgical and aesthetic medicine procedures, namely, body shaping, fat removal” and in Class 44 for “health care services;”

(c) Registration No. 5,915,636 for EM[®] in Class 10 for, among other things, “apparatus and instruments for body toning and body shaping, and apparatus and instruments for the removal of fat” and in Class 44 for, among other things, “beauty salon services.”

21. BTL has continuously and exclusively used the BTL Trademarks and has never abandoned them. The BTL Trademarks are validly registered in the United States and are in full force and effect. True and correct status copies of the trademark registrations for each of the above trademarks, obtained from the Trademark Status Document Retrieval (“TSDR”) database of the United States Patent and Trademark Office, are attached to this Complaint as **Exhibit 5**, attached hereto (TSDR Status Copies). These registrations constitute *prima facie* evidence of validity of the BTL Trademarks and BTL’s exclusive right to use the BTL Trademarks under 15 U.S.C. § 1057(b).

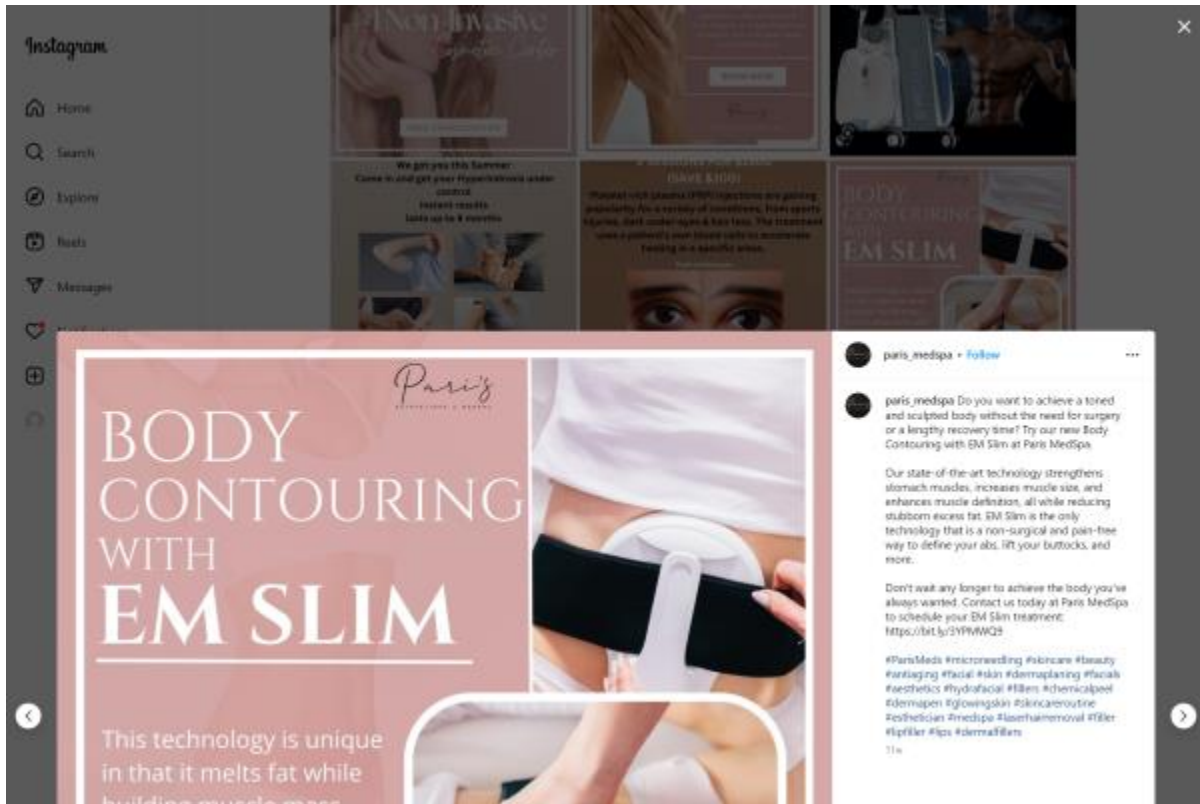
22. The BTL Trademarks, therefore, perform an important source-identifying function for BTL’s aesthetic body-contouring devices like the EMSCULPT[®] and associated treatment services. The BTL Trademarks signify to purchasers that the body-contouring devices come from BTL, and the body-contouring services are rendered by BTL’s devices and administered by BTL-trained and BTL-authorized service providers. The market reputation and consumer goodwill associated with the BTL Trademarks are of significant value to BTL.

NATURE OF THIS ACTION

23. This is a civil action brought by BTL arising out of Defendants’ past and present patent infringement in violation of the patent laws of the United States, past and present trademark infringement, unfair competition, false designation of origin, and false advertising under the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a); and common law trademark infringement and unfair competition.

24. Upon information and belief, Defendants have since at least June 13, 2023, advertised and used a body-contouring device called “EMSLIM NEO” (the “Accused Device”) using the marks “EMSLIM”, “EMSLIM NEO”, “HIFEM” and “HIEMT”. On information and belief, Defendants’ activities are ongoing, despite attorneys for BTL informing Defendants that their activities violate BTL’s rights on at least three (3) occasions. On June 13, 2023, attorneys for BTL sent via certified mail an initial notice letter apprising Defendants of their infringing conduct. On July 6, 2023, attorneys for BTL sent via certified mail a follow-up letter reiterating BTL’s previous letter. Finally, on August 21, 2023, attorneys for BTL sent via email and FedEx a final demand letter referencing the two previous letters and further informing Defendants of their infringing conduct. *See Exhibit 6*, attached hereto (Letters).

25. The images below are representative of Defendants’ infringing conduct:



Instagram

- Home
- Search
- Explore
- Reels
- Messages
- Notifications
- Create
- Profile



More posts from paris_medspa



Body Contouring - EMSLIM NEO

Are you looking to: Lift your Butt, Tone your Legs, Arms or Stomach?

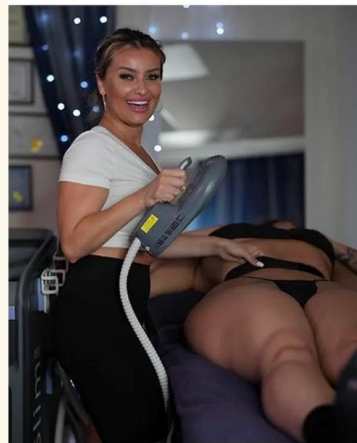
Our new service will get you the muscle tone you have been trying to achieve!



About EMSlim Neo

Emslim Neo is based on high intensity focused electromagnetic energy. A single session causes thousands of powerful muscle contractions which are extremely important in improving the tone and strength of your muscle.

Emslim Neo is non-invasive and requires no recovery time or any pre/post treatment preparation. The procedure feels like intense workout.



One of the biggest reasons EmSlim Neo can be a game-changer for many is its multifaceted approach to body contouring, allowing you to work on several goals at once. By the end of the treatment, you're likely to look and feel notably stronger and more toned. A few main effects are as follows:

- **Strengthens Your Core:** All those HIFEM-motivated muscle contractions are great news for your core strength. This will create a stronger core packs additional health benefits. EmSlim Neo will help build strength in your core and that will help your posture and allows you to put less pressure on your back and hips. The improvement of your core strength will also led to lessen the lower back pain in some of our patients faced before the treatment.
- **Reduces Fat:** Patients often see a 30% reduction of fat in the treated area. And it isn't a temporary measure—once they go into apoptosis, the amount of fat cells in the impacted area are permanently reduced.
- **Improved Muscle Tone:** While you'll notice a more toned appearance, the benefits of conditioning your muscles run more than just skin-deep with this treatment.

16% Average increase in muscle mass
19% Average fat reduction
4 Sessions needed 2-3 days apart

Let's Chat!

26. Defendants' use of "EMSLIM NEO", "EMSLIM", "HIEMT", and "HIFEM" is without BTL's authorization.

27. Defendants' advertising includes the claims that the Accused Device can produce a "16% Average increase in muscle mass", a "19% Average fat reduction" and, alternatively, "Patients often see a 30% reduction in fat in the treated area." On information and belief, Defendants have not performed clinical studies demonstrating these results nor have any clinical studies by any other entity using the Accused Device been performed. Rather, these clinical study results are taken from BTL's own clinical studies on its EMSCULPT[®] and EMSCULPT NEO[®] devices.

28. On information and belief, the Accused Device is not an authentic BTL device. Upon information and belief, Defendants' Accused Device uses time-varying, magnetic fields that are applied to a patient's skin and held there using a flexible belt attached to an applicator that includes a magnetic-field-generating coil. Upon information and belief, the magnetic-field-generating coil generates a time-varying, magnetic field, and the device applies a magnetic flux of 50 T cm² to 1,500 T cm² and causes muscle contraction.

29. Upon information and belief, the Accused Device is not, as Defendants' claim in their advertising, FDA-approved.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 10,478,634

30. BTL repeats and re-alleges paragraphs 1-29 as if fully set forth herein.

31. The '634 patent is directed towards a method for toning muscles in a patient using time-varying, magnetic fields. Claim 1 of the patent recites:

A method for toning muscles in a patient using time-varying magnetic fields, the method comprising:

placing a first applicator comprising a magnetic field generating coil in contact with a patient's skin or clothing at a body region of the patient, wherein the body region is an abdomen or a buttock;

coupling the first applicator to the patient with an adjustable flexible belt so that the belt holds the first applicator to the patient's skin or clothing;

providing energy to the magnetic field generating coil in order to generate a time-varying magnetic field; and

applying a magnetic fluence of 50 T cm^2 to $1,500 \text{ T cm}^2$ to the body region,

wherein the time-varying magnetic field is applied to the body region with a magnetic flux density sufficient to cause a muscle contraction in the body region.

32. For the reasons stated in paragraphs 24-29, Defendants' goods meet each and every limitation of at least claim 1 of the '634 patent.

33. Defendants have induced infringement and continues to induce direct infringement, literally or under the doctrine of equivalents, of at least claim 1 of the '634 patent by making, using, offering to sell, selling, or importing the Accused Device in the United States and by encouraging, promoting, and instructing customers to use the Accused Device in a manner that directly infringes the '634 patent.

34. Defendants' infringement of the '634 patent has been, and continues to be, willful and malicious. On information and belief, Defendants have been aware of the '634 patent since before the filing of this Complaint and have infringed the '634 patent willfully and deliberately and with knowledge that such conduct violates 35 U.S.C. § 271. Defendants were aware of BTL's products for the reasons stated in paragraphs 24-29, and BTL marks their products with a reference

to their online patent listing at www.btl.net.com/patents. Moreover, BTL informed Defendants of their patent infringement by letter on June 13, 2023.

COUNT II: TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114

35. BTL repeats and re-alleges paragraphs 1-29 as if fully set forth herein.

36. By using “HIFEM”, “EMSLIM”, “EMSLIM NEO”, and “HIEMT”, Defendants are creating confusion among the consuming public as to the source, origin, sponsorship, and/or affiliation of the Accused Device and services with BTL.

37. Defendants’ conduct relating to the BTL Trademarks is without authorization.

38. Defendants are thus in violation of 15 U.S.C. § 1114 regarding the BTL Trademarks and 15 U.S.C. § 1125(a) regarding the use of “HIFEM”, “EMSLIM”, “EMSLIM NEO”, and “HIEMT”, and/or other confusingly similar terms.

39. Defendants’ actions have caused BTL irreparable harm for which BTL is entitled to a permanent injunction under 15 U.S.C. § 1116.

40. Such acts further cause harm to BTL for which BTL is entitled to recover actual damages as well as the costs of any necessary corrective advertising.

41. Because Defendants’ conduct is willful, malicious, and exceptional, BTL is entitled to an accounting of profits, attorneys’ fees, and multiplied damages.

COUNT III: FEDERAL UNFAIR COMPETITION, FALSE DESIGNATION OF ORIGIN, AND FALSE ADVERTISING UNDER 15 U.S.C. § 1125

42. BTL repeats and re-alleges paragraphs 1-29 as if fully set forth herein.

43. Defendants have no right to use the BTL Trademarks in connection with their goods and/or services, yet Defendants have passed off their goods and/or services to the public as if they were BTL’s goods.

44. Defendants have falsely held themselves out to customers and potential customers as being connected with BTL.

45. Defendants have acted with intent to confuse or deceive the public as to the source and origin of their goods and services.

46. The public has in fact been confused or deceived by the source and origin of Defendants' goods and services.

47. Defendants' false designations of origin and false representations constitute unfair competition under 15 U.S.C. § 1125.

**COUNT IV: COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR
COMPETITION**

48. BTL repeats and re-alleges paragraphs 1-29 as if fully set forth herein.

49. Defendants have without authorization, intentionally, willfully, and maliciously used the BTL Trademarks, confusingly similar variations of these trademarks, and research findings from BTL's clinical studies to promote, market, offer for sale, and sell their goods and services.

50. By the acts described herein, Defendants have intentionally infringed the BTL Trademarks and engaged in unfair competition with respect to BTL in violation of the common law of the State of Texas.

51. Defendants' actions have caused and are likely to cause consumer confusion for the reasons stated in paragraphs 24-29.

52. Defendants actions have caused and will continue to cause BTL to sustain actual damages and lost profits in this District.

53. BTL has no adequate remedy at law and will continue to suffer irreparable harm unless Defendants are enjoined.

54. Because of Defendants' unlawful conduct as alleged above, BTL has been substantially injured and is entitled to damages and profits attributable to the unlawful conduct, which are presently indeterminate, and the costs of this action.

PRAYER FOR RELIEF

WHEREFORE BTL requests entry of judgment against Defendants as follows:

A. A judgment that Defendants have infringed one or more claims of U.S. Patent No. 10,478,634 in violation of 35 U.S.C. § 271(b)-(c);

B. An award of damages for infringement of the '634 patent, with said damages to be trebled because of the intentional, willful, and malicious nature of Defendants' infringement, as provided by 35 U.S.C. § 284;

C. A judgment that Defendants have willfully and maliciously infringed one or more claims of the '634 patent;

D. A determination that this case is "exceptional" under 35 U.S.C § 285 and an award of BTL's reasonable attorneys' fees;

E. An order permanently enjoining Defendants, their officers, directors, employees, agents, and all persons acting in concert with them, from infringing the '634 patent;

F. A judgment that Defendants have violated the Lanham Act, 15 U.S.C. § 1114, by committing acts of trademark infringement;

G. A judgment that Defendants' use of the "HIFEM" mark, as alleged in this Complaint, infringes BTL's HIFEM[®] trademark;

H. A judgment that the "EMSLIM" mark is confusingly similar to BTL's EMSCULPT[®] trademarks and that Defendants' use of that mark, as alleged in this Complaint, infringes BTL's EMSCULPT[®] trademarks;

I. A judgment that the “EMSLIM NEO” mark is confusingly similar to BTL’s EMSCULPT NEO[®] trademark and that Defendants’ use of that mark, as alleged in this Complaint, infringes BTL’s EMSCULPT NEO[®] trademark;

J. A judgment that the “EMSLIM” and “EMSLIM NEO” marks are confusingly similar to BTL’s EM[®] trademark and that Defendants’ use of those marks, as alleged in this Complaint, infringes BTL’s EM[®] trademark;

K. A judgment that Defendants have violated the Lanham Act, 15 U.S.C. § 1125(a), by committing acts of federal unfair competition, false designation of origin, and false advertising;

L. An award of damages for Defendants’ infringement of the BTL Trademarks, including Defendants’ profits, any damages sustained by BTL, and the costs of the action as provided by 15 U.S.C. § 1117(a), with said damages to be trebled because of the intentional, willful, and malicious nature of Defendants’ infringement, as provided by 15 U.S.C. § 1117(b);

M. A judgment that this case is “exceptional” under 15 U.S.C. § 1117(a) and an award of reasonable attorneys’ fees;

N. An award of damages against Defendants as a result of their wrongful acts against BTL in an amount to be proved at trial;

O. An award of any and all of Defendants’ profits arising from the foregoing acts;

P. An award of pre-and post-judgment interest of any monetary damages at the highest rate allowed by law;

Q. Permanent injunctive relief enjoining Defendants from:

- i. using the BTL Trademarks or any confusingly similar marks, in any manner in connection with the promotion, marketing, advertising, offering for sale, or sale of any good or service that is not a good or service offered by a genuine BTL

product, or is not authorized by BTL to be offered in connection with the BTL Trademarks;

- ii. passing off, inducing, or enabling others to sell or pass off any good or service as a good or service offered by a genuine BTL product, or any other good or service offered by BTL, that is not BTL's or not offered under the authorization, control, or supervision of BTL and approved by BTL for sale under the BTL Trademarks;
- iii. committing any acts calculated to cause consumers to believe that Defendants' goods or services are those sold under the authorization, control, or supervision of BTL, or are sponsored by, approved by, or otherwise connected with BTL; and
- iv. further infringing BTL's Trademarks and damaging BTL's goodwill.

R. An award of BTL's costs and expenses in this action; and

S. For such other relief as the Court may deem just and proper.

Dated: November 1, 2023

Respectfully Submitted,

By: /s/ Ryan D. Levy

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JURY DEMAND

Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiff BTL Industries, Inc. respectfully demands a trial by jury of any issues triable of right by a jury.