

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

_____)	
WenzhouFuruisi Jiancaiyouxiangongsi,)	
)	
Plaintiff,)	Case No. _____
v.)	
)	
Ruoying Xing,)	JURY TRIAL DEMANDED
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff WenzhouFuruisi Jiancaiyouxiangongsi (“Forious”) for its Complaint against Defendant Ruoying Xing (“Xing”) alleges:

NATURE OF THE ACTION

1. This is a civil action arising under the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. and the Patent Laws of the United States, 35 U.S.C. § 1 et seq. for declaratory judgment of non-infringement and invalidity of U.S. Patent Number D994,081 (attached as Exhibit 1).

2. Forious brings this action in view of the actual controversy that the Xing has created under the ‘081 Patent by asserting a patent infringement claim against Forious’ products, which caused Amazon to remove Forious’ listing for those products on Amazon.com.

3. Xing’s actions have caused Forious to lose sales on Amazon, its primary sales platform, and has harmed Forious’ reputation and goodwill.

THE PARTIES

4. Forious is a Chinese corporation with a principal place of business in Wenzhou, China.

5. Forious maintains a storefront under the name “FORIOUS-US” on Amazon.com. Through that storefront, Forious sells a line of home appliance products, including certain bathroom faucets, which are the subject of this action (“Disputed Faucets”) to U.S. customers.

6. On information and belief, Xing is an individual residing in China.

7. On information and belief, Xing sells bathroom faucet products on Amazon.com to customers in the United States.

JURISDICTION AND VENUE

8. The Court has subject matter jurisdiction over the patent claims in this action under the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and under 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the patent laws of the United States, Title 35 U.S.C. § 1 et seq.

9. The Court has supplemental subject matter jurisdiction over the state law claim for tortious interference with prospective business relations under 28 U.S.C. § 1367 because that claim arises under the same common nucleus of facts as the declaratory judgment patent claims.

10. The Court has personal jurisdiction over Xing under Fed. R. Civ. P. 4(k)(2).

11. Upon information and belief, Xing resides in China and has no residence in the United States.

12. Upon information and belief, Xing has no regular and established place of business in the United States.

13. Upon information and belief, Xing regularly sells products into the United States through Amazon.com and has established significant contacts within the nation as a whole.

14. Upon information and belief, Xing’s sales into the United States are scattered among various states so that Xing, by virtue of these sales, is not subject to jurisdiction in any state’s courts of general jurisdiction.

15. Xing's actions also have prevented Forious from continuing to sell the Disputed Faucets on Amazon.com, which has halted Forious' U.S. sales of these products.

16. Venue is proper in this Court under 28 U.S.C. § 1391(c)(3) because Xing is not a U.S. resident.

BACKGROUND

17. On information and belief, Xing owns U.S. Patent No. D994,081 (the '081 Patent), which is a design patent for a particular waterfall-type "Faucet."

18. Xing applied for the '081 Patent on April 4, 2023. The '081 Patent issued on August 1, 2023.

19. Upon information and belief, in mid-January 2024, Xing filed a design patent infringement claim under Amazon.com's intellectual property infringement reporting procedures, contending that the Disputed Faucets that Forious sold on Amazon.com infringed the '081 Patent ("Amazon Infringement Claim").

20. The Disputed Faucets are two groups of bathroom faucet products. The first group has a faucet spout with an open-top "waterfall" design. ("Waterfall Design Disputed Faucets"). The second group has a faucet spout with a closed-top "standard" design ("Standard Design Disputed Faucets"). Each group includes three color options (gold, black, and brushed-nickel).

21. The Waterfall Design Disputed Faucets are sold under the following Amazon Standard Identification Numbers (ASINs):

B0CJFG5W4B
B0CJFHWT5H
B0CJFHXYT

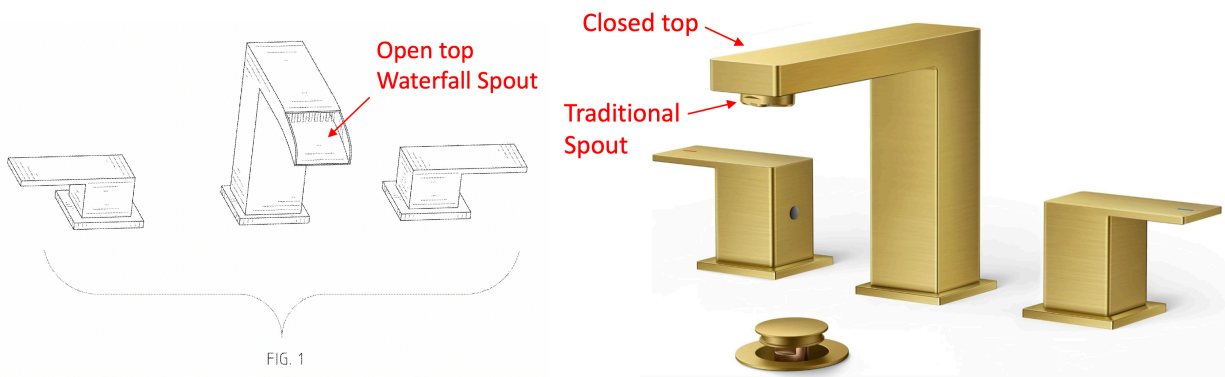
22. The Standard Design Disputed Faucets are sold under the following Amazon Standard Identification Numbers (ASINs):

B0C6LQKTS5
B0C6LR8JNP
B0C6LNYNYQ

23. Amazon.com is the primary sales channel through which Forious sells the Disputed Faucets.

24. As a result of Xing's Amazon Infringement Claim, Amazon initially removed the product listings for all of the Disputed Faucets (all six ASINs).

25. Forious then appealed from Amazon's de-listing of the three Standard Design Disputed Faucets (illustrated below, right) on the grounds that these products could not conceivably infringe the '081 Patent (below left), which is directed to a strikingly different waterfall design.



26. Xing had no good faith basis for asserting that the three Standard Design Disputed Faucets infringed the '081 Patent, which claims an unmistakably different design.

27. Xing knew or should have known that its infringement claim against the three Standard Design Disputed Faucets was meritless.

28. As a result of Xing's assertion of meritless infringement claims against Forious' three Standard Design Disputed Faucets, Forious has been harmed in various ways.

29. Eventually, Amazon relisted the three Standard Design Disputed Faucets, but the three Waterfall Design Disputed Faucets remain de-listed.

30. The Waterfall Design Disputed Faucets (illustrated below, bottom) does not infringe the '081 Patent (illustrated below, top) because they are missing features (e.g., a short spout depth and sharp handle corners) that are required in the claimed design of the '081 Patent.

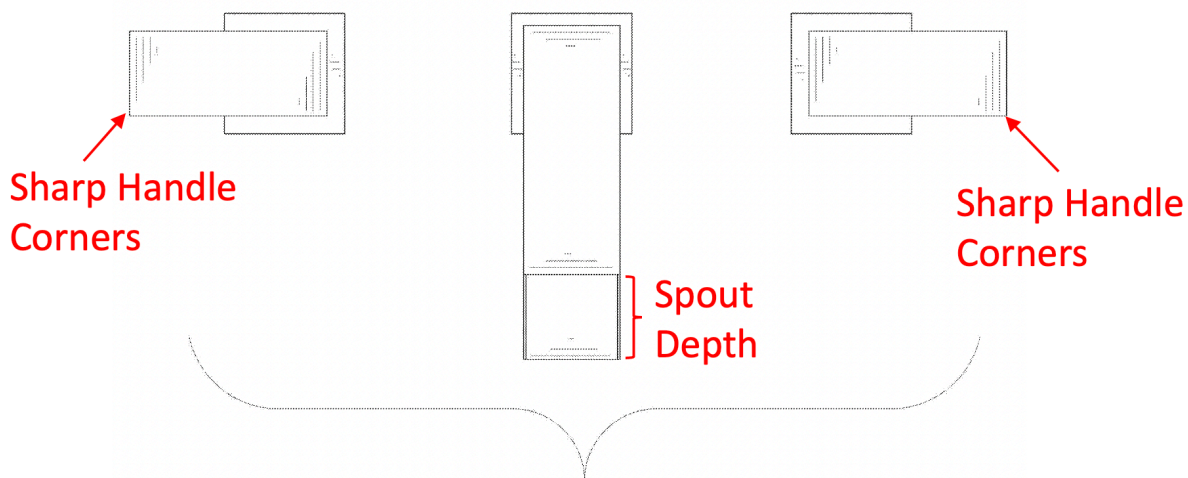
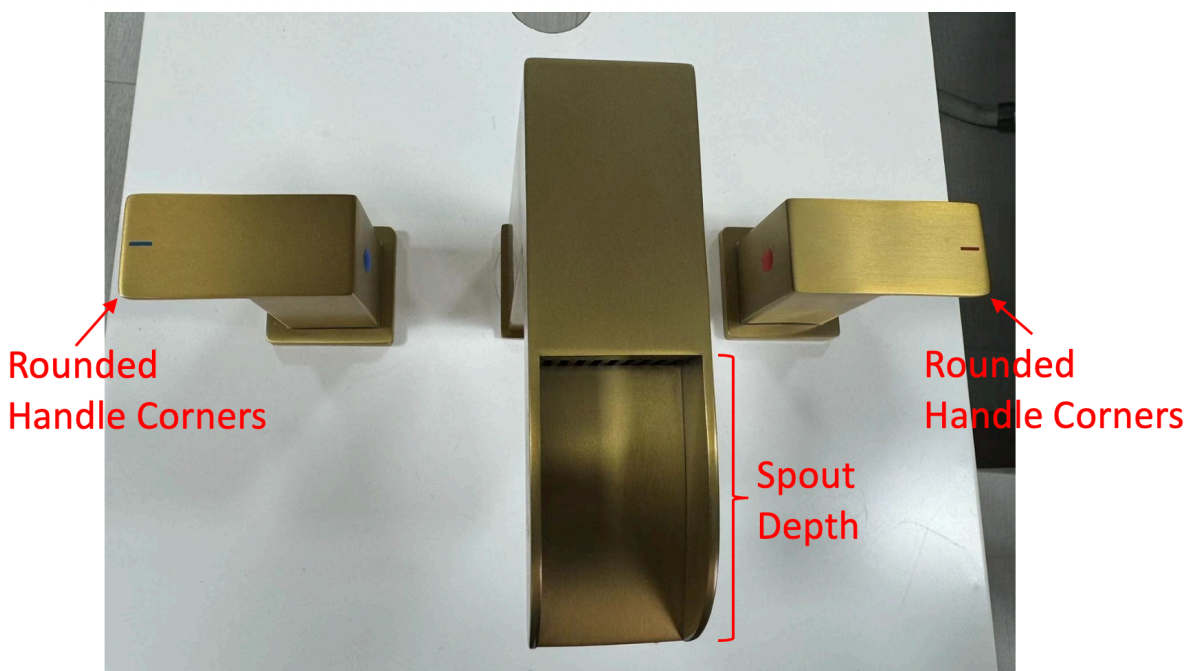
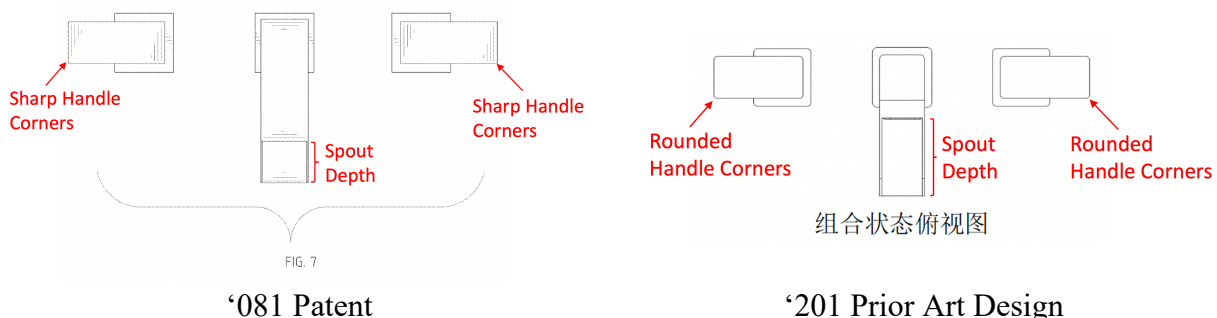


FIG. 7



31. Moreover, the features that the Waterfall Design Disputed Faucets have in common with the ‘081 Patent also are disclosed in Chinese Patent CN 307928201 (‘201 Prior Art) (attached as Exhibit 2), which issued on March 21, 2023. Compare the ‘081 design (below, left) with the ‘201 Prior Art design (below, right).



32. The ‘201 Prior Art differs from the ‘081 Patent in precisely the same way that the Waterfall Design Disputed Faucets differ from the ‘081 Patent (e.g., rounded handle corners and greater spout depth).

33. Either these differences distinguish both the ‘201 Prior Art and the Waterfall Design Disputed Faucets from the ‘081 Patent—in which case the Waterfall Design Disputed Faucets do not infringe the ‘081 Patent—or the designs in the ‘201 Prior Art and the ‘081 Patent are the same—in which cases the ‘081 Patent is invalid.

34. Either way, Xing had no good faith basis for prompting Amazon.com to remove the product listings for the Waterfall Design Disputed Faucets.

**Count I
Declaratory Judgment
Non-Infringement
(Standard Design Disputed Faucets)**

35. The allegations of each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

36. Forious' Standard Design Disputed Faucets do not include all of the claimed features of the '081 Patent.

37. An ordinary observer, familiar with the prior art designs, would not be deceived into believing that Standard Design Disputed Faucets are the same as the patented design.

38. Forious' Standard Design Disputed Faucets do not infringe the '081 Patent.

39. Forious seeks a declaration that its Standard Design Disputed Faucets do not infringe the '081 Patent.

Count II
Declaratory Judgment
Non-Infringement
(Waterfall Design Disputed Faucets)

40. The allegations of each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

41. Forious' Waterfall Design Disputed Faucets do not include all of the claimed features of the '081 Patent.

42. An ordinary observer, familiar with the prior art designs, would not be deceived into believing that Waterfall Design Disputed Faucets are the same as the patented design.

43. Forious' Waterfall Design Disputed Faucets do not infringe the '081 Patent.

44. Forious seeks a declaration that its Waterfall Design Disputed Faucets do not infringe the '081 Patent.

Count III
Declaratory Judgment
Invalidity

45. The allegations of each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

46. The '081 Patent is invalid as anticipated or obvious under sections 35 U.S.C. §§ 102 or 103 in view of at least the '201 Prior Art.

47. Forious seeks a declaration that the '081 Patent is invalid.

Count IV
Tortious Interference with Prospective Business Relations

48. The allegations of each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

49. Before Xing asserted meritless infringement claims against Forious' Disputed Faucets, Forious had sold those products to U.S. customers through the Amazon.com marketplace and held a reasonable expectation that it would continue to sell those products to U.S. customers through the Amazon.com marketplace.

50. Accordingly, Forious had a reasonable expectation of a continuing business relationship with third party Amazon.com, which would allow it to continue selling the Disputed Faucets through its marketplace.

51. Xing had knowledge of Forious' business relationship with Amazon.com.

52. Xing intentionally and unjustifiably interfered with Forious' business relationship with Amazon.com by asserting an objectively baseless design patent infringement claim, which caused Amazon.com to remove Forious' product listings for the Disputed Faucets.

53. Xing knew or reasonably should have known that it lacked a plausible basis for its claim that Forious' Disputed Faucets infringed the '081 Patent.

54. Xing's actions harmed Forious in various ways.

55. Xing's actions caused Forious to lose sales for the period in which Amazon.com had removed the product listings for the Disputed Faucets.

56. Xing's actions also have caused Forious to lose performance points on Amazon.com, which may negatively affect its store ratings and ranking on Amazon.com.

57. Xing's actions also have disrupted Forious' inventory and supply chain.

58. Xing's actions constitute tortious interference with Forious' business relationship with Amazon.com.

REQUEST FOR RELIEF

WHEREFORE, Forious asks this Court to:

- a. Find that none of the Disputed Faucets infringe the '081 Patent;
- b. Find that the '081 Patent is invalid;
- c. Find that Xing's actions constitute tortious interference with Forious' business relationship with Amazon.com;
- d. Find that this case is an "exceptional case" under 35 U.S.C. § 285 and Forious is entitled to its attorney fees;
- e. Award Forious damages sufficient to compensate it for Xing's tortious interference with Forious' business relations, together with costs and pre-judgment interest;
- f. Award Forious other and further relief as may be proper under the circumstances.

DEMAND FOR JURY TRIAL

Forious requests a trial by jury under Rule 38 of the Federal Rules of Civil Procedure of all issues that may be determined by a jury.

Dated: February 8, 2024

Respectfully submitted,

/s/ Edward H. Rice

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