

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

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Jiaxiang Ye, :

Plaintiff, : Civil Action No. 7:24-cv-03221

: Jury Trial Demanded

-against- :

Guangzhoushikaermansixinxikejiyouxiangongsi :
a/k/a Marycele Official, :

Defendant. :

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COMPLAINT

Plaintiff Jiaxiang Ye (the "Plaintiff") by and through its undersigned counsel, pleads the following against Defendant Guangzhoushikaermansixinxikejiyouxiangongsi a/k/a Marycele Official (hereinafter "Defendant"), and alleges as follows:

I. THE PARTIES

1. Plaintiff is the owner of record of the U.S. Design Patent No. D1,017,877 S ("the '877 Patent," Exhibit A), entitled "Warmer Lamp," which was issued on March 12, 2024 from U.S. Patent Application No. 29/834,114 ("the '114 Application"), filed on April 10, 2022.

Plaintiff granted license(s) to certain e-commerce stores on Amazon to sell its patented products under the '877 Patent to consumers in the United States and those in the State of New York.

2. Defendant Guangzhoushikaermansixinxikejiyouxiangongsi (in Chinese 广州市卡
尔曼斯信息科技有限公司) is a Chinese Corporation, having a business address at A4158, 24th

Floor, 59 Zhuji Road, Guangzhou, Tianhe District, Guangdong Province 510630, P.R. China (in Chinese 珠吉路 59 号之二四楼 A4158, 广州市天河区, 广东省 510630, 中国) and having a contact email at frank_yw@outlook.com. Defendant has offered for sale and sold products that infringe the '877 Patent to consumers in the United States and in this judicial district through its e-commerce store(s) on Amazon platform.

II. JURISDICTION AND VENUE

2. This is an action arising under the Patent Laws of the United States, 35 U.S.C. § 1 et seq. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant has offered for sale, sold, and continues to sell products covered by the '877 Patent to consumers in this district. A screen shot of the checkout page on the Amazon webpage to purchase infringing products from Defendant for shipping to consumers in this district is attached herein (Exhibit B). This Court also has personal jurisdiction over the Defendants under Rule 4(k)(2) for its violations the Federal Patent Law.

4. Venue is proper in this judicial district because Defendant, as a foreign corporation, may be sued in any district pursuant to 28 U.S.C. § 1391(c)(3).

III. STATEMENT OF FACTS

5. Plaintiff and his business partners develop, market, sell and distribute their patented products under the '877 Patent. Plaintiff's patented design has been the subject of substantial and continuous marketing and promotion and has achieved substantial continued success.

6. Plaintiff is the lawful owner of all right, title, and interest in and to the ‘877 Patent. Plaintiff has not granted a license or any other form of permission to Defendant to make, use, sell, or offer for sale the patented products disclosed and claimed in the ‘877 Patent.

7. Plaintiff has expended substantial time, money, and other resources in developing, advertising, and otherwise promoting its patented products. As a result, products bearing the patented design are widely recognized and exclusively associated by consumers, the public and the trade as being products sourced from Plaintiff and its licensees.

8. The Federal Circuit Court held that “The infringement analysis must compare the accused product to the patented design...” *Payless Shoesource, Inc. v. Reebok Int’l, Ltd.*, 998 F.2d 985, 990 (Fed. Cir. 1993) and Defendant’s infringing product is compared directly with that claimed in the ‘877 Patent in the following table:

Claimed Design in the ‘877 Patent	Defendant’s Infringing Product
	

9. The “ordinary observer” test for design patent infringement requires the fact finder to “compar[e] similarities in overall designs, not similarities of ornamental features in isolation.” *Ethicon Endo-Surgery, Inc. v. Covidien, Inc.*, 796 F.3d 1312, 1335 (Fed. Cir. 2015) (citing *Richardson v. Stanley Works, Inc.*, 597 F.3d 1288, 1295 (Fed. Cir. 2010); *Crocs, Inc. v. Int’l Trade Comm’n*, 598 F.3d 1294, 1303–04 (Fed. Cir. 2010)).

10. Defendant’s product is at least substantially similar, if not virtually identical to the claimed design in the ‘877 Patent and therefore Defendant’s product infringes the ‘877 Patent.

11. Plaintiff has not licensed or authorized Defendant to use the ‘877 Patent, and the Defendant is not an authorized retailer of genuine products patented by Plaintiff.

12. Defendant, without any authorization or license from Plaintiff, has knowingly and willfully used and continues to sell products which infringe the ‘877 Patent in connection with the advertisement, distribution, offering for sale, and sale of infringing products into the United States and New York.

COUNT I. INFRINGEMENT OF U. S. DESIGN PATENT NO. D1017877 S

13. Plaintiff repeats and incorporates by reference herein the allegations in paragraphs above.

14. Defendant is making, using, offering for sale, selling, and/or importing into the United States for subsequent sale or use products that infringe directly and/or indirectly the ornamental design claimed in the ‘877 Patent, in violation of 35 U.S.C. § 271.

15. Upon information and belief, Defendant sells its infringing products through at least the following Amazon weblinks: (1) <https://www.amazon.com/Marycele-Candle-Electric-Bedroom-Dimmable/dp/B0BWJRJYS7>; (2) <https://www.amazon.com/Marycele-Candle-Electric->

[Bedroom-Dimmable/dp/B0BXD3PR9G](https://www.amazon.com/Marycele-Candle-Electric-Bedroom-Dimmable/dp/B0BXD3PR9G); (3) <https://www.amazon.com/MARYCELE-Candle-Dimmable-Lampshade-Halogen/dp/B0CKSHVVGX>; (5) <https://www.amazon.com/Marycele-Candle-Warmer-Electric-Halogen/dp/B0CGDL3SXZ>; (6) <https://www.amazon.com/Marycele-Candle-Warmer-Electric-Holder/dp/B0CKSHM8VZ>; (7) <https://www.amazon.com/Marycele-Candle-Warmer-Adjustable-Height/dp/BOCSJZWV4L>; and (8) <https://www.amazon.com/MARYCELE-Candle-Warmer-Adjustable-Height/dp/BOCSK4FZPQ>.

16. Defendant has infringed the ‘877 Patent through the aforesaid acts and will continue to do so unless enjoined by this Court. Defendant’s wrongful conduct has caused Plaintiff to suffer irreparable harm resulting from the loss of its lawful patent rights to exclude others from making, using, selling, offering for sale, and importing the patented invention. Plaintiff is entitled to injunctive relief pursuant to 35 U.S.C. § 283.

17. Plaintiff is entitled to recover damages adequate to compensate for the infringement, including Defendants’ profits pursuant to 35 U.S.C. § 289. Plaintiff is entitled to recover any other damages as appropriate pursuant to 35 U.S.C. § 284.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1) That Defendant, its affiliates, officers, agents, servants, employees, attorneys, and all persons acting for or in active concert with them be temporarily preliminarily, and permanently enjoined and restrained from using the ‘877 Patent or any reproductions, infringing copies, or colorable imitations thereof in any manner in connection with the distribution,

marketing, advertising, offering for sale, or sale of any products that are not genuine products obtained from the Plaintiff or not authorized by Plaintiff.

2) Entry of an Order that the host or hostess of Defendant's e-commerce stores, including, but not limited to, Amazon shall disable the Defendant's e-commerce stores, along with any associated financial accounts and make them inactive and untransferable;

3) That the amount of damages awarded to Plaintiff to compensate Plaintiff for infringement of the '877 Patent be increased by three times the amount thereof, as provided by 35 U.S.C. § 284;

4) In the alternative, that Plaintiff be awarded all profits realized by Defendants from Defendants' infringement of the '877 Patent pursuant to 35 U.S.C. § 289;

5) That Plaintiff be awarded its reasonable attorneys' fees and costs; and

6) Award any and all other relief that this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff respectfully demands a jury trial of all issues triable to a jury.

Dated: April 27, 2024

Respectfully submitted,

/s/Lance Liu

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