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Slick Slide LLC

10
11 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA
12 **SOUTHERN DIVISION**

13 SLICK SLIDE LLC, a Delaware
Limited Liability Company,

14
15 Plaintiff,

16 v.

17 BIG AIR FRANCHISING, LLC,
18 a California Limited Liability
Company and a/k/a H2O Partners,
19 LLC

20 Defendant.
21

Case No.: 8:24-cv-00938

Judge:

**COMPLAINT FOR
PATENT INFRINGEMENT OF
U.S. PATENT NO. D973,821**

1 Plaintiff, Slick Slide LLC (“Slick Slide”), for its Complaint against
2 Defendant, Big Air Franchising, LLC a/k/a H2O Partners, LLC (“Defendant”), states
3 and alleges the following:

4 **NATURE OF THE ACTION**

5 1. This is an action for patent infringement and arises under the patent
6 laws of the United States, codified in Title 35 of the United States Code. Specifically,
7 this is an action for inducement of patent infringement under 35 U.S.C. § 271(b).
8 Damages in the form of lost profits or reasonable royalty are sought under 35 U.S.C.
9 § 284. Alternatively, Defendant’s total profit is sought under 35 U.S.C. § 289.

10 **THE PARTIES**

11 2. Plaintiff Slick Slide LLC has a place of business at 4247 E. Casitas Del
12 Rio, Phoenix, Arizona 85050, and is a well-known provider of recreational slides.

13 3. Defendant has a place of business at 999 Corporate Drive, Suite 215,
14 Ladera Ranch, California 92695. Defendant is a franchisor of trampoline and
15 recreational parks, in which recreational slides are operated.

16 **JURISDICTION AND VENUE**

17 4. This is a patent infringement case, and this Court has subject matter
18 jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

19 5. Venue in this judicial district is appropriate based on 28 U.S.C. §
20 1400(b), in that the Defendant resides therein, or the Defendant has committed acts
21 of infringement and has a regular and established place of business therein.

22 **BACKGROUND FACTS**

23 6. Slick Slide is a family-friendly business, providing entertainment for
24 children and adults in the form of innovative and customized recreational slides.
25 Slick Slide has provided its innovative and customized recreational slides throughout
26 the United States.

27 7. Slick Slide incorporates unique technology and innovative designs in
28 its products to provide a customized experience for its customers. Slick Slide’s

1 products are also customized to its customers' environment, including amusement
2 parks and water parks. Slick Slide's product offerings include indoor and outdoor
3 customized recreational slides.

4 8. The slide designs offered by Slick Slide are the original creation of
5 Slick Slide. By way of example only, Slick Slide's Launch Slide design is an original
6 creation of Slick Slide.

7 9. Slick Slide's Launch Slide design is protected by United States Design
8 Patent No. D973,821, entitled "Recreational Slide" ("the '821 patent"), which issued
9 from the United States Patent and Trademark Office ("USPTO") on December 27,
10 2022, to inventor Gary Schmit. Mr. Schmit assigned the '821 patent to Slick Slide,
11 which at all times relevant to this action has been the owner of the '821 patent. A copy
12 of the '821 patent is attached to this Complaint as Exhibit A.

13 10. Slick Slide marks its Launch Slide with the '821 patent, including through
14 its website.

15 11. Defendant is a franchisor of trampoline and recreational parks. In
16 connection with its business, Defendant entices its franchisees to cause the offer for
17 sale, manufacture, and importation of recreational slides. In addition, Defendant
18 entices its franchisees to purchase and use recreational slides.

19 12. For example, BA NE Charlotte, LLC is a franchisee of Defendant.

20 13. BA NE Charlotte, LLC purchased and used the slides that are depicted
21 in the image attached hereto as Exhibit B.

22 14. Defendant caused and enticed BA NE Charlotte, LLC to purchase and
23 use the slides that are depicted in the image attached hereto as Exhibit B. Defendant
24 did so by instructing BA NE Charlotte, LLC to purchase and use the slides that are
25 depicted in the image attached hereto as Exhibit B.

26 15. As another example, BA Greenville, LLC is a franchisee of Defendant.

27 16. BA Greenville, LLC purchased and used the slides that are depicted in
28 the image attached hereto as Exhibit C.

1 17. Defendant caused and enticed BA Greenville, LLC to purchase and use
2 the slides that are depicted in the image attached hereto as Exhibit C. Defendant did
3 so by instructing BA Greenville, LLC to purchase and use the slides that are depicted
4 in the image attached hereto as Exhibit C.

5 18. At the time Defendant caused and enticed its franchisees to purchase
6 and use the slides that are depicted in the images attached hereto as Exhibit B and
7 Exhibit C, Defendant was aware of the '821 patent.

8 19. For example, at least one of Defendant's franchisees emailed a copy of
9 the '821 patent to representatives and employees of Defendant. At that same time,
10 at least one of Defendant's franchisees placed Defendant on notice that the '821
11 patent claims the ornamental design for a recreational slide. At that same time, at
12 least one of Defendant's franchisees placed Defendant on notice that legal advice
13 was needed in connection with the slides that are depicted in the images attached
14 hereto as Exhibit B and Exhibit C. At that same time, representatives and employees
15 of Defendant discussed the '821 patent in connection with the slides that are depicted
16 in the images attached hereto as Exhibit B and Exhibit C.

17 20. Defendant caused and enticed its franchisees to purchase and use the
18 slides that are depicted in the images attached hereto as Exhibit B and Exhibit C, and
19 did so knowing that the manufacture, offer for sale, sale, and importation of the slides
20 that are depicted in the images hereto as Exhibit B and Exhibit C constitute
21 infringement of the '821 patent, in part because those slides are intended to be a copy
22 of Slick Slide's Launch Slide. Defendant also did so knowing that the use of the
23 slides that are depicted in the images hereto as Exhibit B and Exhibit C by its
24 franchisees constitutes infringement of the '821 patent, in part because those slides
25 are intended to be a copy of Slick Slide's Launch Slide.

26 21. The manufacturer of the slides that are depicted in the images attached
27 hereto as Exhibit B and Exhibit C is Dreamland Playground, otherwise referred to
28 as Zhejiang Zhongsheng Amusement Equipment Co., Ltd., and otherwise referred

1 to as Dreamland Playground Co. Ltd.

2 22. Defendant facilitated the manufacture of the slides that are depicted in
3 the images attached hereto as Exhibit B and Exhibit C. Specifically, representatives
4 and employees of Defendant communicated and cooperated with Dreamland and
5 thereby coordinated the manufacture of the slides that are depicted in the images
6 attached hereto as Exhibit B and Exhibit C.

7 23. In connection with its facilitation of the manufacture of the slides that
8 are depicted in the images attached hereto as Exhibit B and Exhibit C, Defendants
9 intended those slides to be a copy of Slick Slide's Launch Slide.

10 24. Before Defendant's conduct, at least one of Defendant's franchisees
11 was prepared to purchase a recreational slide from Slick Slide. But if not for
12 Defendant's conduct, at least one of Defendant's franchisees would have purchased
13 a recreational slide from Slick Slide.

14 25. The respective designs of the '821 patent and the recreational slides
15 depicted in the images attached as Exhibit B and Exhibit C are substantially the same
16 such that an ordinary observer, confusing one for the other, would be induced to
17 purchase the infringing design. The ordinary observer in this case is a customer who
18 buys and uses recreational slides that incorporate the patented design.

19 26. By way of example only, the '821 patent depicts an ornamental and
20 novel hood design that encloses the first section of the claimed slide, and that nearly
21 identical feature is found in the images of the accused products in Exhibit B and
22 Exhibit C. In addition, the '821 patent depicts an ornamental and novel overall slide
23 trajectory, and that nearly identical feature is found in the images of the accused
24 products in Exhibit B and Exhibit C. In addition, the '821 patent depicts an
25 ornamental and novel slide exit trajectory at the end of the slide design, and that
26 nearly identical feature is found in the images of the accused products in Exhibit B
27 and Exhibit C. Thus, the recreational slides depicted in the images attached as
28 Exhibit B and Exhibit C infringe the '821 patent.

1 27. A comparison the figures of the '821 patent demonstrates that the
2 respective designs of the '821 patent and the recreational slides depicted in the
3 images attached as Exhibit B and Exhibit C are substantially the same such that an
4 ordinary observer, confusing one for the other, would be induced to purchase the
5 infringing design. For example, Figures 1, 2, 3, and 4 of the '821 patent depict a
6 novel hood design that encloses the first section of the claimed slide design that is
7 nearly identical to the hood design of the slides depicted in the images attached as
8 Exhibit B and Exhibit C. In addition, Figures 1, 2, and 7 of the '821 patent depict a
9 novel overall slide exit trajectory that is nearly identical to the overall slide trajectory
10 of the slides depicted in the images attached as Exhibit B and Exhibit C. In addition,
11 Figures 2, 5, and 6 of the '821 patent depict a novel slide exit trajectory that is nearly
12 identical to the exit trajectory of the slides depicted in the images attached as Exhibit
13 B and Exhibit C.

14 28. The nearly identical nature of the Figures of the '821 patent and the
15 slides depicted in the images attached as Exhibit B and Exhibit C, as described
16 above, would lead the ordinary observer to be deceived into believing that the
17 accused products are the same as the patented design.

18 29. Defendant is not authorized by Slick Slide in any manner in connection
19 with the '821 patent and has no license thereto.

20 **COUNT I – INDUCEMENT OF PATENT INFRINGEMENT**

21 30. The allegations of 1-29 are incorporated by reference as if fully set forth
22 herein.

23 31. Defendant caused the manufacture, offer for sale, sale, importation, and
24 purchase of the slides that are depicted in the images attached hereto as Exhibit B
25 and Exhibit C. Defendant also convinced the purchasers of the slides that are
26 depicted in the images hereto as Exhibit B and Exhibit C, its franchisees, to have
27 those slides designed, supplied, manufactured, and purchased, through its conduct.

28 32. Through its conduct, Defendant convinced its franchisees to purchase

1 and use the slides that are depicted in the images hereto as Exhibit B and Exhibit C.
2 In doing so, Defendants induced the infringement of the '821 patent and specifically
3 intended to encourage and facilitate that infringement.

4 33. Defendant's acts of inducing patent infringement complained of herein
5 were being carried out willfully and with full knowledge of Slick Slide's rights in
6 the '821 patent. By way of example only, Defendant's acts of inducement of patent
7 infringement were carried out despite having been made aware of the '821 patent,
8 including by its franchisees.

9 34. Defendant has induced infringement of the '821 patent thereby.
10 Defendants encouraged its franchisees to infringe the '821 patent thereby.

11 35. As a result of Defendant's actions, Slick Slide has suffered and
12 continues to suffer substantial injury, including irreparable injury and monetary
13 damage, including but not limited to the loss of sales and profits, which Slick Slide
14 would have made but for the acts of infringement by the Defendant. Such injury and
15 damage to Slick Slide will continue unless Defendant is enjoined by this Court from
16 further infringement.

17 WHEREFORE, Slick Slide prays for the following relief against Defendant:

18 A. That a judgment be entered against Defendant, that the Defendant has
19 induced infringement of United States Design Patent No. D973,821.

20 B. That Defendant, its agents, sales representatives, servants and
21 employees, associates, attorneys, parents, successors and assigns, and any and all
22 persons or entities acting at, through, under or in active concert or participation with
23 any or all of them, be enjoined and permanently restrained from further
24 infringement, and further inducement of infringement of, United States Design
25 Patent No. D973,821.

26 C. That a judgment be entered requiring each Defendant to pay to Slick
27 Slide monetary damages sustained by Slick Slide due to such acts of infringement,
28 including lost profits or reasonable royalty under 35 U.S.C. § 284, or alternatively,

1 the Defendant's total profit under 35 U.S.C. § 289.

2 D. That such damages payable to Slick Slide be trebled under 35 U.S.C. §
3 284 for willful infringement.

4 E. That this case be adjudged and decreed exceptional under 35 U.S.C. §
5 285, and that Slick Slide be awarded its reasonable attorney fees.

6 F. That Slick Slide be awarded its costs and prejudgment interest on all
7 damages.

8 G. That Slick Slide be awarded such other and further relief as the Court
9 deems just and proper.

10 **JURY DEMAND**

11 Slick Slide hereby demands and requests trial by jury of all issues raised that
12 are triable by jury.

13
14 DATED: May 1, 2024

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