

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CLEVER CARRE LLC,

Plaintiff,

v.

**INVESTXOL CORP. d/b/a BRIGHTON
PRIME,**

Defendant.

Case No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Clever Carre, LLC (“Plaintiff”), for its Complaint against Investxol Corp. d/b/a Brighton Prime (“Brighton”), alleges as follows:

THE PARTIES

1. Plaintiff Clever Carre, LLC is a limited liability company organized under the laws of Delaware with its principal place of business located at 400 Rella Boulevard, Ste. 156, Montebello, New York, 10901.

2. On information and belief, Defendant Investxol Corporation is a Florida Profit Corporation organized under the laws of Florida with its principal place of business at 20900 NE 30th Avenue, 200, Aventura, Florida, 33180-2162.

3. On information and belief, Defendant conducts business under the Amazon.com Seller Alias, “Brighton Prime”.

JURISDICTION AND VENUE

4. This action is for patent infringement against Brighton under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271. Plaintiff brings this action to seek damages and injunctive relief arising out of Brighton’s infringement of U.S. Patent Nos.

8,911,285 (“the ‘285 Patent”) and 7,182,685 (“the ‘685 Patent”, and collectively “Asserted Patents”) attached hereto as Exhibit A.

5. This action arises under the patent laws of the United States. Accordingly, this Court has subject matter jurisdiction over Plaintiff’s patent claims pursuant to 28 U.S.C. §§ 1331 and 1338(a)-(b).

6. This Court has personal jurisdiction over Brighton because it resides in this State, transacts business in this State, and has caused harm and tortious injury in the State of Florida through its infringing acts within the State of Florida. Upon information and belief, Brighton is currently advertising, offering, and selling infringing products within the State of Florida and have committed acts of patent infringement and/or contributed to, or induced acts of patent infringement by others in the State of Florida. Specifically, Brighton has targeted sales to Florida residents by setting up and operating an e-commerce store via Amazon.com that targets United States consumers, offers shipping to the United States, including Florida, accepts payment in U.S. dollars and, on information and belief, sells products which infringe Plaintiff’s patented inventions, as described below, (collectively, the “Unauthorized Products”) to residents of Florida. Brighton is committing tortious acts in Florida, is engaging in interstate commerce, and has wrongfully caused Plaintiff substantial injury in the state of Florida

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a)-(b), and 1400(b). Defendant resides in this District, committed acts of infringement, and has a regular and established place of business in this District. Further, a substantial part of the events or omissions giving rise to this claim occurred in this District. Accordingly, venue is proper and personal jurisdiction over Brighton is properly exercised by this Court.

BACKGROUND FACTUAL ALLEGATIONS

8. Plaintiff filed this case to prevent e-commerce stores like Brighton from infringing upon Plaintiff's patented invention from further selling and/or offering for sale Unauthorized Products. The existence of the Unauthorized Products has hampered Plaintiff's ability to enter and expand its footprint in the market, a market within which Plaintiff should have exclusionary rights under its patents.

9. Relevant here, Plaintiff is the exclusive assignee of both the '285 and '685 Patents in this case and has been granted all substantial rights under both of Plaintiff's Patents, including the right to sue for all past infringements which may have occurred before the execution of the assignment. Accordingly, Plaintiff has standing to sue for infringement of its Patents.

10. The '285 Patent is valid and enforceable to this day. It claims a double function-hand operated meat tenderizer, was issued December 16, 2014, and was assigned to Plaintiff on September 4, 2024.

11. The '685 Patent is valid and enforceable to this day. It claims a double function-hand operated meat tenderizer, was issued February 27, 2007, and was assigned to Plaintiff on September 4, 2024.

12. On information and belief, Defendant owns and operates a Seller Account Storefront under the alias "Brighton Prime" on Amazon.com where it markets a Meat Tenderizing Kitchen Tool product that embodies Plaintiff's Patents under the brand name "XSpecial". *See* Exhibit B https://www.amazon.com/stores/XSpecial/page/E0ABEE11-CE85-46D6-B47E-264DA5AF44F9?ref_=ast_bln&store_ref=bl_ast_dp_brandLogo_sto (last accessed September 11, 2024).

THE '285 PATENT

13. What is claimed is:

Claim 1. A double function, hand operated meat tenderizer, comprising:

a handle with a blade segment clamped inside said handle;

a generally flat plate attached to said handle by at least one slidably moving cylinder attached to a compressed spring, comprising at least one seat including a releasably attached spigot of the cylinder,

wherein an end face of said plate is provided with a plurality of projections and flow-through slots aligned in evenly spaced relation, parallel to the spring axis, and wherein in a position of rest, ends of said blades are retracted in said flow-through slots.

See Exhibit A.

THE '685 PATENT

14. Claim 1 is [a] double function-hand operated meat tenderizer, comprising:

a handle being formed of two components;

a blade assembly being detachably mounted between the two components of the handle;
at least two columns, upper ends of the columns being movably connected to the handle;

and

a comb being mounted on lower ends of the columns for being slidably movable toward and away from the handle, the comb having a plurality of flow-through slots and protruding teeth extending from a bottom surface of the comb.

See Id.

BRIGHTON'S INFRINGEMENT

15. Brighton's Seller Alias and Account on the Amazon.com website advertises that its accused XSpecial product is offered for sale to multiple United States locations including Florida.

16. Accordingly, Brighton has made, sold, and/or offered to sell the XSpecial Product in Florida and other locations across the United States.

17. The XSpecial Product comprises each and every claim element of the Plaintiff's Patents.

18. On June 4, 2024, through its counsel, Plaintiff sent Brighton a letter that provided actual notice of the '285 Patent and its rights thereunder, and that demanded that Brighton cease its infringing activities.

19. On July 19, 2024, counsel for Brighton responded in a letter stating that Brighton will not sell any of the Unauthorized Products and *de facto* concluded the issue is now moot.

20. To date, contrary to counsel's representation, Brighton continues to sell Unauthorized Products. *See* Exhibit B printout.

21. Brighton's continued infringement raises serious concern that Brighton is not taking the infringement violation seriously, leaving Plaintiff no choice but to enforce Plaintiff's Patents.

COUNT I: DIRECT PATENT INFRINGEMENT OF THE '285 PATENT
35 U.S.C. § 271(a)

22. Plaintiff realleges and incorporates each of the allegations set forth in Paragraphs 1-21 as if restated herein in their entirety.

23. Brighton has infringed and continues to infringe one or more claims of Plaintiff's Patents by making, using, importing, selling, and/or offering to sell the XSpecial products in the United States without authorization or license from Plaintiff.

24. On information and belief, Brighton had actual knowledge of the '285 Patent prior to commencing its infringement.

25. Brighton has profited by its infringement of the '285 Patent, and Plaintiff has suffered actual harm as a result of Brighton's infringement.

26. As a direct and proximate result of Brighton's infringement, Plaintiff has suffered irreparable harm and monetary and other damages in an amount to be determined.

27. Brighton's infringement has been and continues to be willful. Accordingly, Plaintiff is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under

35 U.S.C. § 285.

28. Unless Brighton is preliminarily and permanently enjoined by this Court from continuing its infringement of the '285 Patent, Plaintiff will continue to suffer additional irreparable harm, including loss of market share and erosion of its patent rights.

COUNT II: DIRECT PATENT INFRINGEMENT OF THE '685 PATENT
35 U.S.C. § 271(a)

29. Plaintiff realleges and incorporates each of the allegations set forth in Paragraphs 1-28 as if restated herein in their entirety.

30. Brighton has infringed and continues to infringe one or more claims of Plaintiff's Patents by making, using, importing, selling, and/or offering to sell the XSpecial products in the United States without authorization or license from Plaintiff.

31. On information and belief, Brighton had actual knowledge of the '685 Patent prior to commencing its infringement.

32. Brighton has profited by its infringement of the '685 Patent, and Plaintiff has suffered actual harm as a result of Brighton's infringement.

33. As a direct and proximate result of Brighton's infringement, Plaintiff has suffered irreparable harm and monetary and other damages in an amount to be determined.

34. Brighton's infringement has been and continues to be willful. Accordingly, Plaintiff is entitled to treble damages under 35 U.S.C. § 284 and this is an exceptional case under 35 U.S.C. § 285.

35. Unless Brighton is preliminarily and permanently enjoined by this Court from continuing its infringement of the '685 Patent, Plaintiff will continue to suffer additional irreparable harm, including loss of market share and erosion of its patent rights.

PRAYER FOR RELIEF

Wherefore, Plaintiff Clever Carre, LLC requests that this Court find in its favor and grant Plaintiff the following relief:

- A. That Judgment be entered that Defendant Brighton has committed direct infringement of Plaintiff's Patents under 35 U.S.C. § 271(a).
- B. That, in accordance with 35 U.S.C. § 283, Brighton and all their affiliates, employees, agents, officers, directors, attorneys, successors, and assigns and all those acting on behalf of or in active concert or participation with any of them, be preliminarily and permanently enjoined from (1) directly or indirectly infringing the Plaintiff's Patents and (2) making, using, selling, and offering for sale the accused XSpecial products;
- C. A finding that Brighton's infringement has been willful;
- D. An award of damages sufficient to compensate Plaintiff for Brighton's infringement under 35 U.S.C. § 284, in no event an amount less than a reasonable warranty, including an award of enhanced damages up to three times the amount found or assessed;
- E. That the case be found exceptional under 35 U.S.C. § 285 and that Plaintiff be awarded its attorneys' fees;
- F. Costs and expenses incurred in this action;
- G. An award of prejudgment and post-judgment interest; and
- H. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: October 22, 2024

Respectfully submitted,

/s/ James S. Toscano

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