

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ATLEISURE, LLC)	
)	
Plaintiff,)	Case No.
)	
v.)	
)	JURY TRIAL DEMANDED
QINGDAO ACTIVA SHADE INC.)	
and ACTIVA LEISURE, INC.)	
)	
Defendants.)	

COMPLAINT

Plaintiff ATLeisure, LLC (“Plaintiff” or “ATLeisure”), files this Complaint against Defendants Qingdao Activa Shade Inc. and Activa Leisure Inc. (collectively “Defendants”), and alleges as follows in its Complaint:

I. NATURE OF THE ACTION

1. This is an action for patent infringement of ATLeisure’s U.S. Patent No. 8,104,492 (“the ‘492 Patent”) (attached as Exhibit 1). ATLeisure asserts the ‘492 Patent against Defendants for making, using, offering to sell, selling, and/or importing various patio and outdoor umbrellas.

II. PARTIES

A. Plaintiff ATLeisure, LLC.

2. Plaintiff ATLeisure, LLC is a limited liability company organized under the laws of Georgia, with its principal place of business located at 1040 Boulevard SE, Suite B, Atlanta, Georgia 30312.

3. Established in 2011, ATLeisure designs, manufactures, markets, and sells umbrellas, furniture, and fire pits for outdoor living. Specifically, ATLeisure's patio and outdoor umbrellas are designed, manufactured, sold, and distributed throughout the United States. Headquartered in Atlanta, Georgia, ATLeisure is a fully integrated U.S., European, and China Operation.

4. ATLeisure represents an exceptional sales and design force with a combined 50 years' experience and is committed to delivering high quality products, patented designs, and superior customer service worldwide. One of ATLeisure's primary product lines is outdoor patio umbrellas sold under the brands ATLEISURE and SEASONS SENTRY.

5. ATLeisure has positioned itself as a leader of outdoor living products with a continued commitment to "on-trend" patented designs and inventions, use of long-lasting materials, and superior engineering.

6. ATLeisure owns numerous patents and trademarks for outdoor patio furniture, and in particular, for outdoor umbrellas. ATLeisure actively

enforces its patents, including through cease and desist letters and litigation where necessary, and it has licensed its patents on numerous occasions.

B. Defendants Qingdao Activa Shade Inc. and Activa Leisure, Inc.

7. Defendant Qingdao Activa Shade, Inc. (“Activa Shade”) is a Chinese corporation, which, upon information and belief, has its principal place of business located at No.689, Beijing Road, Tonghe Sub-District, Pingdu, Qingdao 266000 China. According to online information, the email for Activa Shade is sales@activa-leisure.com¹.

8. Defendant Activa Leisure, Inc. (“Activa Leisure”) is a Chinese corporation, which, upon information and belief, has its principal place of business located at No.118 West Xianghe Road, Yinzhou Dist. Ningbo 315105 China. According to Activa Leisure’s website (<http://www.activa-leisure.com/>), the email for Activa Leisure is the same as for Activa Shade: sales@activa-leisure.com².

9. Upon information and belief, Activa Shade and Activa Leisure are related entities.

10. Upon information and belief, Defendants advertise, make, use,

¹ <http://www.activa-leisure.com/contact-us/>

² <http://www.activa-leisure.com/contact-us/>

offer to sell, sell, and/or import offset umbrella products sold under ProShade³ and Treasure Garden, amongst others.

11. For example, upon information and belief, Activa Shade manufactures, uses, sells, offers to sell and/or imports umbrellas into this state and this district under the brand ProShade, including the umbrella previously depicted here: <https://www.costco.com/proshade-10ft-square-led-wood-look-cantilever-umbrella-with-rolling-base.product.4000077543.html>. Upon information and belief, this umbrella is or has been sold through Costco, including Costco locations in this state and this district.

12. For example, upon information and belief, Activa Leisure manufactures, uses, sells, offers to sell and/or imports umbrellas into this state and this district the Starlux AKZ Plus Cantilever and the AKZP13 Plus Cantilever, through Treasure Garden, Inc., as depicted here: <https://www.treasuregarden.com/category/45/Cantilevers.html>. Upon information and belief, this product is or has been sold through Treasure Garden at Amerciasmart Building 1, Floor 2, D-10, 240 Peachtree Street NW, Atlanta, GA 30303 (<https://www.treasuregarden.com/info/2/Showrooms.html>).

³ Activa Shade owns numerous trademark registrations associated with the mark PROSHADE, including for umbrellas (U.S. Trademark Registration No. 4,684,928).

13. Defendants are direct competitors with ATLeisure's umbrella business.

III. JURISDICTION AND VENUE

14. ATLeisure's patent infringement claims arise under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has jurisdiction over the subject matter of this Complaint under 28 U.S.C. §§ 1331 and 1338.

15. Defendants are subject to personal jurisdiction in this district because they purposefully direct their sales of goods, utilizing the '492 Patent, to Georgia residents by selling to stores placed the infringing products on sale within the United States, including Georgia and this District. In particular, Defendants have made and continue to make, have offered to sell and continue to offer to sell, have sold and continue to sell, have used and continue to use, and have imported and continue to import patio and outdoor umbrellas that infringe valid and enforceable claims of the '492 Patent via their distributors and customers in this District, such as through Costco, Lowe's, and Treasure Garden.

16. Venue is proper over Defendants in this District pursuant 28 U.S.C. § 1391 and 28 U.S.C. § 1400, since Defendants are, upon information

and belief, aliens engaged in infringing activities and causing harm within this District by advertising, importing, promoting, reproducing, offering for sale, selling, and/or distributing goods that incorporate and infringe Plaintiff's '492 Patent into this District and the Defendants are subject to personal jurisdiction within this District with respect to the action brought herein.

IV. FACTUAL BACKGROUND

A. ATLeisure's U.S. Patent No. 8,104,492

17. On January 31, 2012, the United States Patent and Trademark Office duly and legally issued the '492 Patent, titled, "Adjustable Offset Umbrella."

18. ATLeisure has exclusive rights in the '492 Patent, including the right to use and enforce the patent. Treasure Garden is on notice of the '492 Patent and the alleged infringement described herein as to certain of its umbrellas.

B. Defendants' Accused Umbrellas

19. Upon information and belief, Defendant Activa Leisure sells the Starlux AKZ Plus Cantilever and the AKZP13 Plus Cantilever, both depicted on its website here: <https://www.treasuregarden.com/category/45/Cantilevers.html>.

20. Upon information and belief, Defendant Activa Shade

manufactures, uses, sells, offers to sell and/or imports umbrellas under the brand ProShade, including the umbrella previously depicted here: <https://www.costco.com/proshade-10ft-square-led-wood-look-cantilever-umbrella-with-rolling-base.product.4000077543.html>.

C. Defendants' Patent Infringement

21. Each Defendant infringes at least Claim 1 of the '492 Patent, as set forth in the claim chart attached hereto as Exhibits 2 and 3, which depict infringement by one of the Accused Umbrellas by each Defendant. Generally speaking, each of the Accused Umbrellas infringe in the same manner, and the products shown are illustrative.

22. Activa Shade is on notice of ATLeisure's allegations of infringement, as ATLeisure's counsel notified Costco (upon information and belief, Defendant's customer) on or about August 2023, expressly alleging infringement of the '492 patent by the ProShade-branded umbrella. ATLeisure separately filed suit against Treasure Garden, which identified Activa Leisure as the manufacture of certain of the accused umbrellas, thereby placing Activa Leisure on notice of the allegations of infringement. Upon information and belief, Defendants continued to make, use, sell, offer for sale, advertise and import the Accused Umbrellas with knowledge of infringement across multiple brands and product types.

23. Defendants have committed and continue to commit acts of patent infringement, whether literally or under the doctrine of equivalents, within the United States, in the State of Georgia, and in this judicial district and division. For example, upon information and belief, Defendants have offered for sale and sold various patio and outdoor umbrellas, including the Accused Umbrellas. On further information and belief, Defendants make, use, offer to sell, sell, and/or import the Accused Umbrellas across the United States, including in Atlanta, Georgia.

V. COUNT I: INFRINGEMENT OF THE ‘492 PATENT BY ACTIVA SHADE

24. ATLeisure restates and realleges Paragraphs 1 to 23 as if fully stated herein.

25. Upon information and belief, Defendant Activa Shade manufactures, uses, imports, offers for sale and/or sells products in the United States and in this judicial district directly infringe one or more claims of the ‘492 Patent, literally or under the doctrine of equivalents, as set forth in the claim chart referenced herein.

26. Defendant Activa Shade’s counsel responded to cease-and-desist letters from ATLeisure’s counsel, but failed to cease infringing activities. To the extent Defendant Activa Shade has infringed or continued to infringe after

knowledge of the '492 Patent, such infringement was deliberate, knowing, and willful.

27. ATLeisure, under 35 U.S.C. § 284, may recover damages adequate to compensate for the Defendant Activa Shade's infringement.

28. ATLeisure has been, and continues to be, damaged and irreparably harmed by the Defendant Activa Shade's infringement, which will continue unless this Court enjoins the Defendant.

29. The Court should declare this an exceptional case under 35 U.S.C. § 285, based at least on continued infringement after notice, entitling ATLeisure to recover treble damages and attorneys' fees.

VI. COUNT II: INFRINGEMENT OF THE '492 PATENT BY ACTIVA LEISURE

30. ATLeisure restates and realleges Paragraphs 1 to 23 as if fully stated herein.

31. Upon information and belief, Defendant Activa Leisure manufactures, uses, imports, offers for sale and/or sells products in the United States and in this judicial district directly infringe one or more claims of the '492 Patent, literally or under the doctrine of equivalents, as set forth in the claim chart referenced herein.

32. Defendant Activa Leisure's counsel responded to cease & desist

letters from ATLeisure's counsel, but failed to cease infringing activities. To the extent Defendant Activa Leisure has infringed or continued to infringe after knowledge of the '492 Patent, such infringement was deliberate, knowing, and willful.

33. ATLeisure, under 35 U.S.C. § 284, may recover damages adequate to compensate for the Defendant Activa Leisure's infringement.

34. ATLeisure has been, and continues to be, damaged and irreparably harmed by the Defendant Activa Leisure's infringement, which will continue unless this Court enjoins the Defendant Activa Leisure.

35. The Court should declare this an exceptional case under 35 U.S.C. § 285, based at least on continued infringement after notice, entitling ATLeisure to recover treble damages and attorneys' fees.

PRAYER FOR RELIEF

ATLeisure prays for judgment in its favor and against the Defendants, jointly and severally as to each item, as follows:

(a) That the Defendants have infringed one or more claims of the '492 Patent;

(b) Once Defendants had knowledge, that the infringement has been willful;

(c) That this case be declared an exceptional case under 35 U.S.C. § 285;

(d) That ATLeisure be awarded damages adequate to compensate ATLeisure for the Defendants' infringement of the '492 Patent, including lost profits, but in no event less than a reasonable royalty;

(e) That ATLeisure's damages be trebled;

(f) That ATLeisure be awarded its attorneys' fees and costs;

(g) That this Court enjoin the Defendants, their officers, directors, principals, agents, servants, employees, successors, assigns, affiliates, and all that are in active concert or participation with them, or any of them, from further infringement of the '492 Patent;

(h) That ATLeisure be awarded pre- and post-judgment interest on all damages;

(i) That ATLeisure be awarded all its costs and expenses in this action;

and

(j) Such further and other relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: November 25, 2024.

/s/ Cynthia J. Lee

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CERTIFICATE OF COMPLIANCE

Pursuant to LR 5.1C, the undersigned counsel certifies that the foregoing has been prepared in Century Schoolbook 13 point, one of the four fonts and points approved by the Court.

Respectfully submitted this November 25, 2024.

/s/ Cynthia J. Lee

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