

1 Thomas A. Runk (SBN 101306)  
2 [trunk@brookskushman.com](mailto:trunk@brookskushman.com)  
3 **BROOKS KUSHMAN P.C.**  
4 515 S. Flower Street, Suite 1800  
5 Los Angeles, CA 90071-2231  
6 Tel.: (213) 622-3003

7 Christopher C. Smith (SBN 238882)  
8 [csmith@brookskushman.com](mailto:csmith@brookskushman.com)  
9 **BROOKS KUSHMAN P.C.**  
10 150 W. Second St., Suite 400N  
11 Royal Oak, MI 48067  
12 Tel.: (248) 358-4400

13 *Attorneys for Plaintiff*  
14 *Kitsch LLC*

15  
16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA**  
18 **WESTERN DIVISION**  
19

20 Kitsch LLC, a Delaware  
21 company,

Case No. 2:25-cv-1071

22 v. Plaintiff,  
23

**COMPLAINT FOR DECLARATORY  
JUDGMENT AND DEMAND FOR  
JURY TRIAL**

24 Dispensing Technologies B.V.,  
25 a Netherlands company,

26 Defendant.  
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1                                    **COMPLAINT FOR DECLARATORY JUDGMENT**  
2                                    **AND JURY DEMAND**

3                    Plaintiff Kitsch LLC (“Kitsch”), by and through its undersigned counsel, for  
4 its Complaint against Dispensing Technologies B.V. (“Dispensing Technologies” or  
5 “Defendant”), states as follows:  
6

7                                    **I. PARTIES**

8                    1. Plaintiff Kitsch is a Limited Liability Company organized under the  
9 laws of Delaware, having a principal place of business at 5301 Rosewood Avenue,  
10 Los Angeles, California 90004.

11                    2. On information and belief, Defendant Dispensing Technologies is a  
12 private limited company organized under the laws of the Netherlands, having a  
13 principal place of business at Achtseweg Zuid 151B, 5651 GW Eindhoven, the  
14 Netherlands.

15                                    **II. JURISDICTION AND VENUE**

16                    3. As detailed below, an actual case or controversy exists between Kitsch  
17 and the Defendant as to whether Kitsch has infringed or is infringing one or more  
18 valid and enforceable claims of U.S. Patent No. 9,714,133 (the “133 Patent”).

19                    4. The Court has subject matter jurisdiction over the claims herein  
20 pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.  
21

22                    5. Venue and personal jurisdiction are appropriate in this Court under 28  
23 U.S.C. §§ 1391(b) and 1400(b) because a substantial part of the events and  
24 omissions giving rise to Kitsch’s claims occurred in this District and Defendant does  
25 business in this District. Venue is further proper under 28 U.S.C. §1381(c)(3) as  
26 defendant does not reside in the United States.  
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1 6. A case or controversy exists between Kitsch and Defendant because  
2 Defendant has accused Kitsch of patent infringement and has filed a request for  
3 Amazon Patent Evaluation Express (“APEX”) with Amazon.

4 7. Upon information and belief, Defendant does business in this state and  
5 in this District.

6 **III. FACTUAL BACKGROUND**

7 **A. Kitsch and Kitsch’s Spray Bottle Products**

8 8. Kitsch is a leading accessories manufacturer with products including,  
9 hair ties, headbands, and jewelry, including rings, necklaces, earrings and other  
10 fashion accessories. Today, Kitsch products can be found in over 2,000 locations  
11 worldwide and has sold to large retailers such as Nordstrom, Anthropologie, Free  
12 People, Kitson, Urban Outfitters, Paper Source, W Hotels, Francesca's and more.  
13 Kitsch additionally operates an e-commerce website that serves thousands of retail  
14 customers worldwide.  
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16 9. One of the many accessories Kitsch designed and manufactures is a  
17 continuous mist spray bottle, an example of which is shown below:  
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10. Among other venues, Kitsch advertises and sells its spray bottles on Amazon.

**B. Defendant’s Patent**

11. Defendant sells a spray bottle under the trade name Flairosol. Upon information and belief, the majority of Defendant’s sales of its Flairosol spray bottles are made on Amazon.com.

12. Upon information and belief, Defendant is the owner of ’133 Patent, which was filed on September 20, 2012 and matured into a patent on July 3, 2017. A true and correct copy of the ’133 Patent is attached hereto as Exhibit 1.

13. The ’133 Patent is entitled “Method and Active Sprayer Devices with Aerosol Functionality (‘Flairosol II’)” and contains thirteen claims that are generally directed to a liquid dispensing device. (See Exhibit 1 at claims.)

14. Claim 1 of the ’133 Patent is an independent claim and is reproduced below:

A liquid dispensing device, comprising:

1 a pressure chamber and a dispensing head;

2 said pressure chamber comprising a pressure spring and a pressure  
3 piston; and

4 said dispensing head comprising:

5 a piston and a piston chamber,

6 a trigger operatively connected to the piston,

7 a channel in fluid communication with the pressure chamber;

8 a piston chamber outlet valve provided between said channel and said  
9 piston chamber;

10 an outlet valve; and

11 an outlet channel,

12 wherein the piston chamber outlet valve is arranged to be closed by fluid  
13 pressure in the channel and the pressure chamber.  
14

15 (Exhibit 1 at Claim 1.)

16 15. The Kitsch spray bottle does not meet all of the limitations of Claim 1  
17 of the '133 Patent. In particular, Claim 1 requires "an outlet valve." The only  
18 disclosure in the specification for an outlet valve, however, is a dome valve. (Exhibit  
19 1 at col. 5, ll. 63-64 and col. 14, ll. 7-9.) This is confirmed by the figures, which  
20 define the outlet valve as a dome valve:  
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Fig. 9

Trigger is pulled and moves in.

5. The dome valve will open because of the liquid pressure. The liquid passes towards the orifice creating the desired spray.

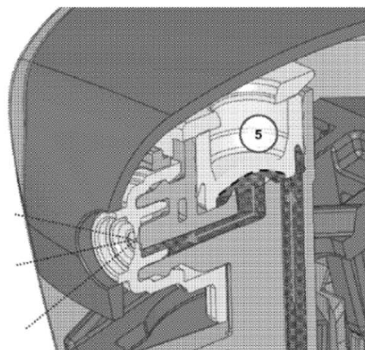
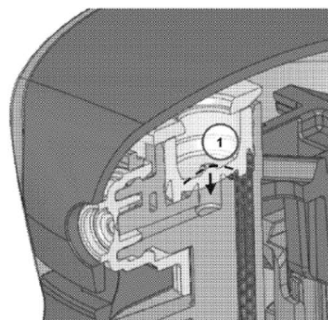


Fig. 12

Dome valve closing

1. The dome valve will close when the pressure is too low. The tension of the dome will make it close at a preset pressure value and it then closes very suddenly.

This ensures a good spray pattern from start to finish and prevents dripping.



(*Id.* at Figs. 9 and 12.)

16. The Kitsch spray bottle, however, does not include a dome valve. More specifically, the Kitsch spray bottle does not include a deformable membrane or pressure chamber as required by the dome valve of claim 1 of the '133 Patent. This is demonstrated by the image below which shows an exploded view of the portion of the Kitsch spray bottle that includes the spray nozzle components:



17. Because the Kitsch spray bottle does not contain at least one element of Claim 1 of the '133 Patent, the Kitsch spray bottle does not infringe claim 1 of the '133 Patent.

1 **C. Communications between Plaintiff and Defendant**

2 18. On or around November 7, 2024, Defendant, through its attorneys, sent  
3 a letter to Kitsch accusing Kitsch of infringing the '133 Patent. A true and correct  
4 copy of this letter is attached hereto as Exhibit 2. The letter also stated:

5 If we do not hear from you by November 14, 2024, Dispensing  
6 Technologies will protect its intellectual property rights including the  
7 '133 Patent by any appropriate method without further notice to Kitsch,  
8 including by seeking removal of the Infringing Product from  
9 Amazon.com via an APEX Evaluation. As of the date of this letter,  
10 Kitsch's infringement of the '133 Patent will undeniably be considered  
11 willful. Should Kitsch continue its infringement beyond the date of this  
12 letter, Dispensing Technologies may pursue special damages in view of  
13 Kitsch's intentional and willful infringement.

14 (Exhibit 2 at 2.)

15 19. On or around November 27, 2024, Kitsch responded to Defendant's  
16 July 7, 2024 letter explaining why Defendant's allegations were unfounded. A true  
17 and correct copy of this letter is attached hereto as Exhibit 3.

18 20. On or around January 20, 2025, Defendant submitted a request with  
19 Amazon seeking APEX on claim 1 of the '133 Patent. A true and correct copy of  
20 this notice is attached hereto as Exhibit 4.

21 21. APEX is an extrajudicial proceeding conducted by Amazon in which a  
22 neutral patent attorney evaluates a claim of patent infringement and then offers an  
23 opinion on whether infringement has occurred. As this is an accelerated proceeding,  
24 the parties are extremely limited in what they can submit to the evaluator during  
25 APEX. In particular, "[n]o discovery . . . will occur in the Evaluation, nor will there  
26 be a trial or hearing." (Exhibit 4 at 7.) Moreover, the sellers in APEX are only  
27 allowed to defend themselves on the basis of non-infringement; arguments regarding  
28

1 invalidity or unenforceability are only allowed if the seller can provide “a finding by  
2 a court of competent jurisdiction, or by the U.S. Patent Office, or the U.S.  
3 International Trade Commission (‘ITC’), that the asserted patent claim is invalid or  
4 unenforceable.” (*Id.*) If the evaluator decides that infringement has occurred, then  
5 Amazon will remove the infringing product from its website. In other words, an  
6 accused infringer in APEX has far fewer rights than an accused infringer in a court  
7 proceeding yet a negative result in APEX results in the equivalent of a permanent  
8 injunction against the accused infringer’s product on Amazon.

9         22. In light of Defendant’s cease and desist letters and its request that  
10 Amazon conduct APEX against Kitsch, an actual case or controversy exists between  
11 the parties.

12  
13                                   **IV. COUNT I**  
14                                   **DECLARATION OF NON-INFRINGEMENT**

15         23. Kitsch repeats and realleges the allegations of the preceding paragraphs  
16 as if set forth herein.

17         24. As described herein, an actual case or controversy exists between  
18 Kitsch and Defendant at least because Defendant filed a request for APEX against  
19 Kitsch.

20         25. As described herein, Kitsch is not infringing, and has not infringed,  
21 directly, by inducement, contributorily, or in any way, either literally or under the  
22 doctrine of equivalents, any valid and enforceable claims of the ’133 Patent.

23         26. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 et  
24 seq., Kitsch requests a declaration from the Court that Kitsch does not and has not  
25 infringed the ’133 Patent.

26                                   **PRAYER FOR RELIEF**

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28         WHEREFORE, Plaintiff respectfully requests the following relief:



1 a. A declaration that Kitsch does not infringe and has not infringed any  
2 claims of the '133 Patent;

3 b. A declaration that this is an exceptional case and award Kitsch its costs,  
4 disbursements, and reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

5 c. Such other and further relief as the Court may deem just and proper.  
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7  
8 Dated: February 7, 2025

Respectfully submitted,

9 By: /s/ Thomas A. Runk  
10 Thomas A. Runk (SBN 101306)  
[trunk@brookskushman.com](mailto:trunk@brookskushman.com)  
11 BROOKS KUSHMAN P.C.  
515 S. Flower Street, Suite 1800  
12 Los Angeles, CA 90071-2231  
Tel.: (213) 622-3003

13 Christopher C. Smith (SBN 238882)  
[csmith@brookskushman.com](mailto:csmith@brookskushman.com)  
14 BROOKS KUSHMAN P.C.  
15 150 W. Second St., Suite 400N  
Royal Oak, MI 48067  
16 Tel.: (248) 358-4400

17 *Attorneys for Plaintiff*  
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**JURY DEMAND**

Plaintiff Kitsch LLC demands trial by jury of all issues in this action so triable.

Dated: February 7, 2025

Respectfully submitted,

By: /s/ Thomas A. Runk  
Thomas A. Runk (SBN 101306)  
[trunk@brookskushman.com](mailto:trunk@brookskushman.com)  
BROOKS KUSHMAN P.C.  
515 S. Flower Street, Suite 1800  
Los Angeles, CA 90071-2231  
Tel.: (213) 622-3003

Christopher C. Smith (SBN 238882)  
[csmith@brookskushman.com](mailto:csmith@brookskushman.com)  
BROOKS KUSHMAN P.C.  
150 W. Second St., Suite 400N  
Royal Oak, MI 48067  
Tel.: (248) 358-4400

*Attorneys for Plaintiff*