IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ATLEISURE, LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO:
	)	
RED STAR TRADERS, LLC,	)	
	)	JURY TRIAL DEMANDED
Defendant.	)	
	)	
	)	
	)	

COMPLAINT

Plaintiff ATLEISURE, LLC, for its Complaint against RED STAR TRADERS, LLC, alleges:

NATURE OF CLAIMS

1. This is an action for patent infringement of ATLeisure, LLC's ("ATLeisure") U.S. Patent No. 8,104,492 ("'492 Patent") (attached as Exhibit A). ATLeisure asserts the '492 Patent against Red Star Traders, LLC ("Red Star") for making, using, offering to sell, selling, and/or importing various products for patio and outdoor umbrellas sold under the description "Portofino Signature Resort Umbrella" (Model-OP-MKT10-PORII-K) ("Accused Products"), or contributing to and/or inducing others to infringe the '492 Patent.

The Parties

2. ATLeisure is a Limited Liability Company organized under the laws of Delaware, with its principal place of business located at 1040 Boulevard SE, Suite B, Atlanta, Georgia 30312.

3. Upon information and belief, Red Star is a Limited Liability Company organized under the laws of Utah, with its principal place of business located at 1775 West 2300 South, Salt Lake City, Utah 84119.

Jurisdiction And Venue

4. This action arises under the laws of the United States prohibiting infringement of United States Patents, 35 U.S.C. § 271.

5. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Red Star by reason of the business that Red Star has transacted and continues to transact in this judicial district and division. In particular, Red Star has made and continues to make, has offered to sell and continues to offer to sell, has sold and continues to sell, has used and continues to use, and has imported and continues to import patio and outdoor umbrellas that infringe valid and enforceable claims of the '492 Patent.

7. In addition, this Court has personal jurisdiction over Red Star because Red Star has knowingly and actively engaged in acts that have infringed, will infringe, and/or aid and abet in the direct infringement of claims of the '492 Patent in this judicial district and division.

8. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391, 28 U.S.C. § 1400, and Local Rule 3.1 B.

FACTUAL BACKGROUND

9. On January 31, 2012, the United States Patent and Trademark Office duly and legally issued the '492 Patent, entitled, "Adjustable Offset Umbrella." A copy of the '492 patent is attached as Exhibit A.

10. ATLeisure owns all right, title, and interest in the '492 Patent, including the right to use and enforce the patents.

11. 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 and in this judicial district and division by ATLeisure.

12. Upon information and belief, Red Star is in the business of designing, manufacturing, distributing, selling, marketing, and importing patio and outdoor umbrellas.

13. Upon information and belief, Red Star makes, uses, offers to sell, sells, or imports various patio and outdoor umbrellas. Red Star, either directly or through intermediaries (including distributors, retailers, and others), ships, distributes, offers for sale, sells and advertises products within the United States, the State of Georgia, and this judicial district and division. Red Star has purposefully and voluntarily placed the Accused Products into the stream of commerce with the expectation that they will be purchased by consumers in Georgia and this judicial district and division.

14. Red Star has committed and continues to commit acts of patent infringement within the United States, in the State of Georgia, and in this judicial district and division. For example, upon information and belief, Red Star has offered for sale and sold various patio and outdoor umbrellas, including the Accused Products to Costco Wholesale Corporation ("CostCo") in Atlanta, Georgia. On further information and belief, CostCo sells the Accused Products.

COUNT I: INFRINGEMENT OF THE '492 PATENT

15. ATLeisure restates and realleges the foregoing allegations as if fully stated herein.

16. Red Star, in violation of 35 U.S.C. § 271, has infringed and continues to infringe the '492 Patent.

17. ATLeisure, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Red Star.

18. ATLeisure has been, and continues to be, damaged, and irreparably harmed by the infringement of Red Star, which will continue unless this Court enjoins Red Star.

19. The infringement of the '492 Patent by Red Star has been, and continues to be, deliberate, willful, and knowing.

20. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling ATLeisure to recover treble damages and attorneys' fees.

COUNT II: CONTRIBUTORY/INDUCED INFRINGEMENT OF THE '492 PATENT

21. ATLeisure restates and realleges the foregoing allegations as if fully stated herein.

22. Red Star, in violation of 35 U.S.C. § 271, has and continues to contribute to and/or induce others, including at least CostCo, to directly infringe the '492 Patent.

23. ATLeisure, under 35 U.S.C. § 284, may recover damages adequate to compensate for the infringement of Red Star.

24. ATLeisure has been, and continues to be, damaged, and irreparably harmed by the infringement of Red Star, which will continue unless this Court enjoins Red Star.

25. The infringement of the '492 Patent by Red Star has been, and continues to be, deliberate, willful, and knowing.

26. The Court should declare this an exceptional case under 35 U.S.C. § 285, entitling ATLeisure to recover treble damages and attorneys' fees.

DEMAND FOR JURY TRIAL

27. ATLeisure demands a trial by jury under Federal Rule of Civil Procedure 39 for all issues triable by jury.

PRAYER FOR RELIEF

ATLeisure prays for judgment in its favor and against Red Star as follows:

(a) That Red Star has infringed, contributed to, or induced the infringement of one or more claims of the '492 Patent;

(b) That Red Star's 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 Red Star's 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 Red Star, its 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.

DATED: June 28, 2012

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

/s/ Robert Brazier

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FONT CERTIFICATION

The undersigned counsel for Plaintiff hereby certifies that the within and foregoing was prepared using Times New Roman 14-point font in accordance with Local Rule 5.1.

/s/ Robert Brazier
Robert Brazier
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