

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.

YAO-HUNG HUANG, and
BIG TIME AUTO PARTS MANUFACTURING, INC.,
a Taiwan Corporation,

Plaintiffs,

v.

MARKLYN GROUP INC., d/b/a ALPENA, a Canadian corporation,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT AND JURY DEMAND

COME NOW plaintiffs Yao-Hung Huang and Big Time Auto Parts Manufacturing, Inc. ("Plaintiffs"), and for their Complaint against defendant Marklyn Group Inc. d/b/a Alpena ("Defendant"), allege as follows:

JURISDICTION AND VENUE

1. Plaintiff Yao-Hung Huang ("Mr. Huang") is the inventor and owner of United States Patent Number D614,780 S entitled Flexible Attachment Strip Having a Plurality of Forward Facing LEDs. Mr. Huang is a resident of the State of California.

2. Plaintiff Big Time Auto Parts Manufacturing, Inc. ("Big Time") is a Taiwan Corporation with its principal place of business at No. 160 Erh Jen Rd., Sec. 1 Pao An Village, Jen Te Hsiang, Tainan Hsien, Taiwan, R.O.C. Mr. Huang is the owner and General Manager of Big Time.

3. Big Time is the exclusive assignee of the rights conferred to Mr. Huang under the '780 Patent.

4. On information and belief, Defendant Marklyn Group Inc. is a Canadian corporation with its principal place of business at 190 Bovaird Drive West, Unit #28, Brampton, Ontario, Canada L7A 1A2.

5. Defendant, and/or its agents, subsidiaries and affiliates, upon information and belief, at all relevant times have and continue to conduct business in the State of Colorado. Defendant has also committed acts of infringement in the State of Colorado.

6. This Court has jurisdiction over this civil action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1332 and 28 U.S.C. § 1338.

7. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400 since the Defendant has committed acts of infringement and conducted business in the State of Colorado and this judicial district.

GENERAL ALLEGATIONS

8. Mr. Huang created, designed and invented a flexible attachment strip having a plurality of forward facing LEDs and was issued United States Patent No. D614,780 S on or about April 27, 2010 ("the '780 Patent"). A copy of the '780 Patent is attached hereto as "Exhibit 1" and incorporated herein.

9. Mr. Huang has assigned all rights to the '780 Patent to Big Time.

10. Defendant, itself and through its respective divisions, subsidiaries and/or agents is engaged in the business of manufacturing, marketing, distributing and selling flexible forward facing LED strips that infringe the '780 Patent.

11. On March 3, 2010, Plaintiffs advised Defendant that the '780 Patent had issued and advised Defendant that its products infringe the issued '780 Patent. On May 4, 2010, Big Time sent a copy of the newly issued '780 Patent to Defendant.

FIRST CLAIM FOR RELIEF
Patent Infringement

12. Plaintiffs incorporate and restate the foregoing allegations as set forth above as though fully set forth herein.

13. Since at least December 21, 2009, and likely earlier, Defendant, and/or its agents, was manufacturing, distributing, marketing and selling its flexible LED strip via its distribution channels throughout various portions of the United States, including in the state of Colorado. Defendant has marketed and sold the infringing product as "LEDLitz" and "Head 'N' Grill Litz," among other things (collectively, "LEDLitz"). Defendant currently sells its infringing products through AutoZone and other major retail operations in Colorado and the United States.

14. Defendant currently sells, and has in past sold, the infringing products on the Internet.

15. Defendant's "LEDLitz" products identically mirror the design disclosed in the '780 Patent by featuring a plurality of forward facing LED lights on a flexible strip.

16. The ordinary observer would justifiably believe that "LEDLitz" embody the novel features of the '780 Patent.

17. The ordinary observer with knowledge of the prior art, giving such attention as a purchaser usually gives, would mistake "LEDLitz" for the design disclosed in the '780 Patent.

18. "LEDLitz" is literally the same and/or similar and/or equivalent in design and/or effect to the '780 Patent.

19. Despite having been placed on notice of infringement, Defendant continues to make, distribute, advertise, market and sell the infringing product marketed under various trade names, including “LEDLitz.”

20. Defendant is infringing upon the ‘780 Patent by, *inter alia*, manufacturing, distributing, advertising, marketing and selling the various versions of “LEDLitz.” Such infringement is deliberate, willful, and intentional and with full knowledge of the existence and validity of the ‘780 Patent.

21. The period of infringement is unknown at this time but is ongoing. Defendant’s infringement continues to date and will continue unless Defendant is enjoined by the Court.

22. As a direct and proximate result of Defendant’s infringement of the ‘780 Patent, Plaintiffs have suffered damages in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF
Injunction

23. Plaintiffs incorporate and restate the allegations set forth above as though fully set forth herein.

24. As a direct and proximate result of Defendant’s actions of infringing upon the ‘780 Patent, Plaintiffs have suffered, and will continue to suffer, irreparable harm. Defendant’s open and notorious infringement of the ‘780 Patent has fundamentally undermined Mr. Huang’s ability to commercialize his invention or to otherwise enjoy the benefit of his federally issued patent rights, and prevented Big Time from enjoying the benefit of its exclusive rights to the ‘780 Patent. Defendant’s express unwillingness to recognize the ‘780 Patent and its apparent intention to ignore Plaintiffs’ rights in and to that patent have and will continue to fundamentally

undermine the value of the '780 Patent for which there is no other remedy at law or equity other than an injunction that will protect Plaintiffs' rights.

25. Plaintiffs have no adequate remedy at law if Defendant continues to infringe upon the '780 Patent.

26. Plaintiffs have suffered, and will continue to suffer, irreparable harm and damage unless preliminary and final injunctions are issued enjoining Defendant from infringing upon the '780 Patent.

27. Plaintiffs will likely prevail on the merits of this case at trial.

WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

- A. Adjudging that the '780 Patent has been infringed by Defendant;
- B. Awarding Plaintiffs a preliminary and permanent final injunction against continuing infringement by Defendant;
- C. Ordering an accounting of Defendant's sales, profits, cost of goods sold and other relevant financial information as it relates to Defendant's "LEDLitz" products as specified in this Complaint;
- D. Awarding Plaintiffs damages against Defendant in an amount adequate to compensate Plaintiffs for Defendant's infringement, including lost profits through infringement and price degradation and, at the very least, an amount not less than a reasonable royalty, together with interest and costs;
- E. Awarding Plaintiffs an additional sum on account of the willful, intentional and deliberate character of Defendant's infringing acts pursuant to 35 U.S.C. § 284;

- F. Awarding Plaintiffs reasonable attorney fees and costs against Defendant; and
- G. Granting Plaintiffs all other legal and equitable relief for which Plaintiffs are entitled.

Date: July 5, 2011

LATHROP & GAGE LLP

s/ Aaron P. Bradford

Aaron P. Bradford, No. 31115

Alexander C. Clayden, No. 39080

***Attorneys for Plaintiffs Yao-Hung Huang and
Big Time Auto Parts Manufacturing, Inc.***

DEMAND FOR JURY TRIAL

Plaintiffs Yao-Hung Huang and Big Time Auto Parts Manufacturing, Inc. hereby demand a trial by jury on all claims triable to a jury.

Date: July 5, 2011

LATHROP & GAGE LLP

s/ Aaron P. Bradford

Aaron P. Bradford, No. 31115

Alexander C. Clayden, No. 39080

***Attorneys for Plaintiffs Yao-Hung Huang and
Big Time Auto Parts Manufacturing, Inc.***