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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

KLIPSCH GROUP, INC.,)	
)	
Plaintiff,)	Cause No.: 1:17-cv-4008
)	
vs.)	JURY TRIAL DEMANDED
)	
SHENZHEN PAIAUDIO)	
ELECTRONICS CO., LTD)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Klipsch Group, Inc. (“Klipsch”), as and for its Complaint against Defendant Shenzhen Paiaudio Electronics Co. Ltd. (“Shenzhen”), hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action under the Patent Act, 35 U.S.C. §§ 1, et seq., for patent infringement and the Lanham Act, 15 U.S.C. § 1051, et seq., for trade dress infringement/unfair competition.

PARTIES

2. Klipsch Group, Inc. is an Indiana corporation having its principal place of business located at 3502 Woodview Trace, Suite 200, Indianapolis, IN 46268.

3. Upon information and belief, Shenzhen is a Chinese limited liability company having a place of business at Village Huangbeiling Luohu District, Shenzhen 115 502 LuoHuQu, Shenzhen Shi, Guangdong 518000, China.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1332 (diversity); 28 U.S.C. §1338(a) (action arising under the Patent

Act); 28 U.S.C. 1338(b) (unfair competition joined with claims under the Patent Act) and 15 U.S.C. § 1121.

5. Upon information and belief, this Court has personal jurisdiction over Shenzhen because, *inter alia*, Shenzhen has committed, or aided, abetted, contributed to, or participated in, acts of patent infringement and trade dress infringement in the State of Indiana and in this Judicial District and has sold the product complained of herein in this Judicial District.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because, *inter alia*, Shenzhen transacts business in this Judicial District by offering for sale and selling the products complained of herein in Indiana, Shenzhen is subject to personal jurisdiction in this Judicial District, and a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District, and Klipsch is located in and being damaged in this Judicial District.

FACTUAL BACKGROUND

7. Klipsch, one of the first U.S. loudspeaker companies, has been building premium speakers since 1946.

8. Klipsch loudspeakers have received numerous awards, industry recognition and are widely sought after by customers all over the world.

9. Over the years, Klipsch has built up considerable goodwill with consumers who purchase its products and its products have an extremely good reputation.

10. Consumers have come to associate Klipsch with high-end audio equipment.

11. Klipsch is the owner of U.S. Patent No. D603,844 (the “’844 Patent”) entitled “Headphone” that was filed on May 29, 2008 and issued on November 10, 2009. The ’844 Patent is valid and subsisting and was duly issued by the United States Patent & Trademark Office. A true and correct copy of the ’844 Patent is attached hereto as Exhibit A.

12. Klipsch markets, promotes and sells a number of different types of models of headphones.

13. Klipsch headphones typically come in two styles, over the ear headphones and in ear headphones.

14. One in ear headphone that Klipsch sells is the Reference X12i Earbud.



15. Klipsch has spent substantial sums of money marketing its headphones.

16. Klipsch's X12i headphone has a milled aluminum chassis less than 6mm in diameter that makes it one of the world's smallest headphone.

17. Aided by the use of aluminum, not only is the X12i incredibly durable, it also becomes virtually unnoticeable during wear due to its diminutive weight.

18. Klipsch's X12i headphones are popular amongst consumers and Klipsch has sold millions of dollars of X12i headphones.
19. Consumers have come to associate the ornamental design of the X12i headphones with Klipsch.
20. The X12i includes a full range balanced armature driver that provides high-quality sound.
21. The X12i has a distinctive ornamental design that is covered by the '844 Patent.
22. The ornamental design of the Klipsch X12i in ear headphone has become associated with Klipsch and Klipsch's high quality products.
23. Recently, Klipsch has discovered that Shenzhen is offering for sale, selling, and importing into the United States a in ear headphone it calls the "π 3.14 Audio."
24. The π 3.14 Audio headphones, and derivatives thereof, are virtually identical to Klipsch's X12i headphones.
25. The π 3.14 Audio headphones have an aluminum chassis and a balanced armature driver.
26. The π 3.14 Audio headphones copy the ornamental design of Klipsch's X12i headphones.
27. As illustrated below, the π 3.14 Audio headphones have an ornamental design that is identical to the headphone depicted in Klipsch's '844 Patent:

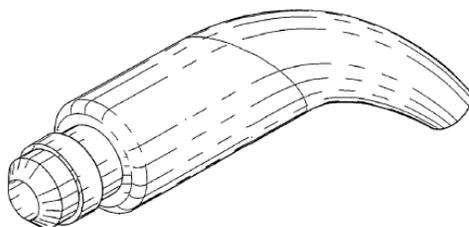


Fig. 1





Fig. 2

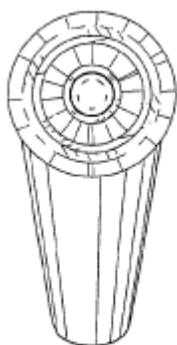


Fig. 3



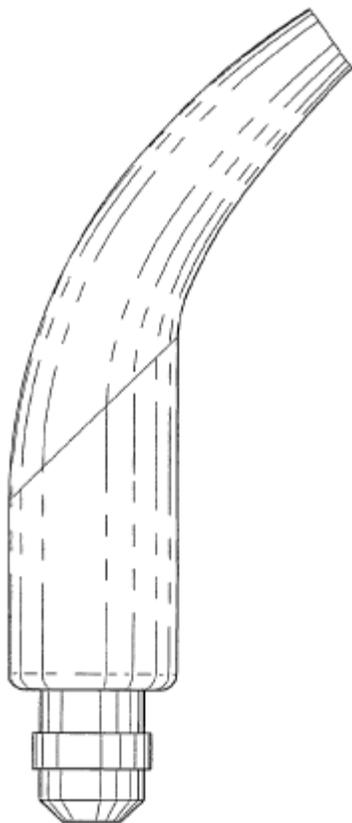


Fig. 4



Fig. 5





Fig. 6

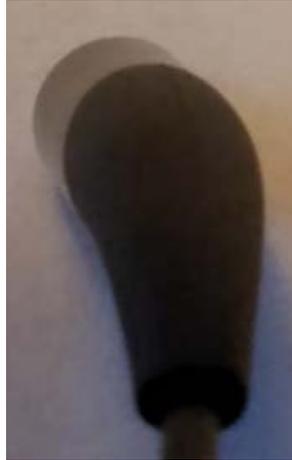


Fig. 7



**COUNT I
FEDERAL PATENT INFRINGEMENT
(U.S. Patent No. D603,844)**

28. Klipsch reincorporates the allegations contained in paragraphs 1-27 above as if fully set forth herein.

29. Shenzhen, through its respective agents, employees, and/or servants, has been and currently is committing acts of direct infringement of the `844 Patent by making, using, selling, importing, and/or offering for sale in the United States the π 3.14 Audio headphones. In particular, the design claimed in the `844 Patent and the π 3.14 Audio headphones are not only identical, but substantially the same, such that an ordinary observer, giving such attention as a purchaser usually gives, would be deceived into believing that the π 3.14 Audio headphones are the same as the design claimed in the `844 Patent, therefore inducing an ordinary purchaser to purchase the π 3.14 Audio headphones supposing them to be the design claimed in the `844 Patent.

30. Shenzhen has infringed and continues to infringe the `844 Patent by, *inter alia*, making, using, offering to sell, or selling in the United States, including the State of Indiana and within this District, the π 3.14 Audio headphones using the ornamental design covered by the `844 Patent in violation of 35 U.S.C. § 271.

31. Shenzhen's acts of infringement of the `844 Patent were undertaken without authority, permission or license from Klipsch. Shenzhen's infringing activities violate 35 U.S.C. § 271.

32. Klipsch has been, and continues to be, greatly damaged by reasons of these acts of infringement and, upon information and belief, Shenzhen will continue to infringe the `844 Patent.

33. Upon information and belief, Shenzhen has deliberately and willfully infringed upon Klipsch's exclusive rights under the `844 Patent, with full notice and knowledge thereof.

34. Upon information and belief, Shenzhen, from its infringing activities, has received and will continue to receive, gains, profits, and advantages, in an amount not presently known to Klipsch.

35. Klipsch has suffered and will continue to suffer irreparable harm in its trade and business as a result of Shenzhen's infringement of the '844 Patent, for which Klipsch is entitled to both preliminary and permanent injunctive relief pursuant to 35 U.S.C. § 283.

36. Klipsch has suffered and will continue to suffer monetary damages, in an amount yet presently known, as a result of Shenzhen's infringement of the '844 Patent.

37. Klipsch is entitled to monetary damages pursuant to 35 U.S.C. § 284 in an amount to be proven at trial and/or Shenzhen's profits on the π 3.14 Audio headphones pursuant to 35 U.S.C. § 289.

38. Upon information and belief, Shenzhen has engaged and is engaged in willful and deliberate infringement of the '844 Patent. Such willful and deliberate infringement justifies an increase of three times the damages to be assessed pursuant to 35 U.S.C. § 284 and further qualifies this action as an exceptional case supporting an award of reasonable attorney's fees pursuant to 35 U.S.C. § 285.

COUNT II
TRADE DRESS INFRINGEMENT

39. Klipsch reincorporates the allegations contained in paragraphs 1-38 above as if fully set forth herein.

40. Upon information and belief, the design of the π 3.14 Audio headphones offered for sale by Shenzhen, including within the State of Indiana and within this judicial district, is confusingly similar to the X12i headphones sold by Klipsch, and is likely to cause confusion, mistake, or deception to the public as to the source, origin, sponsorship, or approval of such products.

41. Upon information and belief, Shenzhen has deliberately and willfully infringed the trade dress rights of Klipsch in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

42. Klipsch has been and will continue to be irreparably harmed by such infringement unless this Court enjoins Shenzhen under 15 U.S.C. § 1116 from its continuing infringement.

43. As a result of Shenzhen's deliberate and willful infringement, Klipsch is entitled to damages, Shenzhen's profits, an award of attorneys' fees and costs, and any and all relief authorized under 15 U.S.C. § 1117.

JURY DEMAND

44. Klipsch requests a trial by jury for all issues proper for a jury to decide.

PRAYER FOR RELIEF

WHEREFORE, Klipsch prays that this Court grant the following relief:

- (a) Judgment that Shenzhen has directly and/or indirectly infringed the claims of the '844 Patent;
- (b) Judgment that Shenzhen has infringed Klipsch's trade dress and violated Section 43(a) of the Lanham Act;
- (c) An Order preliminarily and permanently enjoining Shenzhen, and its affiliates and subsidiaries, and each of its officers, agents, servants, employees, successors, and assigns, and all others in concert and privity with them from selling or offering for sale the π 3.14 Audio headphones, or any equivalent thereof, in the United States;
- (d) Award Klipsch the total profits realized by Shenzhen on the π 3.14 Audio headphones, or any equivalent thereof, that infringe the '844 Patent, pursuant to 35 U.S.C. § 289;
- (e) Award damages to compensate Klipsch for Shenzhen's infringement of the '844 Patent pursuant to 35 U.S.C. § 284;

- (f) Award Klipsch the total profits realized by Shenzhen on the π 3.14 Audio headphones, or any equivalent thereof, that infringe Klipsch's trade dress and otherwise constitute unfair acts pursuant to 15 U.S.C. § 1117;
- (g) Award Klipsch enhanced damages pursuant to 35 U.S.C. § 284;
- (h) Award Klipsch pre-judgment and post-judgment interest and costs in accordance with 35 U.S.C. § 284;
- (i) Declare this case to be exceptional and award Klipsch its attorneys' fees, costs and expenses incurred in prosecuting this action, pursuant to 35 U.S.C. § 285 and Section 35 of the Lanham Act (15 U.S.C. § 1117); and
- (j) All other just and proper relief.

Dated: November 1, 2017

Respectfully submitted,

/s/ Dean E. McConnell

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