

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



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DELTA FAUCET COMPANY, )  
)  
Plaintiff, )  
)  
v. )  
)  
GLOBE UNION INDUSTRIAL )  
CORP., GERBER PLUMBING )  
FIXTURES LLC, and DANZE, INC. )  
)  
Defendants.

CASE NO.

JURY DEMAND

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Delta Faucet Company (“Delta Faucet” or “Plaintiff”), for its Complaint against Defendants Globe Union Industrial Corp. (“Globe”), Gerber Plumbing Fixtures LLC (“Gerber”), and Danze, Inc. (“Danze”) (collectively “Defendants”) alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement under 35 U.S.C. § 271, *et. seq.*, by Plaintiff against Defendant for infringement of United States Patent No. 10,669,702 (“the ‘702 patent”) and United States Patent No. 10,724,217 (“the ‘217 patent”), (collectively the “patents in suit”), by making, using, offering to sell, selling and/or importing magnetic docking faucets.

**PARTIES**

2. Delta Faucet is a corporation organized and existing under the laws of Indiana, having a principal place of business at 55 East 111<sup>th</sup> Street, Indianapolis, Indiana, 46280.

3. On information and belief, Globe is a corporation organized and existing under the laws of Taiwan, having a principal place of business at No.22, Jianguo Rd., Taichung Export

Processing Zone, Tanzi Dist., Taichung, Taiwan, R.O.C.

4. On information and belief, Gerber is a corporation organized and existing under the laws of Delaware, having a principal place of business at 2500 International Parkway, Woodridge, Illinois, 60517.

5. On information and belief, Danze is a corporation organized and existing under the laws of Delaware, having a principal place of business at 2500 International Parkway, Woodridge, Illinois, 60517.

6. The Defendants are involved in the manufacture, distribution, offer for sale and/or sale of magnetic docking faucets that infringe one or more claims of the patents is suit. The infringing products are identified as having “DockForce® magnetic docking technology” (“Accused Products”) on Defendants’ website at <https://en.globeunion.com> and <https://www.gerber-us.com>. On information and belief, each of the Defendants currently, or in the past, directly or indirectly imports, manufactures, distributes, markets, offers to sell and/or sells the Accused Products in the United States, including in the State of Indiana and in this District, and otherwise purposefully directs activities to the same. On information and belief, the Defendants have been and are acting in concert and are otherwise liable jointly, severally or in the alternative for a right to relief with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences related to the making, using, importing into the United States, offering for sale, and/or selling of the Accused Product.

7. On information and belief, Globe is the parent company of the remaining Defendants and Gerber and Danze are identified as Globe brands as shown at <https://en.globeunion.com/brands/>. Exhibit A. On information and belief, Globe acquired Gerber in 2003 as shown at <https://en.globeunion.com/about/history/> and Danze by Gerber is being

migrated to the Gerber brand as shown at [https://gerber-gh.s3.amazonaws.com/577eb92b92d445690f3b93f9/2020\\_Gerber\\_Price\\_Book\\_20200817.pdf](https://gerber-gh.s3.amazonaws.com/577eb92b92d445690f3b93f9/2020_Gerber_Price_Book_20200817.pdf).

### **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over the matters asserted in this Complaint under 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Defendants because they have committed acts of patent infringement and/or induced acts of patent infringement by others in the State of Indiana and in this District. On information and belief, Defendants have conducted, and do regularly conduct, business within the State of Indiana and the Southern District of Indiana. Defendants directly and/or through intermediaries (including distributors, retailers, showrooms and others) have made, used, offered to sell, sold, and/or imported into the United States, including to customers located within the State of Indiana and this District, products that infringe one or more claims of the patents in suit. Defendants have purposefully and voluntarily placed infringing products into the stream of commerce with the awareness and/or intent that they will be purchased by consumers in the State of Indiana and in this District. On information and belief, each Defendant has committed acts of patent infringement or induced acts of patent infringement by others in the State of Indiana and in this District. As such, each of the Defendants has established sufficient minimum contacts with this District such that each should reasonably and fairly anticipate being called into court in this District and each has purposefully directed activities at residents of the state and this District or Globe has directed these activities through its brands as shown at <https://en.globeunion.com/> and <https://www.gerber-us.com/where-to-buy/>.

10. As a foreign corporation, personal jurisdiction exists over Globe at least by virtue

of Federal Rule of Civil Procedure 4(k)(2). In addition, personal jurisdiction exists over Globe based on the fact that, on information and belief, it is responsible for causing patent infringement to occur in the State of Indiana and this District.

11. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b). Defendants have committed substantial acts of infringement in this District.

#### **THE '702 PATENT**

12. The '702 patent, titled "Magnetic Coupling For Sprayheads," issued on June 2, 2020. The '702 patent issued from U.S. Application No. 16/694,487, filed November 25, 2019 ("the '487 application"). The '702 patent is a continuation of U.S. Application No. 16/361,120 filed on March 21, 2019 (now U.S. Patent No. 10,738,444), which is a continuation of U.S. Application No. 13/052,814 filed on March 21, 2011 (now U.S. Patent No. 10,240,326), which is a continuation of U.S. Application No. 11/393,450 filed on March 30, 2006 (now U.S. Patent No. 7,909,061), which claims priority to U.S. Provisional Application No. 60/691,389, filed on June 17, 2005. *Id.* A true and correct copy of the '702 patent is attached as Exhibit B.

13. Plaintiff Delta Faucet owns by assignment 100% of the right, title, and interest in and to the '702 patent. A true and correct copy of the '702 patent assignment is attached as Exhibit C.

14. As the owner of the '702 patent, Delta Faucet is authorized and has standing to bring legal action to enforce all rights arising under the '702 patent.

#### **THE '217 PATENT**

15. The '217 patent, titled "Magnetic Coupling For Sprayheads," issued on July 28, 2020. The '217 patent issued from U.S. Application No. 16/694,479, filed November 25, 2019 ("the '479 application"). The '217 patent is a continuation of U.S. Application No. 16/361,120

filed on March 21, 2019 (now U.S. Patent No. 10,738,444), which is a continuation of U.S. Application No. 13/052,814 filed on March 21, 2011 (now U.S. Patent No. 10,240,326), which is a continuation of U.S. Application No. 11/393,450 filed on March 30, 2006 (now U.S. Patent No. 7,909,061), which claims priority to U.S. Provisional Application No. 60/691,389, filed on June 17, 2005. *Id.* A true and correct copy of the '217 patent is attached as Exhibit D.

16. Plaintiff Delta Faucet owns by assignment 100% of the right, title, and interest in and to the '217 patent. A true and correct copy of the '217 patent assignment is attached as Exhibit E.

17. As the owner of the '217 patent, Delta Faucet is authorized and has standing to bring legal action to enforce all rights arising under the '217 patent.

#### **FACTUAL BACKGROUND**

18. Since its founding in 1954, Delta Faucet has established itself as a leader in the design and manufacture of high quality, innovative faucets.

19. Delta Faucet has and continues to employ multiple engineers with experience in the plumbing industry, including several with substantial experience in product engineering and project management of faucets.

20. Delta Faucet and specifically engineer and inventor Alfred C. Nelson, has decades of experience in the plumbing industry including in the product engineering of faucets from concept to production. Mr. Nelson also has decades of experience in designing kitchen faucets, including in developing improved pull-down sprayheads.

21. Over a period of several years, Mr. Nelson analyzed various coupling arrangements for pull-down sprayheads on kitchen faucets and worked on developing an effective solution to long recognized problems of insecure, difficult to operate, and non-durable

couplings.

22. In recognition of a long-felt need for an improved coupling arrangement for faucet pull-down sprayheads, Mr. Nelson developed a magnetic docking system that provides an effective, simple to use, and durable coupling between the pull-down sprayhead and the spout

23. In 2007, Delta Faucet launched MagnaTite® Docking. An example of a MagnaTite® Docking faucet is shown below:



VALO™  
Single Handle Pull-Down  
Kitchen Faucet with Soap  
Dispenser and ShieldSpray®  
Technology

MODEL#: 19791Z-BLSD-DST

[View Full Valo™ Kitchen Collection](#)

★★★★★ 4.0 (1) [Write a review](#) [Ask a question](#)

24. Delta Faucet thereafter launched MagneDock® Technology. An example of a MagneDock® Technology faucet is shown below:



ARTESSO®  
Single Handle Pull-Down Kitchen Faucet

Inspired by factories of the early 20th century, the Artesso kitchen collection by Brizo® is a warmer, more refined take on the industrial aesthetic.

[VIEW FULL COLLECTION](#)  
[DOWNLOAD COLLECTION PDF](#)

[SHARE +](#)

Product as Shown:

Single Handle Pull-Down Kitchen Faucet EN22L-PC	\$660.00
List price as shown (US \$):	\$660.00

Finish Option - Chrome

● ● ● ● ●

25. Following introduction of MagnaTite® Docking, Delta Faucet experienced remarkable commercial success including through an increase in market share in the pull-down kitchen faucet category.

26. Prior to the development of the magnetic docking system by Delta Faucet, magnetic assemblies were not used in the industry to secure the sprayhead in a faucet assembly.

27. Delta Faucet holds intellectual property rights in and to the MagnaTite® Docking technology, including through the ‘217 and ‘702 patents.

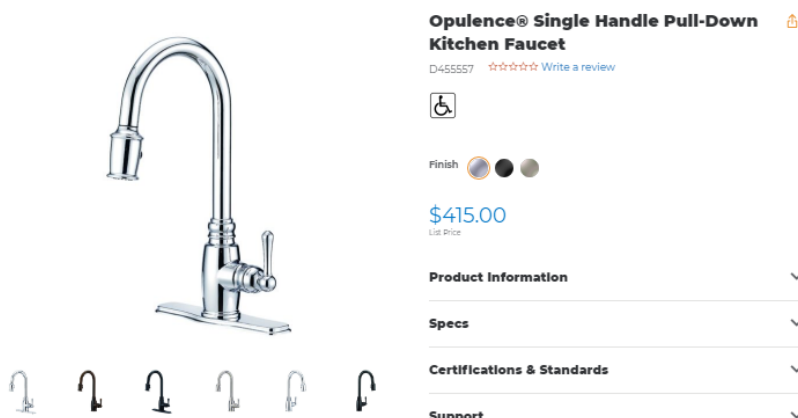
28. Delta Faucet has domestic research and development, testing and engineering, sales and marketing, and business offices in Indiana and in this District, where it employs skilled workers concerning MagnaTite® Docking.

### COUNT I (INFRINGEMENT OF THE ’702 PATENT)

29. Plaintiff realleges and incorporates by reference all of the preceding paragraphs as if fully set forth in this paragraph.

30. On information and belief, Defendants faucets that infringe one or more claims of the ‘702 patent are identified as having a “DockForce® magnetic docking technology” (“Accused Products”) on Defendants’ websites at <https://en.globeunion.com/> and <https://www.gerber-us.com/>.

31. A non-limiting example of an Accused Product known as the Opulence®, is pictorially represented as follows:



- Docking: DockForce® Magnetic Docking Technology

Source: <https://www.gerber-us.com/product/opulence-single-handle-pull-down-kitchen-faucet/>

See also, <https://youtu.be/UF9NKfLwg1s>

32. The Accused Products, including the representative Opulence®, are sold through various intermediaries, retailers and online, including through authorized resellers and showrooms as shown at <https://www.gerber-us.com/where-to-buy/>. See Exhibit F.

33. On information and belief, the representative Accused Product Opulence®, is substantially the same for purposes of infringement as the Accused Products.

34. A claim chart that applies the claims of the '702 patent to the representative Accused Product Opulence® is attached as Exhibit G. The remaining Accused Products practice all the limitations of claim 1.

35. The Defendants have directly infringed and continue to directly infringe, have actively and knowingly induced and continue to actively and knowingly induce the infringement of one or more claims of the '702 patent, either literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale within the United States and/or importing into the United States the Accused Products.

36. On information and belief, Defendants have notice of the '702 patent. *First*, on information and belief, Defendants regularly survey the patent literature—and especially that of its competitors—for relevant patents and have encountered the '702 patent. *Second*, this complaint informs Defendants about the '702 patent. *Third*, Plaintiff virtually marked and continues to virtually mark the '702 patent at <https://www.deltafaucetcompany.com/patent>, pursuant to 35 U.S.C. § 287(a). Despite knowledge and notice of the '702 patent, Defendants have continued to offer for sale and sell the Accused Products to customers in the United States



without the consent or authority of Delta Faucet. Notwithstanding this knowledge, Defendant has knowingly or with reckless disregard willfully infringed the '702 patent and have acted despite an objectively high likelihood that its actions constituted infringement of Plaintiff's valid patent rights, either literally or equivalently.

37. On information and belief, Defendants actively induce others to infringe the '702 patent by selling the Accused Products to others with materials and instructions for operation of the Accused Products, with the specific intent and knowledge that the materials direct, teach or assist others to infringe the '702 patent. For example, on information and belief, Defendants induced infringement of the '702 patent by encouraging and facilitating infringing use of the Accused Products by users of the Accused Products in the United States, by taking active steps to encourage and facilitate others' direct infringement of the '702 patent with knowledge of that infringement. The affirmative acts include, without limitation, advertising, marketing, promoting, offering for sale and/or selling the Accused Products as shown at <https://en.globeunion.com/> and <https://www.gerber-us.com/>. Defendants further provide instructions, user manuals, advertising and/or marketing materials on Defendants' website that facilitate, direct, or encourage the direct infringement in the United States as shown at <https://en.globeunion.com/> and <https://www.gerber-us.com/>.

38. Defendants' infringing acts have caused, and are continuing to cause, damage and irreparable injury to Plaintiff, and Plaintiff will continue to suffer damage and irreparable injury unless and until Defendants' infringing acts are enjoined by this Court.

39. Plaintiff is entitled to injunctive relief and damages in accordance with 35 U.S.C. §§ 271, 281, 283, and 284.

40. Defendants' infringement of the '702 patent has been and continues to be willful

and deliberate, justifying a trebling of damages under 35 U.S.C. § 284.

41. Defendants' infringement of the '702 patent is exceptional and entitles Plaintiff to attorneys' fees and costs under 35 U.S.C. § 285.

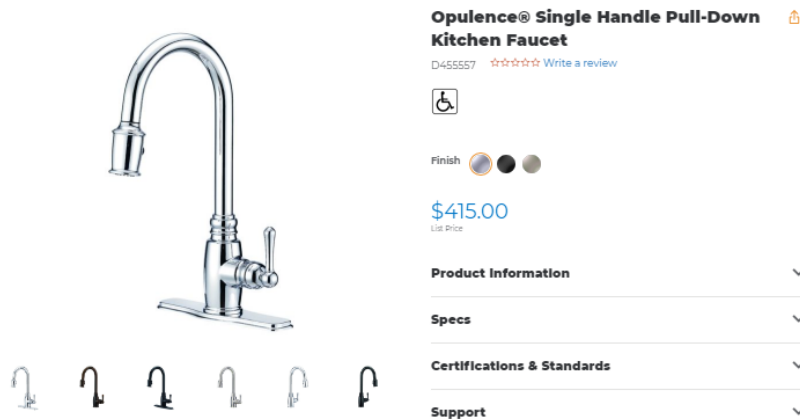
42. Therefore, Plaintiff seeks a judgment that Defendants directly infringe and/or induce infringement of at least claims 1, 2, 3, 5, 6, 9, 10, 12, 13, 14, 15, 16, 17, 19, 21, 22, 23, 25, 26, 27 and 28 of the '702 patent.

## COUNT II (INFRINGEMENT OF THE '217 PATENT)

43. Plaintiff realleges and incorporates by reference all of the preceding paragraphs as if fully set forth in this paragraph.

44. On information and belief, Defendants faucets that infringe one or more claims of the '217 patent are identified as having a "DockForce® magnetic docking technology" ("Accused Products") on Defendants' websites at <https://www.gerber-us.com>.

45. A non-limiting example of an Accused Product known as the Opulence®, is pictorially represented as follows:



- Docking: DockForce® Magnetic Docking Technology

Source: <https://www.gerber-us.com/product/opulence-single-handle-pull-down-kitchen-faucet/>

See also, <https://youtu.be/UF9NKfLwg1s>

46. The Accused Products, including the representative Opulence®, are sold through various intermediaries, retailers and online, including through authorized resellers and showrooms. See Exhibit F.

47. On information and belief, the representative Accused Product Opulence®, is substantially the same for purposes of infringement as the Accused Products.

48. A claim chart that applies the claims of the '217 patent to the representative Accused Product Opulence® is attached as Exhibit H. The remaining Accused Products practice all the limitations of claim 1.

49. The Defendants have directly infringed and continue to directly infringe, has actively and knowingly induced and continue to actively and knowingly induce the infringement of one or more claims of the '217 patent, either literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale within the United States and/or importing into the United States the Accused Products.

50. On information and belief, Defendant has notice of the '217 patent. *First*, on information and belief, Defendant regularly surveys the patent literature—and especially that of its competitors—for relevant patents and have encountered the '217 patent. *Second*, this complaint informs Defendant about the '217 patent. *Third*, Plaintiff virtually marked and continues to virtually mark the '217 patent at <https://www.deltafaucetcompany.com/patent>, pursuant to 35 U.S.C. § 287(a). Despite knowledge and notice of the '217 Patent, Defendants have continued to offer for sale and sell the Accused Products to customers in the United States without the consent or authority of Delta Faucet. Notwithstanding this knowledge, Defendant has knowingly or with reckless disregard willfully infringed the '217 patent and have acted despite an objectively high likelihood that its actions constituted infringement of Plaintiff's valid patent

rights, either literally or equivalently.

51. On information and belief, Defendants actively induces others to infringe the '217 patent by selling the Accused Products to others with materials and instructions for operation of the Accused Products, with the specific intent and knowledge that the materials direct, teach or assist others to infringe the '217 patent. For example, on information and belief, AS America induced infringement of the '217 patent by encouraging and facilitating infringing use of the Accused Products by users of the Accused Products in the United States, by taking active steps to encourage and facilitate others' direct infringement of the '217 patent with knowledge of that infringement. The affirmative acts include, without limitation, advertising, marketing, promoting, offering for sale and/or selling the Accused Products as shown at <https://en.globeunion.com/> and <https://www.gerber-us.com/>. Defendants further provide instructions, user manuals, advertising and/or marketing materials on Defendants' website that facilitate, direct, or encourage the direct infringement in the United States as shown at <https://en.globeunion.com/> and <https://www.gerber-us.com/>.

52. Defendants' infringing acts have caused, and are continuing to cause, damage and irreparable injury to Plaintiff, and Plaintiff will continue to suffer damage and irreparable injury unless and until Defendants' infringing acts are enjoined by this Court.

53. Plaintiff is entitled to injunctive relief and damages in accordance with 35 U.S.C. §§ 271, 281, 283, and 284.

54. Defendants' infringement of the '217 patent has been and continues to be willful and deliberate, justifying a trebling of damages under 35 U.S.C. § 284.

55. Defendants' infringement of the '217 patent is exceptional and entitles Plaintiff to attorneys' fees and costs under 35 U.S.C. § 285.

56. Therefore, Plaintiff seeks a judgment that Defendants directly infringe and/or induce infringement of at least claims 1, 2, 3, 4, 6, 7, 8, 12, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 30 of the '217 patent.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff respectfully requests that the Court enter judgment in its favor and against Defendants on the patent infringement claims set forth above and respectfully request that this Court:

(a) enter judgment that, under 35 U.S.C. §§ 271(a) and (b), Defendants have infringed at least one claim of the '702 patent and the '217 patent;

(b) enjoining in accordance with 35 U.S.C. § 283, Defendants, and all affiliates, employees, agents, officers, directors, attorneys, successors, and assigns and all those acting on behalf of or in active concert or participation with Defendants, preliminarily and permanently from infringing the '702 patent and the '217 patent;

(c) award Plaintiff all available and legally permissible damages and relief sufficient to compensate Plaintiff for Defendants' infringement of the '702 patent and the '217 patent, including to the full extent permitted by 35 U.S.C. § 284, together with interest, in an amount to be determined at trial;

(d) award Plaintiff treble damages under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate infringement of the '702 patent and the '217 patent;

(e) declare this to be an exception case under 35 U.S.C. § 285 and award Plaintiff costs, expenses and disbursements in this action, including reasonable attorneys' fees; and

(f) award Plaintiff such other and further relief that this Court deems just and proper.

Date: October 29, 2020

s/Michael A. Swift  
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*Attorneys for Plaintiff, Delta Faucet  
Company*

**JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury on all issues triable of right by a jury.

Date: October 29, 2020

s/Michael A. Swift

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