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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

BANJO CORPORATION,)	
)	CAUSE NO. _____
Plaintiff,)	
)	
v.)	JURY TRIAL DEMANDED
)	
GREEN LEAF, INC.,)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiff Banjo Corporation (“Banjo”), by its undersigned attorneys, as and for its Complaint against Green Leaf, Inc. (“Green Leaf”), alleges as follows:

PARTIES

1. Plaintiff Banjo Corporation is a corporation organized and existing under the laws of the State of Indiana having a principal place of business at 150 Banjo Drive, Crawfordsville, Indiana 47933.
2. On information and belief, defendant Green Leaf, Inc. (“Green Leaf”), is a corporation organized and existing under the laws of the State of Indiana having a principal place of business at 9490 N. Baldwin Street, Fontanet, Indiana 47851.
3. On information and belief, Green Leaf does business under the assumed name TerreMax, and owns and operates the domain names Green-Leaf.us and Terremax.us.

JURISDICTION AND VENUE

4. This is an action for trademark infringement under 15 U.S.C. § 1114(1); for unfair competition, use of false designations of origin and false advertising under 15 U.S.C. § 1125(a); and for infringement and unfair competition under Indiana common law.

5. This Court has subject matter jurisdiction over the claims pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a) and (b), and supplemental jurisdiction over the claims arising under the common law of the State of Indiana pursuant to 28 U.S.C. § 1367(a) because the state law claims are so related to the federal claims that they form part of the same case or controversy.

6. On information and belief, this Court has general personal jurisdiction over Defendant because Defendant's principal place of business is in Indiana, it is domiciled in the State of Indiana, and it conducts substantial business in this forum and because this action arises, in whole or in part from such business.

7. Venue is proper in this district under 28 U.S.C. § 1391 (b) and (c).

BACKGROUND TRADEMARK AND TRADE DRESS INFRINGEMENT

8. Banjo was founded in Crawfordsville, Indiana in 1959, originally under the name Terra-Knife, later renamed Terra-Products, as published and promoted on its website, banjocorp.com. Based on the founder's personal love for the banjo, and the shape of the handle of one of the company's key products, the ball valve, Terra-Products was later renamed Banjo Corporation

9. Although Banjo has a diverse product line of over a thousand products for commercial, industrial and agricultural use, Banjo's business has grown for over sixty years, and it is now and for many years has been a leader in the business of designing, manufacturing, distributing, and selling valves for regulating the flow of liquids in hoses and pipes.

10. Since at least as early as 1994, Banjo has used on and in connection with its valves distinctive yellow-colored handles that have come to be recognized as identifying Banjo as the source of the products.

11. Banjo currently sells approximately 150 types of control valves, all bearing its distinctive yellow handles, such as the following representative example:

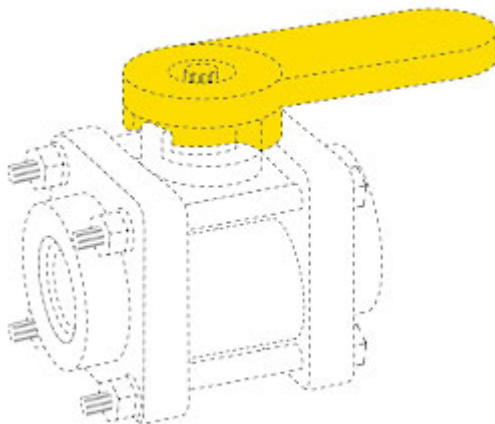


Other representative sample products are shown in **Exhibit A** hereto.

12. Given the large number of valves it sells, Banjo uses its own proprietary parts numbering system, which it developed more than twenty years ago to identify the different valves.

13. Customers have come to rely upon Banjo's parts numbering system, which they use as a shorthand to identify and order Banjo's valves.

14. On December 28, 2021, the United States Patent and Trademark Office issued to Banjo Trademark Registration No. 6,600,065, for its Yellow Handle Design® for "liquid handling products for commercial, industrial and agricultural use, namely, control valves for regulating the flow of liquids in hoses and pipes." The mark as registered appears as follows, and a copy of the registration certificate is attached hereto as **Exhibit B**.



15. As shown in Banjo's Registration No. 6,600,065, the dotted lines and the color white show placement of the mark on the goods and are not claimed as features of the mark. Rather, the mark consists of the color yellow as shown and used on any and all control valves for regulating the flow of liquids in hoses and pipes.

16. Although Banjo's Registration No. 6,600,065 is not limited to a particular shade of yellow, the specific distinctive yellow coloring used on all of Banjo's valves is shown above in Paragraph 11 above.

17. After introducing its proprietary Yellow Handle Design® in or about 1994, Banjo now has annual sales of approximately 600,000 units of its valves (representing tens of millions of dollars) bearing its Yellow Handle Design® and has and invested millions of dollars in promoting the full family of valve products sold using the distinctive design.

18. Banjo advertises and promotes its valves bearing its Yellow Handle Design® in printed publications, at trade shows and on social media, including Facebook, LinkedIn, Twitter and YouTube, where it uses the identifying internet handle #yellowhandle, such as the following:

<https://www.facebook.com/hashtag/yellowhandle>

<https://twitter.com/BanjoCorp>

<https://www.linkedin.com/company/banjo-liquid-handling-products/>

<https://www.youtube.com/BanjoProducts>

19. The Yellow Handle Design® is unique, distinctive, and non-functional, and it is not necessary for others to use this trade dress to compete in the marketplace for valves.

20. Other competitors use colors such a blue, red and green on and in connection with their control valves.

21. The unique and distinctive look of the Yellow Handle Design® identifies and distinguishes Banjo's valves from competitors' valves.

22. The consuming public and the commercial trade have come to recognize and associate the Yellow Handle Design® with Banjo as a result of the extensive and continuous promotion and sales of the Yellow Handle Design® over the past thirty years. As a result of these efforts, the Yellow Handle Design® has acquired appreciable secondary meaning, and which identifies and distinguishes Banjo's valves from valves offered by competitors.

23. Registration of the Yellow Handle Design® confirms that Banjo owns the exclusive right to market and sell products bearing this design or any other design that is sufficiently similar thereto as to be likely to cause confusion, regardless of possible differences.

24. Registration of the Yellow Handle Design® gives notice to the world that this design belongs exclusively to Banjo.

25. Banjo's Yellow Handle Design® trade dress represents highly valuable goodwill owned by Banjo.

DEFENDANT'S UNLAWFUL CONDUCT

26. Green Leaf has been in business since 1983, and until recently had sold a line of control valves for regulating the flow of liquids in hoses and pipes competing with Banjo's valves but bearing distinctive green colored handles.

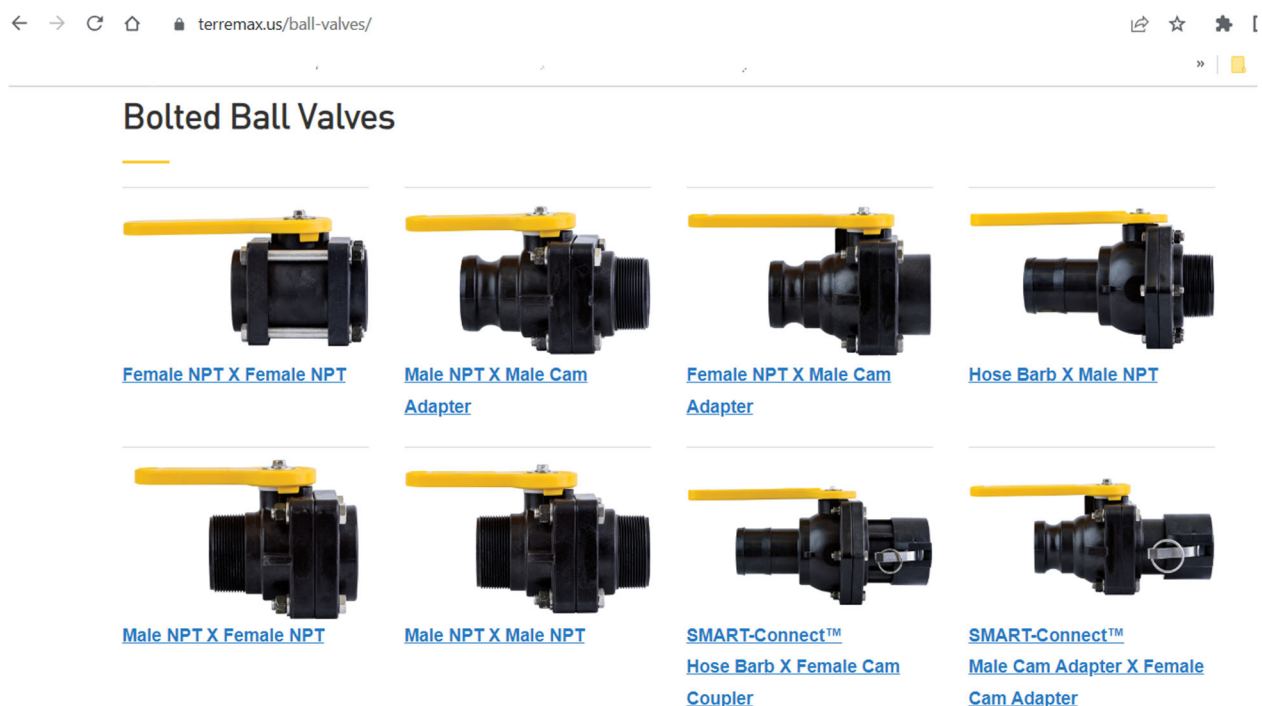
27. However, Green Leaf has now begun selling a second line of control valves that bear yellow handles that not only imitate Banjo's Yellow Handle Design® but that use a shade of yellow that is indistinguishable from Banjo's Yellow Handle Design®.

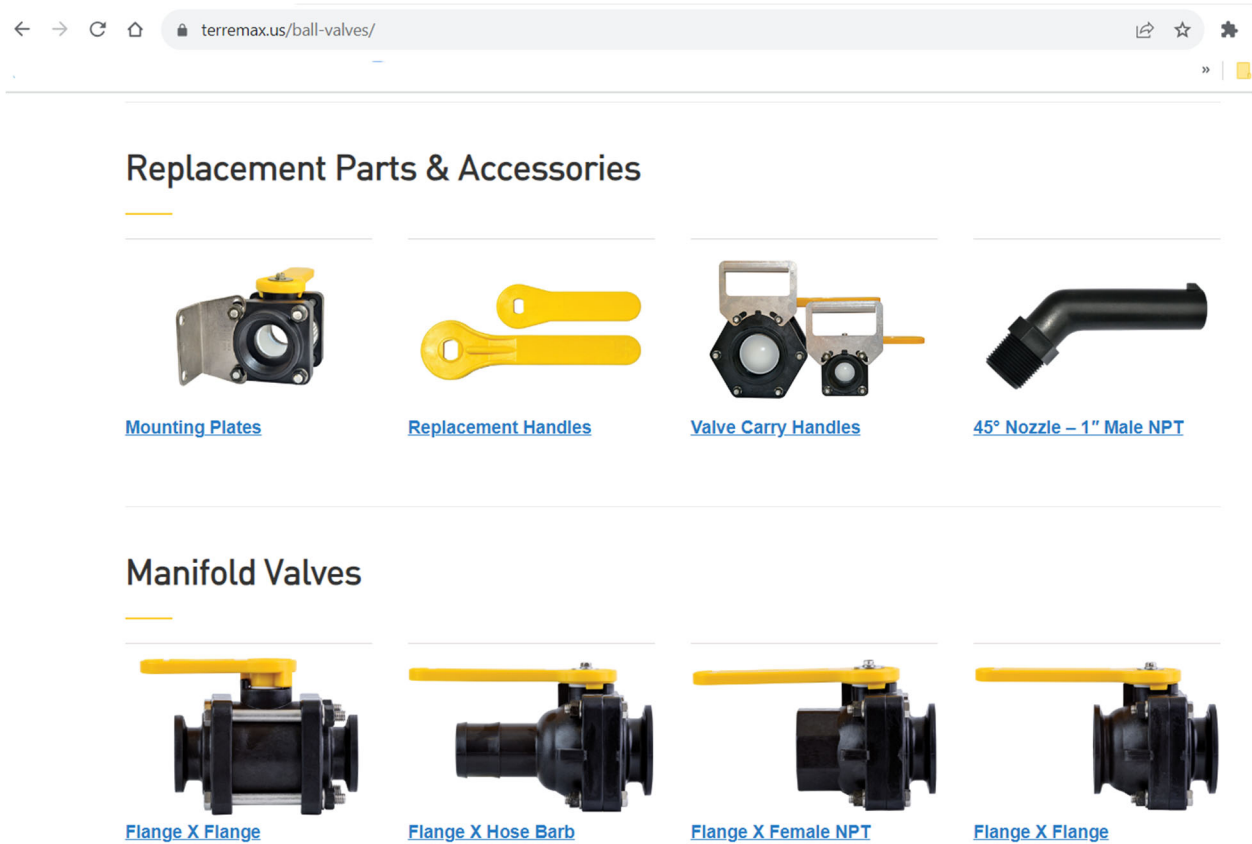
28. Green Leaf began selling such imitation yellow handled valves after hiring two Banjo employees, one of whom is now its National Accounts Manager.

29. In or about late 2019 Green Leaf also launched a new division under the assumed named TerreMax, which sells control valves in competition with Banjo that exclusively bear yellow handles that are indistinguishable from Banjo's Yellow Handle Design®.

30. Upon information and belief, the name TerreMax was adopted as a d/b/a for Green Leaf in conscious imitation of Banjo's original names, Terre Knife and Terre Products, in a deliberate effort to encourage false associations with Banjo.

31. The following representative pages show how Green Leaf advertises its imitation yellow-handled valves on its website, TerreMax.us:





32. Green Leaf not only now uses Banjo’s distinctive Yellow Handle Design®; it also directly matches its copied products to the Banjo original valves by copying Banjo’s proprietary product numbering system. By doing so, Green Leaf thus encourages product substitution among distributors.

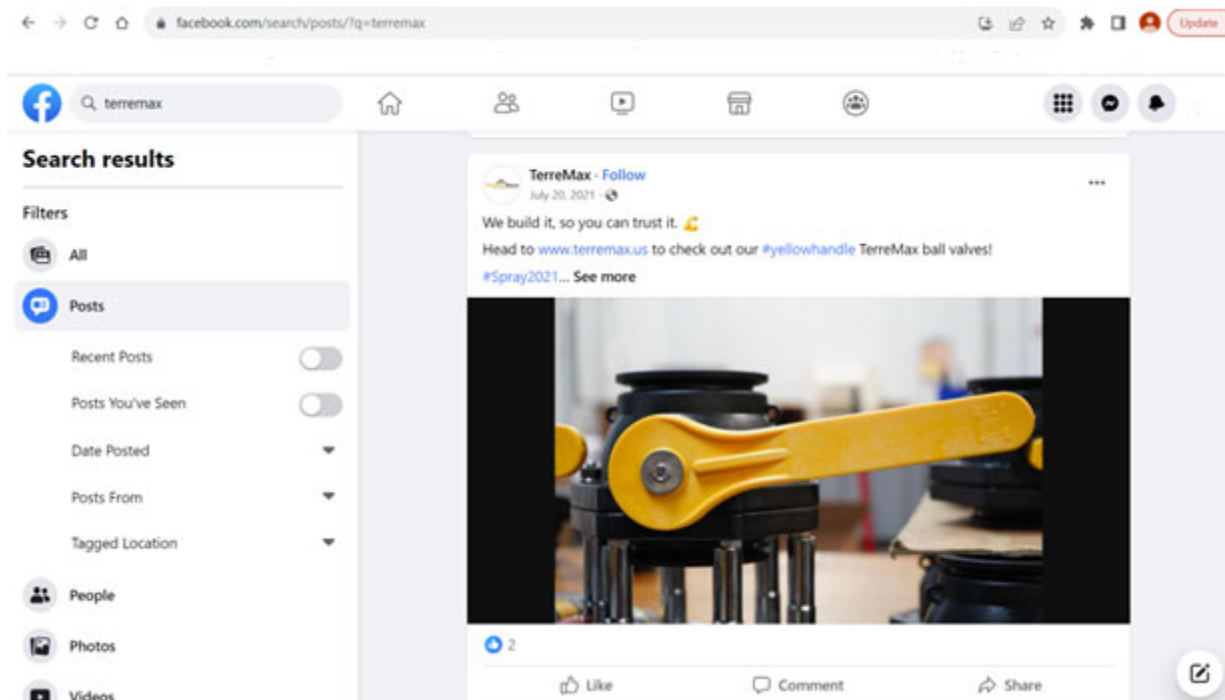
33. Further encouraging product substitution, Green Leaf expressly advertises its imitation products as follows: “Always bought Banjo? Ready to make a switch? Easily find Green Leaf’s compatible parts to replace Banjo. Green Leaf parts are manufactured to the highest standards, built to perform, while being a one-to-one replacement for Banjo Valves and Banjo Couplings.”

34. By way of example, Green Leaf's so-called "Part Compatibility Guide" available at <https://green-leaf.us/banjo-replacement-parts/> designates its 1/2" Full Port Valve with product number V050FP, copying Banjo's number V050, and it designates its 3/4" Full Port Valve with product number V075FP copying Banjo's number V075.

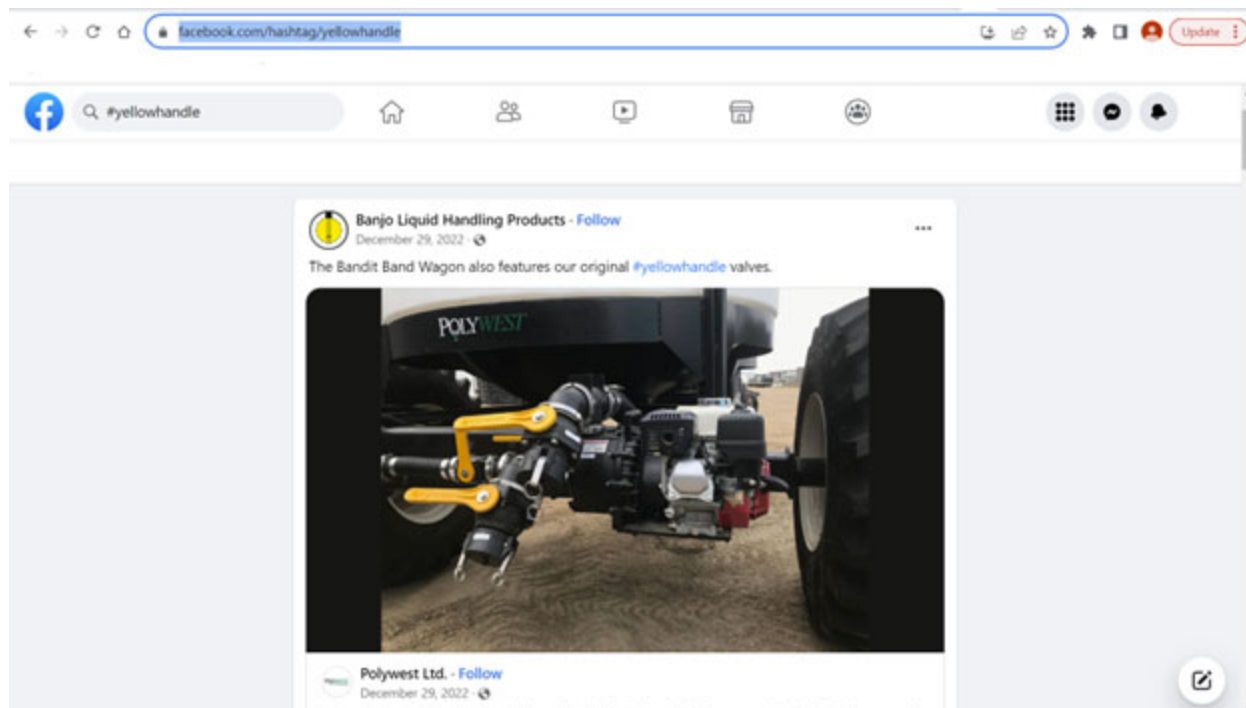
35. Green Leaf is able to use Part Compatibility Guide to encourage product substitution because it markets its infringing products to the same customer base that purchases Banjo's genuine Yellow Handled products.

36. Also encouraging product substitution, Green Leaf offers its imitation valves at prices substantially lower than Banjo's original products, thus encouraging distributors to provide the imitation products in place of Banjo's original control valves.

37. Green Leaf (including TerreMax) advertises its products using Banjo's own Yellow Handled valves. For instance, on Facebook Defendant invites customers to "check out our #yellowhandle TerreMax ball valves!"



38. However, clicking on the link TerreMax provides for its ball valves, <https://www.facebook.com/hashtag/yellowhandle> , leads to the following page for *Banjo* 's genuine Yellow Handle ball valves :



39. Upon information and belief, Green Leaf’s copying of Banjo’s product numbering system facilitates product substitution, including in particular by dealers who can supply the Green Leaf products in place of the Banjo originals when customers order the Banjo originals.

40. Because Green Leaf offers its imitation valves at prices substantially lower than Banjo’s original products, distributors are further encouraged to substitute the lower-priced copies in place of Banjo’s original valves bearing the genuine Yellow Handle Design®.

41. Banjo has received complaints about broken yellow-handled valves that in fact were made by Green Leaf and has observed instances of Defendant’s products intermingled with Banjo’s genuine Yellow Handle ball valves.

42. Green Leaf’s copies of Banjo’s yellow handled valves have an overall appearance that is indistinguishable from the original Banjo products as they would be seen by consumers and users.

43. Upon information and belief, Green Leaf has earned substantial revenues and profits as a result of its infringing conduct and acts of unfair competition and false advertising complained of herein, and Banjo has also suffered damages as a result of Defendant's unlawful conduct, including lost sales, and a loss of exclusivity and loss of distinctiveness in its Yellow Handle Design®, and loss of control over its reputation and the goodwill represented by its Yellow Handle Design®.

COUNT I

Trademark/Trade Dress Infringement Under 15 U.S.C. § 1114(1)

44. Plaintiff realleges and incorporates by reference Paragraphs 1 through 43 as though fully set forth herein.

45. Upon information and belief, Green Leaf's said use of an essentially exact copy of Banjo's Yellow Handle Design®, including the specific shade of yellow in lieu of Green Leaf's original green coloring; its copying of Banjo's parts numbering system; its adoption of the name TerreMax in imitation of Banjo's original name; its advertising of its own products by linking to genuine Banjo products, and its encouragement of product substitution have all been a part of a deliberate plan to compete unfairly with Banjo and to cause consumer confusion.

46. Green Leaf's conduct as aforesaid is likely to cause confusion, to cause mistake, or to deceive as to the source of origin, sponsorship, or approval of Green Leaf's products, in that purchasers or others are likely to believe Green Leaf's products are Banjo's products or the products of a company legitimately connected with, approved by, or related to Banjo.

47. Upon information and belief, Green Leaf's said use enables it, and invites and enables its distributors and retailers or other customers, to represent and deceptively advertise, merchandise, market, display, and promote that Green Leaf's products emanate from Banjo or from a business source legitimately connected with or approved by Banjo and to substitute and pass off Green Leaf's products as Banjo's products.

48. Upon information and belief, Green Leaf's use in commerce of a copy of Banjo's registered Yellow Handle Design® is likely to cause confusion, to cause mistake, or to deceive.

49. Upon information and belief, Green Leaf's conduct as aforesaid has been deliberately intended to cause confusion and to allow Green Leaf to profit from such confusion, at Banjo's expense.

50. Green Leaf has been on notice since at least as early as February 2018 that its conduct is unlawful, yet it has not only failed to cease such unauthorized use of a copy of Banjo's registered Yellow Handle Design®, it has instead vastly expanded such use and other acts of unfair competition.

51. The foregoing conduct of Green Leaf constitutes trademark infringement in violation of 15 U.S.C. § 1114(1).

52. Green Leaf's conduct as aforesaid has caused great and irreparable injury to Banjo, and unless such conduct is enjoined, it will continue and Banjo will continue to suffer great and irreparable injury.

53. Plaintiff has no adequate remedy at law.

COUNT II

**Unfair Competition, False Designations of Origin And False Advertising
Under 15 U.S.C. § 1125(a)**

54. Plaintiff realleges and incorporates by reference Paragraphs 1 through 53 as though fully set forth herein.

55. Upon information and belief, Green Leaf's use in commerce of a copy of Banjo's Yellow Handle Design® for its competing valve products is likely to cause confusion, to cause mistake, or to deceive the relevant public that Green Leaf and its products are authorized by or are affiliated with Banjo.

56. The above-described acts of Green Leaf constitute use of false designations of origin and false and misleading descriptions or representations and unfair competition that are likely to cause confusion; to cause mistake; or to mislead as to the affiliation, connection, or association of Green Leaf or its goods or services with Banjo and the products sold under a copy of Banjo's Yellow Handle Design® in violation of 15 U.S.C. § 1125(a).

57. Upon information and belief, Green Leaf's conduct as aforesaid has been deliberately intended to cause confusion and to allow Green Leaf to profit from such confusion, at Banjo's expense.

58. Green Leaf's conduct as aforesaid has caused great and irreparable injury to Banjo, and unless such conduct is enjoined, it will continue and Banjo will continue to suffer great and irreparable injury.

59. Plaintiff has no adequate remedy at law.

COUNT III

Common Law Unfair Competition And Trademark Infringement

60. Banjo realleges and incorporates by reference Paragraphs 1 through 59 as though fully set forth herein.

61. Green Leaf has used in commerce a copy of Banjo's Yellow Handle Design®, or colorable imitations thereof, without the authorization or consent of Banjo, in connection with the sale and offer for sale of goods and services similar to those sold by Banjo, and has engaged in acts of unfair competition and false advertising.

62. Defendant's conduct as aforesaid is calculated to, is likely to, and does in fact confuse and deceive purchasers about the origin of Defendant's goods and services.

63. The foregoing conduct of Defendant constitutes the infringement of Banjo's common law rights in Banjo's Yellow Handle Design® and unfair competition and false advertising in violation of the common law of the State of Indiana.

64. Upon information and belief, Green Leaf's conduct as aforesaid has been deliberately intended to cause confusion and to allow Green Leaf to profit from such confusion, at Banjo's expense.

65. Defendant's conduct as aforesaid has caused great and irreparable injury to Banjo, and unless such conduct is enjoined, it will continue and Banjo will continue to suffer great and irreparable injury.

66. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Banjo respectfully requests that this Court enter judgment as follows:

1. Preliminarily and permanently enjoining Defendant, its agents, representatives, employees, distributors, assigns, and suppliers, and all persons acting in concert or privity with it, from using Banjo's Yellow Handle Design®, or any other names or marks or trade dress that are likely to cause confusion, to cause mistake, or to deceive with respect to Banjo's Yellow Handle Design® or from otherwise infringing Banjo's Yellow Handle Design®, or from falsely advertising its products or competing unfairly with Plaintiff;
2. Awarding Banjo all damages to and costs incurred by it because of Defendant's infringing activities, false advertising and unfair competition, and other conduct complained of herein, together with all profits of Defendant;
3. Declaring that this an exceptional case and awarding Banjo its reasonable attorneys' fees and costs as provided by law;
4. Awarding Banjo pre-judgment and post-judgment interest on the damages caused by Defendant's infringing activities and other conduct complained of herein; and
5. Granting Banjo such other and further relief as the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiff requests a trial by jury of any issues so triable by right.

Dated: September 29, 2023

Respectfully submitted,

/s/Dwight D. Lueck

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