

35 U.S.C. § 289; and, the reasonable attorney's fees and costs incurred in prosecuting this action, including prejudgment interest.

THE PARTIES

2. Plaintiff IBC is a Georgia corporation having a principal place of business at 5705 Commerce Blvd., Alpharetta, Georgia.
3. Ace Hardware Corporation ("ACE") is a Delaware corporation with its principal place of business at 2200 Kensington Court, Oak Brook, Illinois, 60523. ACE is registered to do business in the State of Georgia as Ace Hardware Corporation, with an agent for service at 40 Technology Parkway South # 300, Norcross, Georgia 30002

JURISDICTION AND VENUE

4. This action is for patent infringement under the Patent Laws of the United States of America, 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271(a), (b), (c), and/or (f).
5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
6. The Court has personal jurisdiction over the Defendant. Among other reasons, upon information and belief, Defendant has done business in this judicial district, has continuous and systematic contacts with this district, has committed and continues to commit acts of patent infringement in

this judicial district, and have harmed and continue to harm IBC in this judicial district by, among other things, selling and offering to sell infringing articles covered under the above patents.

7. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400 because, among other reasons, Defendant is subject to personal jurisdiction and have committed acts of patent infringement in this judicial district.

COUNT 1- INFRINGEMENT OF US PATENT D678,174S

8. The allegations of Paragraphs 1 to 7 are incorporated by reference and re-alleged as if fully set forth herein.
9. Upon information and belief, Defendant has offered to sell, sold or imported barbeque grill racks designated as Grill Mark Chicken Leg & Wing Rack, item number 8369969, in the United States and in the Northern District of Georgia. An exemplar of Defendant's offer to sell such racks for delivery in the Northern District of Georgia via an internet website is attached as Exhibit B.
10. Upon further information and belief, without permission or license from IBC, Defendants have offered and are offering to sell, have distributed and are distributing, have sold and are selling, or have imported and are importing barbeque grill racks designated as Grill Mark Chicken Leg &

Wing Rack, item number 8369969, in the United States and within the Northern District of Georgia.

11. Alternatively, upon information and belief, Defendants offer and are offering to sell, have distributed and are distributing, and have sold or are selling the Grill Mark Chicken Leg & Wing Rack, item number 8369969, to customers throughout the United States, including customers in the Northern District of Georgia, through ACE Hardware Stores and on its website www.acehardware.com.
12. On November 11, 2011, US Patent No. D648,174 S (the “174 Patent”) for a “Barbeque Grill Rack” was duly and legally issued. The ‘174 Patent has been at all times since the date of issuance, valid and enforceable. A true and correct copy of the ‘174 Patent is attached as Exhibit A.
13. The ‘174 Patent is directed to a unique ornamental design for a Barbeque Grill Rack.
14. IBC is the owner by assignment of all right, title and interest in and to the ‘174 Patent, including all right to recover for any and all past infringement thereof.
15. The Grill Mark Chicken Leg & Wing Rack, item number 8369969 (the Accused Rack Product) is so similar to the design claimed in the ‘174 Patent that a purchaser familiar with the prior art would be deceived by

- the similarity between the claimed and accused designs, inducing him to purchase the Accused Rack Product supposing it to be the product as shown in the '174 Patent.
16. The Grill Mark Chicken Leg & Wing Rack, item number 8369969 (the Accused Rack Product) incorporates the invention claimed and described in the '174 Patent.
 17. Defendant has sold, sells or exposes for sale the Accused Rack Products as an article of manufacture to which the patented design or colorable imitation has been applied.
 18. By offering to sell, manufacturing or importing, distributing, or selling the Accused Products in the United States, Defendant is directly infringing the claim of the '174 Patent.
 19. Upon information and belief, Defendants will not cease such tortious acts unless enjoined by this Court.
 20. Defendants' acts of direct infringement have and will continue to damage IBC, and IBC has no adequate remedy at law.

COUNT II –INFRINGEMENT OF US PATENT D713,153S

21. The allegations of Paragraphs 1 to 7 are incorporated by reference and re-alleged as if fully set forth herein.
22. Upon information and belief, Defendant has offered to sell, sold or imported scrub brushes designated as Grill Mark 77440A Bristle Less Scrub Brush, item number 8269326, in the United States and in the Northern District of Georgia. An exemplar of Defendant's offer to sell such brushes for delivery in the Northern District of Georgia via an internet website is attached as Exhibit C.
23. Upon further information and belief, without permission or license from IBC, Defendants have offered and are offering to sell, have distributed and are distributing, have sold and are selling, or have imported and are importing scrub brushes designated as Grill Mark 77440A Bristle Less Scrub Brush, item number 8269326, in the United States and within the Northern District of Georgia.
24. Alternatively, upon information and belief, Defendants offer and are offering to sell, have distributed and are distributing, and have sold or are selling scrub brushes designated as Grill Mark 77440A Bristle Less Scrub Brush, item number 8269326, to customers throughout the United States, including customers in the Northern District of Georgia, through ACE Hardware Stores and on its website www.acehardware.com.

25. On September 16, 2014, US Patent No. US D713,153 S (the “153 Patent”) for a “Barbeque Grill Brush” was duly and legally issued. The ‘153 Patent has been at all times since the date of issuance, valid and enforceable. A true and correct copy of the ‘153 Patent is attached as Exhibit D.
26. The ‘153 Patent is directed to a unique ornamental design for a Barbeque Grill Brush.
27. IBC is the owner by assignment of all right, title and interest in and to the ‘153 Patent, including all right to recover for any and all past infringement thereof. Grill Mark 77440A Bristle Less Scrub Brush, item number 8269326 (the Accused Brush Product) is so similar to the design claimed in the ‘153 Patent that a purchaser familiar with the prior art would be deceived by the similarity between the claimed and accused designs, inducing him to purchase the Accused Brush Product supposing it to be the product as shown in the ‘153 Patent.
28. The Grill Mark 77440A Bristle Less Scrub Brush, item number 8269326 (the Accused Brush Product) incorporates the invention claimed and described in the ‘153 Patent.

29. Defendant has sold, sells or exposes for sale the Accused Brush Products as an article of manufacture to which the patented design or colorable imitation has been applied.
30. By offering to sell, exposing for sale, manufacturing, importing, distributing, or selling the Accused Brush Products in the United States, Defendant is directly infringing the claim of the '153 Patent.
31. Upon information and belief, Defendants will not cease such tortious acts unless enjoined by this Court.
32. Defendants' acts of direct infringement have and will continue to damage IBC, and IBC has no adequate remedy at law.

DEMAND FOR JURY TRIAL

Plaintiff IBC hereby demands a trial by jury of all issues so triable.

WHEREFORE, IBC prays that judgment on all claims of the Complaint be entered for IBC and against Defendants;

WHEREFORE, IBC also prays for the following:

(a) that pursuant to 35 U.S.C. § 289, Defendants be ordered to pay to IBC all of Defendants' profits arising from Defendant's infringement of the '174 Patent and the '153 Patent, the exact extent of which cannot be determined by IBC;

(b) that Defendants, their subsidiaries and all affiliated companies, their officers, agents, servants, representatives, employees, attorneys, successors,

assigns, heirs be permanently enjoined from:

(1) using, manufacturing, importing, having manufactured by a third party, selling, or offering to sell the Accused Products or any other product which infringes the '174 or the '153 Patent.

(2) actively inducing any other person to infringe the Asserted Patents;

(3) performing any further acts of infringement of any of the Asserted Patents;

(c) that the Court find this case to be exceptional under 35 U.S.C. § 285 and award IBC its reasonable attorney's fees for having to bring this action to preserve its rights in the Asserted Patent and enjoin Defendants' willful infringement of the Asserted Patent;

(d) that IBC be awarded its costs associated with bringing this action to preserve its rights in the Asserted Patent;

(e) that IBC be awarded prejudgment interest; and

(f) that IBC be granted such other and further relief as this Court may deem just and proper.

Dated: October 14, 2016.

Respectfully submitted,

/s/Robert J Veal

Robert J. Veal
Georgia Bar No. 141695

rjveal@veal-ip.com

Veal Intellectual Property, LLC

11555 Medlock Bridge Road

Suite 100

Johns Creek, GA 30097

Tel: (678) 653-4758

Fax: (678) 597-1101

CERTIFICATE OF COUNSEL

Pursuant to Local Rule 5.1, counsel for Plaintiff certifies that the font and point size, Times New Roman 14 point, used in this document, comply with Local Rule 5.1.

Veal Intellectual Property, LLC

/s/ Robert J. Veal

Robert J. Veal

Veal Intellectual Property, LLC
11555 Medlock Bridge Road
Suite 100
Johns Creek, GA 30097
Tel: (678) 653-4758
Fax: (678) 597-1101
rjveal@veal-ip.com