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U.S. DISTRICT COURT E.D.N.Y.

★ APR 06 2017 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LIFETIME BRANDS, INC.,

Plaintiff,

-against-

MERKAPA OUTDOOR

Defendants.

Docket No. LONG ISLAND OFFICE

CV 17 2002

COMPLAINT

JURY TRIAL DEMANDED

**BIANCO, J.
LOCKE, M. J.**

Plaintiff, LIFETIME BRANDS, INC. (hereinafter "Plaintiff" and/or "Lifetime"), by its attorneys, TUTUNJIAN & BITETTO, P.C., as and for its complaint against Defendant MERKAPA OUTDOOR (hereinafter "Defendant") alleges as follows:

NATURE OF THE ACTION

1. This is an action for Patent Infringement under 35 U.S.C. §271 and §289.
2. As alleged in detail below, Defendant has engaged and continues to engage in a conscious, systematic, and willful pattern of patent infringement, to the damage of Plaintiff.

JURISDICTION AND VENUE

3. This court has jurisdiction over the patent infringement claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).
4. Plaintiff's claims arising under New York State statutory and common law relate directly to Plaintiff's substantial claims under federal patent law and arise from the same nucleus of facts as Plaintiff's federal patent claims.

5. The court has jurisdiction as to Plaintiff's New York State statutory and common law claims under 28 U.S.C. §§ 1332 and 1338(b), as well as supplemental jurisdiction under 28 U.S.C. § 1367.

6. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b), as the claims arose in this District and due to the fact that Defendants are doing business in this district at least through online sales, thereby placing infringing products into the stream of commerce through established distribution channels with the expectation that such products will be purchased by residents of this District. Defendant has purposefully availed itself of this forum by, among other things, making, shipping, using, offering to sell and selling, and causing others to use, infringing products in the State of New York, including in this District, and, upon information and belief, deriving revenue from such activities.

THE PARTIES

7. Plaintiff is a New York corporation with a principal place of business at 1000 Stewart Ave., Garden City, NY 11530.

8. Defendant MERKAPA OUTDOOR is, upon information and belief, a name used by a Chinese national selling products in the United States through a storefront on Amazon.com. MERKAPA OUTDOOR is operated by Lian Su, Room 504, Unit 2, Building 4, South Area Xinxu Village, Luohu, Shenzhen, Guangdong, CN 518011.

PLAINTIFF'S PATENT AND BUSINESS

9. Plaintiff owns U.S. Patent No. D533,752 (hereinafter "the '752 patent"). A copy of the '752 patent is attached as Exhibit A. The '752 patent is entitled "Lunch Purse with Zip," was

filed on October 27, 2005, and issued on December 19, 2006. Built NY, Inc., the original assignee of the '752 patent, assigned the '752 patent to Plaintiff. The assignment of the '752 patent was registered with the United States Patent and Trademark Office ("USPTO") on reel/frame 032390/0447 on March 3, 2014. A copy of the assignment of the '752 patent registered with the USPTO is attached as Exhibit B.

10. Plaintiff owns U.S. Patent No. D534,772 (hereinafter "the '772 patent"). A copy of the '772 patent is attached as Exhibit C. The '772 patent is entitled "Lunch Purse," was filed on October 27, 2005, and issued on January 9, 2007. Built NY, Inc., the original assignee of the '772 patent, assigned the '772 patent to Plaintiff. The assignment of the '772 patent was registered with the United States Patent and Trademark Office ("USPTO") on reel/frame 032390/0447 on March 3, 2014. A copy of the assignment of the '772 patent registered with the USPTO is attached as Exhibit B.

11. Plaintiff owns U.S. Patent No. D535,859 (hereinafter "the '859 patent"). A copy of the '859 patent is attached as Exhibit D. The '859 patent is entitled "Lunch Purse," was filed on October 27, 2005, and issued on January 30, 2007. Built NY, Inc., the original assignee of the '859 patent, assigned the '859 patent to Plaintiff. The assignment of the '859 patent was registered with the United States Patent and Trademark Office ("USPTO") on reel/frame 032390/0447 on March 3, 2014. A copy of the assignment of the '859 patent registered with the USPTO is attached as Exhibit B.

12. Plaintiff owns all right, title, and interest in and to the '752 patent, the '772 patent, and the '859 patent. Plaintiff manufactures and sells products in accordance with the '752, the '772 patent, and the '859 patent.

13. One such product is BUILT NY GOURMET TO GO LUNCH TOTE, which Plaintiff and its predecessor in interest have manufactured and sold since at least February 6, 2006. Another such product is the BUILT GOURMET GETAWAY LUNCH TOTE. The '752 patent, the '772 patent, and the '859 patent cover the ornamental features of Plaintiff's products. In particular, the '752 patent protects the design of the BUILT NY GOURMET TO GO LUNCH TOTE.

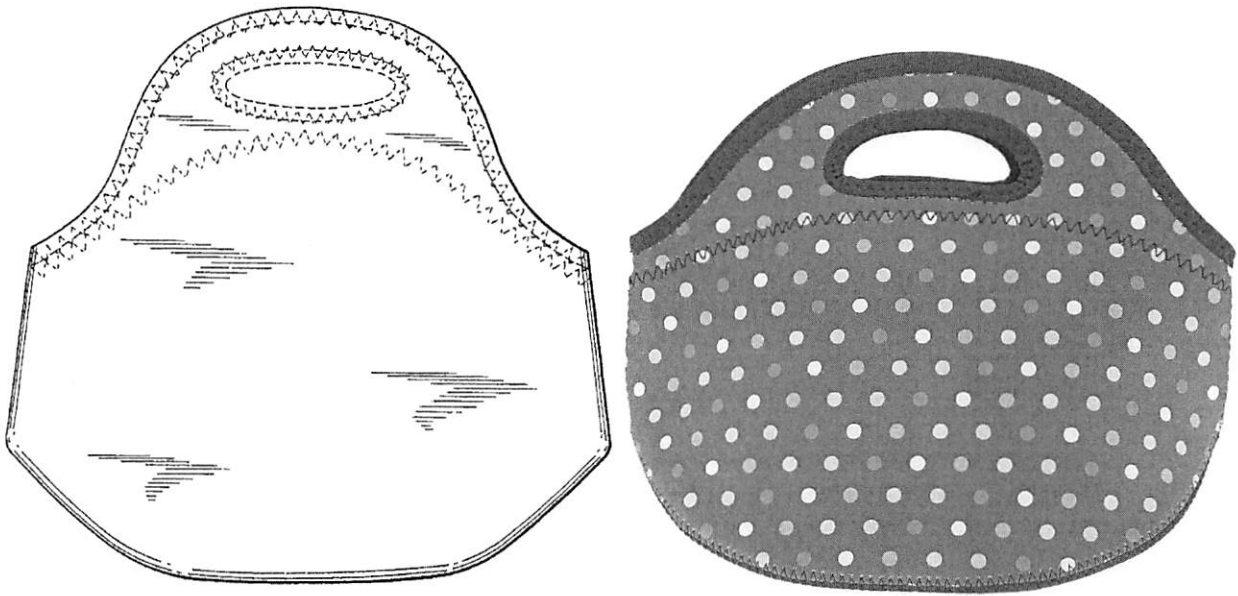
14. Plaintiff actively develops new products and pursues intellectual property protection for those products to stay competitive in the face of counterfeits and knock-offs.

DEFENDANT'S INFRINGING ACTS

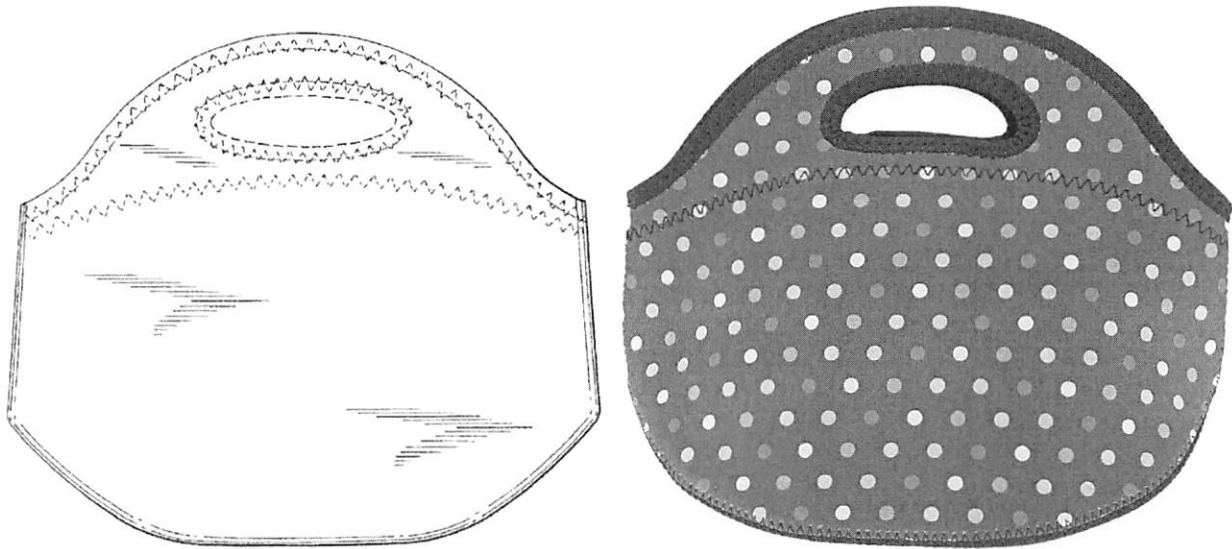
15. Defendant has been offering to sell and selling products that infringe the '752 patent, the '772 patent, and the '859 patent, including sales offered and made on Amazon.com, since at least September 21, 2015.

16. In particular, Defendant sells an item identified as, "Merkapa Cute Design Waterproof Neoprene Lunch Tote Cooler Bag" (hereinafter "MERKAPA tote"), with at least four graphical designs printed on the bag. The MERKAPA tote is listed for sale at <https://www.amazon.com/Merkapa-Design-Waterproof-Neoprene-Cooler/dp/B015MQRAFY>. A copy of the Amazon webpage where Defendant offers for sale its infringing MERKAPA tote is attached as Exhibit E.

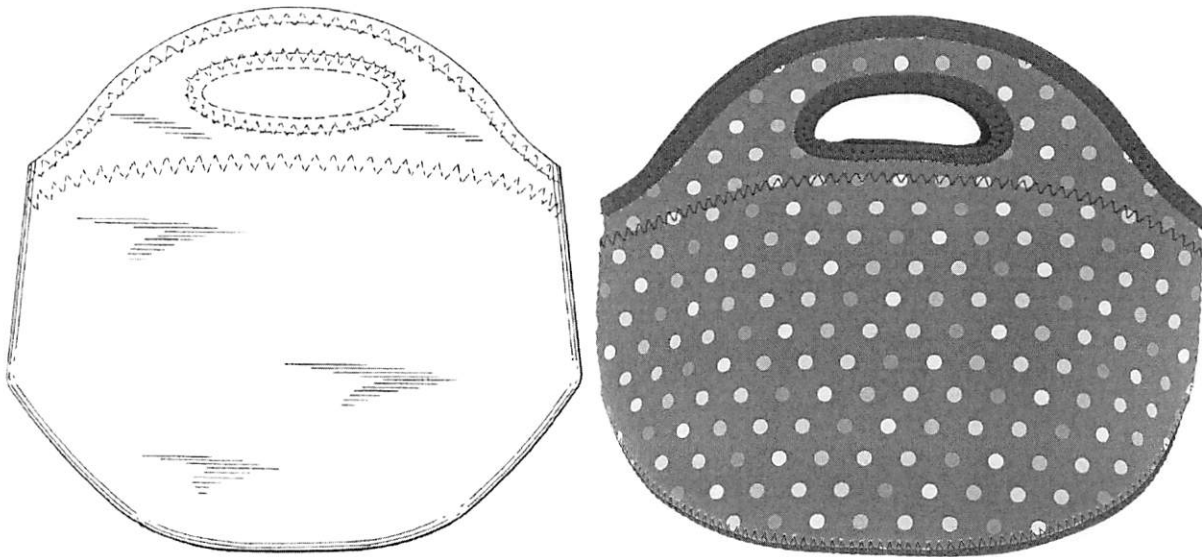
17. An ordinary observer would think that the MERKAPA tote is substantially the same as at least one of the design of the '752 patent, the '772 patent, and the '859 patent. Indeed, as the side-by-side comparison shown below reveals, Defendant has misappropriated and infringed Plaintiff's patented lunch purse design in the accused MERKAPA tote depicted below. A front view of the '752 patent is shown on the left, a corresponding view of the infringing MERKAPA tote on the right.



18. A similar front view of the '772 patent is shown on the left, with a corresponding view of the infringing MERKAPA tote on the right:



19. A similar front view of the '859 patent is shown on the left, with a corresponding view of the infringing MERKAPA tote on the right:



20. The MERKAPA tote infringes the design of one or more of the ‘752 patent, the ‘772 patent, and the ‘859 patent.

21. The MERKAPA tote Amazon.com page attached as Exhibit E identifies the “Date first available at Amazon.com” as September 21, 2015.

22. To date, 37 customer reviews have been left on the MERKAPA tote Amazon.com page, 22 of which are indicated as being “verified purchases.”

23. Upon information and belief, Defendant has been offering for sale and selling its infringing MERKAPA tote from September 21, 2015 to the present day.

24. Defendant had constructive notice of Plaintiff’s ‘752 patent through the marking of products sold with the patented design.

25. Defendant’s ongoing sales of the MERKAPA tote therefore constitute willful infringement.

COUNT I:
INFRINGEMENT OF U.S. PATENT NO. D533,752

26. Paragraphs 1 through 25 are incorporated by reference herein.

27. Lifetime is the owner of all right, title, and interest in the '752 patent, entitled, "LUNCH PURSE WITH ZIP."

28. Defendant has infringed and continues to infringe the '752 patent by, among other things, making, using, offering to sell, and selling in the United States, and/or importing into the United States, products that are covered by and embody the '752 patent, including the MERKAPA tote identified in this Complaint.

COUNT II:
INFRINGEMENT OF U.S. PATENT NO. D534,772

29. Paragraphs 1 through 28 are incorporated by reference herein.

30. Lifetime is the owner of all right, title, and interest in the '772 patent, entitled, "LUNCH PURSE."

31. Defendant has infringed and continues to infringe the '772 patent by, among other things, making, using, offering to sell, and selling in the United States, and/or importing into the United States, products that are covered by and embody the '772 patent, including the MERKAPA tote identified in this Complaint.

COUNT III:
INFRINGEMENT OF U.S. PATENT NO. D535,859

32. Paragraphs 1 through 31 are incorporated by reference herein.

33. Lifetime is the owner of all right, title, and interest in the '859 patent, entitled, "LUNCH PURSE."

34. Defendant has infringed and continues to infringe the '859 patent by, among other things, making, using, offering to sell, and selling in the United States, and/or importing into the United

States, products that are covered by and embody the '859 patent, including the MERKAPA tote identified in this Complaint.

COUNT IV:
COMMON LAW UNFAIR COMPETITION

35. Paragraphs 1 through 34 are incorporated by reference herein.

36. Plaintiff and its predecessors in interest have sold products under the protection of the '752 patent, the '772 patent, and the '859 patent for nearly ten years.

37. Plaintiff complied with the marking statute, 35 U.S.C. § 287, with respect to the BUILT NY GOURMET TO GO LUNCH TOTE, marking that product as being protected by the '752 patent.

38. Defendant therefore had implied notice of its infringement.

39. As such, Defendant's offer for sale of, and actual sale of, infringing products has been conducted in bad faith.

40. "[T]he essence of unfair competition under New York common law is the bad faith misappropriation of the labors and expenditures of another." *Jeffrey Milstein, Inc. v. Greger, Lawlor, Roth, Inc.*, 58 F.3d 27, 34 (2d Cir. 1995) (internal citations and quotations omitted).

41. The above-described acts constitute unfair competition under the common law of the State of New York.

42. As a result of Defendants' unfair competition, Plaintiff has been damaged in an amount to be ascertained at trial and, unless Defendants' conduct is preliminarily and permanently enjoined, Plaintiff will continue to suffer irreparable harm.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For a judgment declaring that Defendant has infringed U.S. Patent No. D533,752, U.S. Patent No. D534,772, and U.S. Patent No. D535,859;
2. For a preliminary and permanent order enjoining Defendant and its officers, directors, agents, employees, affiliates and all other acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns from further acts of infringement of the '752 patent, the '772 patent, and the '859 patent;
3. For a judgment awarding Plaintiff damages adequate to compensate for Defendant's infringement of the '752 patent, the '772 patent, and the '859 patent, together with interest and costs, and in no event less than a reasonable royalty, under 35 U.S.C. § 284, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;
4. For a judgment awarding Plaintiff all of Defendant's profits deriving from the sale of products that infringe the '752 patent, the '772 patent, and the '859 patent;
5. For a judgment declaring that Defendant's infringement of Plaintiff's patent rights has been willful and deliberate;
6. For a judgment awarding Plaintiff treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendant's willful and deliberate infringement of Plaintiff's patent rights;
7. For a judgment declaring that this case is exceptional and awarding Plaintiff its expenses, costs, and attorney fees in accordance with 35 U.S.C. § 284 and § 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

8. An award of damages to Plaintiff in an amount determined at trial for Defendant's unfair competition;
9. That Plaintiff have such other and further relief as the Court may deem just and proper.

This the 30th day of March, 2017.

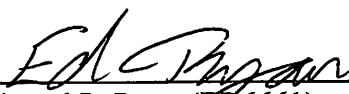

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EXHIBIT A



US00D533752S

(12) **United States Design Patent** (10) Patent No.: **US D533,752 S**
Lown et al. (45) Date of Patent: **** Dec. 19, 2006**

(54) **LUNCH PURSE WITH ZIP**

(75) Inventors: **Aaron Lown, Tuxedo, NY (US); John R. Swartz, Ridgewood, NJ (US)**

(73) Assignee: **Built NY, Inc., New York, NY (US)**

(**) Term: **14 Years**

(21) Appl. No.: **29/241,430**

(22) Filed: **Oct. 27, 2005**

(51) LOC (8) Cl. **03-01**

(52) U.S. Cl. **D7/709**

(58) Field of Classification Search **D7/605-608, D7/709, 710; D3/202, 229, 230, 315, 316; D9/444, 751; 62/457.1-457.9, 529, 530; 206/223, 541, 545, 546, 549, 139, 428, 433; 220/737, 739, 903; 383/110-113**
 See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

D142,442 S * 9/1945 Rath D3/246
 D292,879 S * 11/1987 Smith D9/426

5,237,838 A * 8/1993 Merritt-Munson 62/457.2
 D404,620 S * 1/1999 Rausch D7/709
 D416,676 S * 11/1999 Fitzgerald D3/229
 6,089,038 A * 7/2000 Tattam 62/457.2
 6,422,032 B1 * 7/2002 Greene 62/457.2
 D518,631 S * 4/2006 Lown et al. D3/202

* cited by examiner

Primary Examiner—Terry A. Wallace

(74) Attorney, Agent, or Firm—Lackebach Siegel LLP

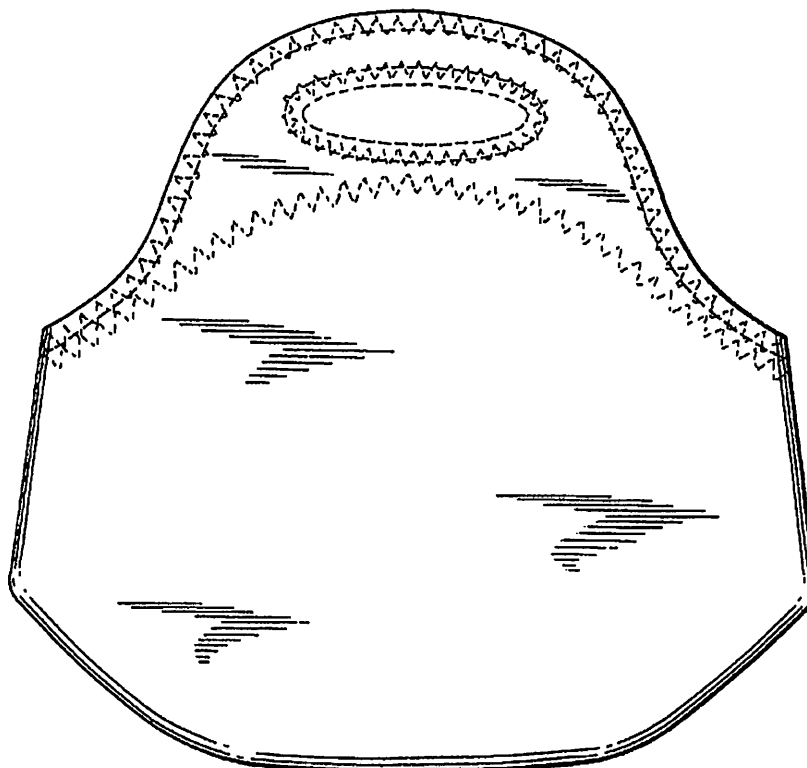
(57) **CLAIM**

The ornamental design for a lunch purse with zip, as shown and described.

DESCRIPTION

FIG. 1 is a front elevational view of a lunch purse with zip of the present invention;
 FIG. 2 is a top plan view thereof;
 FIG. 3 is a side elevational view thereof; and,
 FIG. 4 is a bottom plan view thereof.
 The broken line showing of stitching and a handle opening is for illustrative purposes only and form no part of the claimed design.

1 Claim, 2 Drawing Sheets



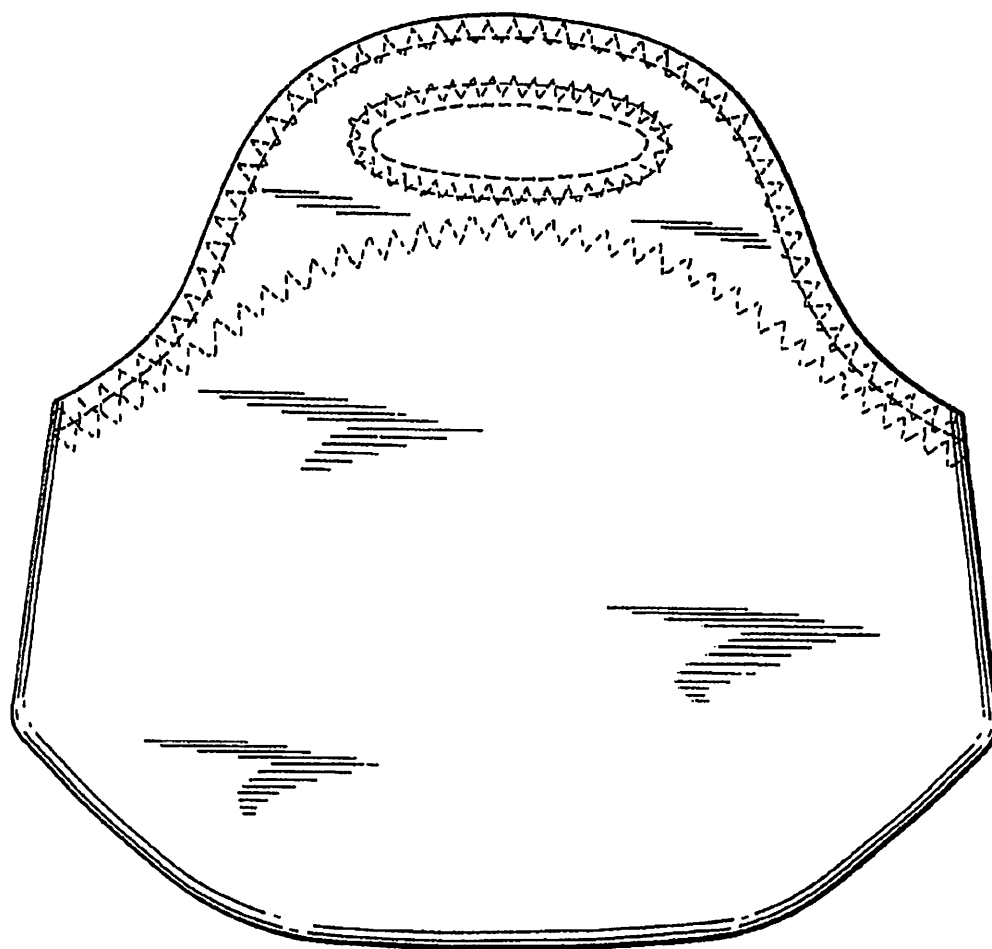
U.S. Patent

Dec. 19, 2006

Sheet 1 of 2

US D533,752 S

FIG. 1



U.S. Patent

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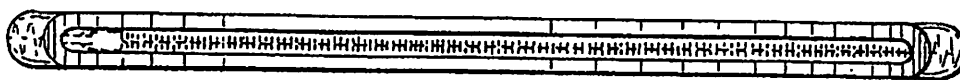


FIG. 2



FIG. 3

FIG. 4

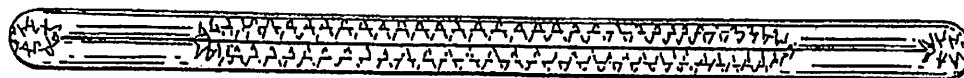


EXHIBIT B

6/21/2016

Assignment Search: D533752



Assignment Details

32390-447: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Date Recorded
Mar 5, 2014

Reel/Frame
32390-447

Pages
65

Assignor

BUILT NY, INC. Mar 3, 2014

Assignee

LIFETIME BRANDS, INC.
1000 STEWART AVENUE
GARDEN CITY, NEW YORK UNITED STATES OF AMERICA 11530

Correspondent

TUTUNJIAN & BITETTO, P.C.
425 BROADHOLLOW ROAD
SUITE 302
MELVILLE, NY 11747

Properties (97 total)

6/21/2016

Assignment Search: D533752

Title	Application	Publication	Patent	International Registration Number	PCT
MITT Inventors: AARON LOWN, John R. Swartz	29441490 Jan 6, 2013		D714496 Sep 30, 2014		
PICNIC ORGANIZER PACKAGE BAGGING SYSTEM Inventors: AARON LOWN, John Roscoe Swartz	14099097 Dec 6, 2013	20140185963 Jul 3, 2014	9060581 Jun 23, 2015		
TOTES FOR BOTTLES Inventors: Aaron Lown, John Roscoe Swartz	10816676 Apr 2, 2004	20050150800 Jul 14, 2005	7219814 May 22, 2007		
TOTES FOR BOTTLES Inventors: Aaron Lown, John R. Swartz	11676587 Feb 20, 2007	20070141876 Jun 21, 2007	7467729 Dec 23, 2008		
BOTTLE COVER Inventors: Aaron Lown, John Roscoe Swartz	29304549 Mar 4, 2008		D584146 Jan 6, 2009		
CAMERA CASE Inventors: Aaron Lown, John Roscoe Swartz	29303507 Feb 11, 2008		D599546 Sep 8, 2009		
LUNCH TOTE Inventors: Aaron Lown, John Roscoe Swartz	29304841 Mar 7, 2008		D586631 Feb 17, 2009		
LUNCH TOTE Inventors: Aaron Lown	29304839 Mar 7, 2008		D588422 Mar 17, 2009		

6/21/2016

Assignment Search: D533752

Inventors: Aaron Lown,
John Roscoe Swartz

BOTTLE TOTE	29304836	D587004
Inventors: Aaron Lown, John Roscoe Swartz	Mar 7, 2008	Feb 24, 2009

MEMORY STICK CASE	29299739	D598643
Inventors: Aaron Lown, John Roscoe Swartz	Jan 3, 2008	Aug 25, 2009

SHOPPING TOTE	29299743	D586555
Inventors: Aaron Lown, John Roscoe Swartz	Jan 3, 2008	Feb 17, 2009

TRAVEL ORGANIZER	29337312	D606310
Inventors: Aaron Lown, John Roscoe Swartz, Sally Rumble	May 19, 2009	Dec 22, 2009

PHONE SLEEVE	29337307	D610809
Inventors: Aaron Lown, John Roscoe Swartz, Sally Rumble	May 19, 2009	Mar 2, 2010

DIAPER BAG	29319809	D591509
Inventors: Aaron Lown, John Roscoe Swartz	Jun 16, 2008	May 5, 2009

SHOULDER BAG	29337306	D608090
Inventors: Aaron Lown, John Roscoe Swartz, Sally Rumble	May 19, 2009	Jan 19, 2010

LUNCH BAG	29337311	D609065
Inventors: Aaron Lown, John Roscoe Swartz, Sally Rumble	May 19, 2009	Feb 2, 2010

6/21/2016

Assignment Search: D533752

LUNCH BAG	29277805	D562646
Inventors: Aaron Lown, John Roscoe Swartz	Mar 9, 2007	Feb 26, 2008

CARRYING CLIP	29276688	D561574
Inventors: Aaron Lown, John Roscoe Swartz	Feb 1, 2007	Feb 12, 2008

TOTE	29276694	D570109
Inventors: Aaron Lown, John Roscoe Swartz	Feb 1, 2007	Jun 3, 2008

POCKET DEVICE WITH OVOID SHAPE	29249149	D564211
Inventors: Aaron Lown, John R. Swartz	Sep 22, 2006	Mar 18, 2008

TOTE FOR BOTTLES	29248358	D564215
Inventors: John R. SWARTZ, Aaron Lown	Aug 11, 2006	Mar 18, 2008

DRIP COLLAR	29247441	D563784
Inventors: John R. SWARTZ, Aaron Lown	Jun 19, 2006	Mar 11, 2008

WEBBED SINGLE BOTTLE TOTE BAG	29327273	D597299
Inventors: Aaron Lown, John Roscoe Swartz	Nov 3, 2008	Aug 4, 2009

LUNCH BAG	29337309	D610885
Inventors: Aaron Lown, John Roscoe Swartz, Sally Rumble	May 19, 2009	Mar 2, 2010

LAPTOP SIFFER	29337305	D606309
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6/21/2016

Assignment Search: D533752

INVENTORS: Aaron Lown, John Roscoe Swartz, Sally Rumble	29331000 May 19, 2009	D533752 Dec 22, 2009
CAMERA BAG Inventors: Aaron Lown, John Roscoe Swartz, Sally Rumble	29331741 Jan 30, 2009	D612151 Mar 23, 2010
LAPTOP SLEEVE Inventors: Aaron Lown, John Roscoe Swartz	29331340 Jan 23, 2009	D614402 Apr 27, 2010
LAPTOP SLEEVE Inventors: Aaron Lown, John Roscoe Swartz	29331337 Jan 23, 2009	D606312 Dec 22, 2009
LAPTOP SLEEVE Inventors: Aaron Lown, John Roscoe Swartz	29331336 Jan 23, 2009	D606311 Dec 22, 2009
WEBBED DOUBLE BOTTLE TOTE BAG Inventors: Aaron Lown, John Roscoe Swartz	29326774 Oct 24, 2008	D597298 Aug 4, 2009
DOUBLE BOTTLE TOTE BAG Inventors: Aaron Lown, John Roscoe Swartz	29326772 Oct 24, 2008	D594648 Jun 23, 2009
CAN COVER Inventors: Aaron Lown, John Roscoe Swartz	29304550 Mar 4, 2008	D584147 Jan 6, 2009

29327274**D604042****WEBBED SINGLE**

Nov 3, 2008

Nov 17

6/21/2016

Assignment Search: D533752

BOTTLE TOTE BAGInventors: Aaron Lown,
John Roscoe Swartz

2009

CAMERA CASEInventors: Aaron Lown,
John Roscoe Swartz

29317555

May 1, 2008

D598650

Aug 25,
2009**BOTTLE TOTE BAG**Inventors: Aaron Lown,
John Roscoe Swartz

29326770

Oct 24,
2008

D596840

Jul 28,
2009**CAMERA CASE**Inventors: Aaron Lown,
John Roscoe Swartz

29325977

Oct 9, 2008

D597308

Aug 4,
2009**OVEN MITT**Inventors: Aaron Lown,
John Roscoe Swartz

29325979

Oct 9, 2008

D594158

Jun 9,
2009**SOFT CAMERA CASE**Inventors: Aaron Lown,
John Roscoe Swartz

29325976

Oct 9, 2008

D599547

Sep 8,
2009**ZIPPERED CAMERA
CASE**Inventors: Aaron Lown,
John Roscoe Swartz

29325774

Oct 6, 2008

D598651

Aug 25,
2009**LUNCH BAG**Inventors: Aaron Lown,
John Roscoe Swartz

29325772

Oct 6, 2008

D592912

May 26,
2009**CAMERA CASE**Inventors: Aaron Lown,
John Roscoe Swartz

29325771

Oct 6, 2008

D621154

Aug 10,
2010

6/21/2016

Assignment Search: D533752

HARDBACK CAMERA	29319814	D588356
CASE	Jun 16,	Mar 17,
Inventors: Aaron Lown,	2008	2009
John Roscoe Swartz		

INFANT CHANGING	29319812	D593786
PAD	Jun 16,	Jun 9,
Inventors: Aaron Lown,	2008	2009
John Roscoe Swartz		

LUNCH PURSE	29241428	D534772
Inventors: Aaron Lown,	Oct 27,	Jan 9,
John R. Swartz	2005	2007

LUNCH PURSE	29241427	D535859
Inventors: Aaron Lown,	Oct 27,	Jan 30,
John R. Swartz	2005	2007

CONTAINER DEVICE	29242723	D531458
Inventors: John R.	Nov 14,	Nov 7,
Swartz, Aaron Lown	2005	2006

FOUR-PACK	29242720	D549445
CARRYING DEVICE	Nov 14,	Aug 28,
Inventors: John R.	2005	2007
Swartz, Aaron Lown		

SNAP TOP TOTE	29230683	D517797
Inventors: Aaron Lown,	May 25,	Mar 28,
John R. Swartz	2005	2006

SNAP TOP TWO-	29230704	D518631
BOTTLE TOTE	May 25,	Apr 11,
Inventors: Aaron Lown,	2005	2006
John R. Swartz		

	29230685	D517798
SNAP TOP BOTTLE	May 25	Mar 28

6/21/2016

Assignment Search: D533752

TOTE Inventors: Aaron Lown, John R. Swartz	May 20, 2005	May 20, 2006
LUNCH PURSE WITH ZIP Inventors: Aaron Lown, John R. Swartz	29241430 Oct 27, 2005	D533752 Dec 19, 2006
BABY BIB Inventors: Aaron Lown, John R. Swartz	29230692 May 25, 2005	D525766 Aug 1, 2006
BOTTLE TOTE DESIGN Inventors: John R. Swartz, Aaron Lown	29244170 Dec 6, 2005	D549446 Aug 28, 2007
BOTTLE TOTE WITH POCKET Inventors: Aaron Lown, John R. Swartz	29240215 Oct 11, 2005	D525776 Aug 1, 2006
BOTTLE TOTE WITH POCKET Inventors: Aaron Lown, John R. Swartz	29231821 Jun 10, 2005	D520229 May 9, 2006
SNAP TOP TOTE APPARATUS Inventors: Aaron Lown, John Roscoe Swartz	29220939 Jan 8, 2005	D514803 Feb 14, 2006
SIX PACK TOTE APPARATUS Inventors: Aaron Lown, John Roscoe Swartz	29220937 Jan 8, 2005	D529709 Oct 10, 2006

6/21/2016

Assignment Search: D533752

BABY BIB Inventors: Aaron Lown, John R. Swartz	29230681 May 25, 2005	D526765 Aug 22, 2006
LAPTOP BAG Inventors: Aaron Lown, John Roscoe Swartz, Sally Rumble	29343617 Sep 16, 2009	D622505 Aug 31, 2010
LAPTOP BACK PACK Inventors: Aaron Lown, John Roscoe Swartz	29303505 Feb 11, 2008	D603158 Nov 3, 2009
PADDED LAPTOP SLEEVE Inventors: Aaron Lown, John Roscoe Swartz	29325975 Oct 9, 2008	D598195 Aug 18, 2009
LAPTOP SLEEVE Inventors: Aaron Lown, John Roscoe Swartz	29325767 Oct 6, 2008	D594659 Jun 23, 2009
ZIPPERED LAPTOP CASE Inventors: Aaron Lown, John Roscoe Swartz	29321516 Jul 17, 2008	D591508 May 5, 2009
LAPTOP TOTE Inventors: Aaron Lown, John Roscoe Swartz	29299744 Jan 3, 2008	D586556 Feb 17, 2009
LUNCH PURSE WITH SIDE POCKETS Inventors: Aaron Lown, John R. Swartz	29241400 Oct 27, 2005	D533415 Dec 12, 2006

COVER**29258559****D569096**

6/21/2016

Assignment Search: D533752

Inventors: Aaron Lown,
John R. Swartz

Apr 24,
2006

May 20,
2008

CARRYING POCKET**29246604****D570600**

Inventors: Aaron Lown,
John R. Swartz

Apr 26,
2006

Jun 10,
2008

**TWO BOTTLE TOTE
APPARATUS****29220930****D529278**

Inventors: Aaron Lown,
John Roscoe Swartz

Jan 8, 2005

Oct 3,
2006

**ONE BOTTLE TOTE
APPARATUS****29220929****D513363**

Inventors: Aaron Lown,
John Roscoe Swartz

Jan 8, 2005

Jan 3,
2006

LUNCH-BAG**29205914****D514399**

Inventors: John Roscoe
Swartz, Aaron Lown

May 21,
2004

Feb 7,
2006

RACK**29252860****D588841**

Inventors: Aaron Lown,
John R. Swartz

Jan 26,
2006

Mar 24,
2009

ICE BUCKET**29276429****D560977**

Inventors: Aaron Lown,
John Roscoe Swartz

Jan 25,
2007

Feb 5,
2008

BOTTLE HOLDER**29381527****D650985**

Inventors: AARON
LOWN, John R. Swartz

Dec 20,
2010

Dec 27,
2011

**E-PAD MESSENGER
BAG****29381392****D652209**

Dec 17,
2010

Jan 17,
2012

Inventors: AARON

6/21/2016

Assignment Search: D533752

INVENTORS: AARON LOWN, JOHN ROSCOE SWARTZ

LOWN, John R. Swartz

LAPTOP SLEEVE	29338144	D611253
Inventors: Aaron Lown, John Roscoe Swartz	Jun 5, 2009	Mar 9, 2010

FRAME FOLIO SLEEVE	29381880	D652214
Inventors: AARON LOWN, JOHN R. SWARTZ	Dec 23, 2010	Jan 17, 2012

RATCHETED CORK SCREW	29276854	D571629
Inventors: Aaron Lown, John Roscoe Swartz	Feb 7, 2007	Jun 24, 2008

ORIGAMI WINE TOTE	29400831	D676242
Inventors: Aaron Lown, John Roscoe Swartz	Sep 1, 2011	Feb 19, 2013

TOTE	29276690	D570108
Inventors: Aaron Lown, John Roscoe Swartz	Feb 1, 2007	Jun 3, 2008

POCKET DEVICE WITH KNOB MEMBER	29249151	D564212
Inventors: AARON LOWN, John R. Swartz	Sep 22, 2006	Mar 18, 2008

POCKET DEVICE WITH STRAP AND KNOB	29249148	D571099
Inventors: Aaron Lown, John R. Swartz	Sep 22, 2006	Jun 17, 2008

LUNCH BAG	29277803	D584930
	Mar 9, 2007	Jan 20, 2009

Inventors: Aaron Lown

6/21/2016

Assignment Search: D533752

Inventors: Aaron Lown,
John Roscoe Swartz

LAPTOP SLEEVE	29343626	D625519
Inventors: Aaron Lown,	Sep 16,	Oct 19,
John Roscoe Swartz,	2009	2010
Sally Rumble		

CAMERA CASE	29350165	D616199
Inventors: John R.	Nov 12,	May 25,
Swartz, Aaron Lown,	2009	2010
Sally Rumble		

BOTTLE TOTE	29276426	D555352
Inventors: Aaron Lown,	Jan 25,	Nov 20,
John Roscoe Swartz	2007	2007

PORTFOLIO	29299742	D584048
Inventors: Aaron Lown,	Jan 3, 2008	Jan 6,
John Roscoe Swartz		2009

LAPTOP SLEEVE	29299738	D584510
Inventors: Aaron Lown,	Jan 3, 2008	Jan 13,
John Roscoe Swartz		2009

WASTE PAPER BASKET	29277727	D566363
	Mar 8, 2007	Apr 8,
Inventors: Aaron Lown,		2008
John Roscoe Swartz		

LUNCH BAG	29277776	D572093
Inventors: Aaron Lown,	Mar 9, 2007	Jul 1,
John Roscoe Swartz		2008

LUNCH BAG	29277800	D584929
Inventors: Aaron Lown,	Mar 9, 2007	Jan 20,
John Roscoe Swartz		2009

6/21/2016

Assignment Search: D533752

BOYS LUNCH BAG Inventors: Aaron Lown, John R. Swartz, Sally Rumble	29350160 Nov 12, 2009	D626798 Nov 9, 2010
GIRLS LUNCH BAG Inventors: John R. Swartz, Aaron Lown, Sally Rumble	29350159 Nov 12, 2009	D619861 Jul 20, 2010
SHOULDER LUNCH TOTE Inventors: John R. Swartz, Aaron Lown, Sally Rumble	29350163 Nov 12, 2009	D627613 Nov 23, 2010
PROTECTIVE COVER FOR ELECTRONIC DEVICE Inventors: AARON LOWN, John R. Swartz	29376396 Oct 6, 2010	D643626 Aug 23, 2011
PROTECTIVE COVER Inventors: Aaron Lown, John R. Swartz	29369386 Sep 8, 2010	D656135 Mar 20, 2012
SLEEVE Inventors: Aaron Lown, John R. Swartz	29366304 Jul 22, 2010	D657631 Apr 17, 2012
OVEN MITT Inventors: John R. Swartz, Aaron Lown, Sally Rumble	29339774 Jul 7, 2009	D602646 Oct 20, 2009

EXHIBIT C



US00D534772S

(12) **United States Design Patent**
Lown et al.

(10) Patent No.: **US D534,772 S**
 (45) Date of Patent: **** Jan. 9, 2007**

(54) **LUNCH PURSE**

(75) Inventors: **Aaron Lown, Tuxedo, NY (US); John R. Swartz, Ridgewood, NJ (US)**

(73) Assignee: **Built NY, Inc., New York, NY (US)**

(**) Term: **14 Years**

(21) Appl. No.: **29/241,428**

(22) Filed: **Oct. 27, 2005**

(51) LOC (8) Cl. **03-01**

(52) U.S. Cl. **D7/709**

(58) Field of Classification Search **D7/605-608, D7/709, 710; D3/202, 229, 230, 315, 316; D9/444, 751; 62/457.1-457.9, 529, 530; 206/223, 541, 545, 546, 549, 139, 428, 433; 220/737, 739, 903; 383/110-113**
 See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

D142,442 S * 9/1945 Rath D3/246
 D292,879 S * 11/1987 Smith D9/426
 5,237,838 A * 8/1993 Merritt-Munson 62/457.2

D404,620 S * 1/1999 Rausch D7/709
 D416,676 S * 11/1999 Fitzgerald D3/229
 6,089,038 A * 7/2000 Tattam 62/457.2
 6,422,032 B1 * 7/2002 Greene 62/457.2
 D518,631 S * 4/2006 Lown et al. D3/202

* cited by examiner

Primary Examiner—Terry A. Wallace

(74) Attorney, Agent, or Firm—Andrew F. Young; Lackenbach Siegel, LLP

(57) **CLAIM**

The ornamental design for a lunch purse, as shown and described.

DESCRIPTION

FIG. 1 is a front elevational view of a lunch purse design of the present invention;
 FIG. 2 is a top plan view thereof;
 FIG. 3 is a side elevational view of the present invention; and,
 FIG. 4 is a bottom plan view thereof.
 The broken line showing of stitching and a handle opening is for illustrative purposes only and form no part of the claimed design.

1 Claim, 2 Drawing Sheets

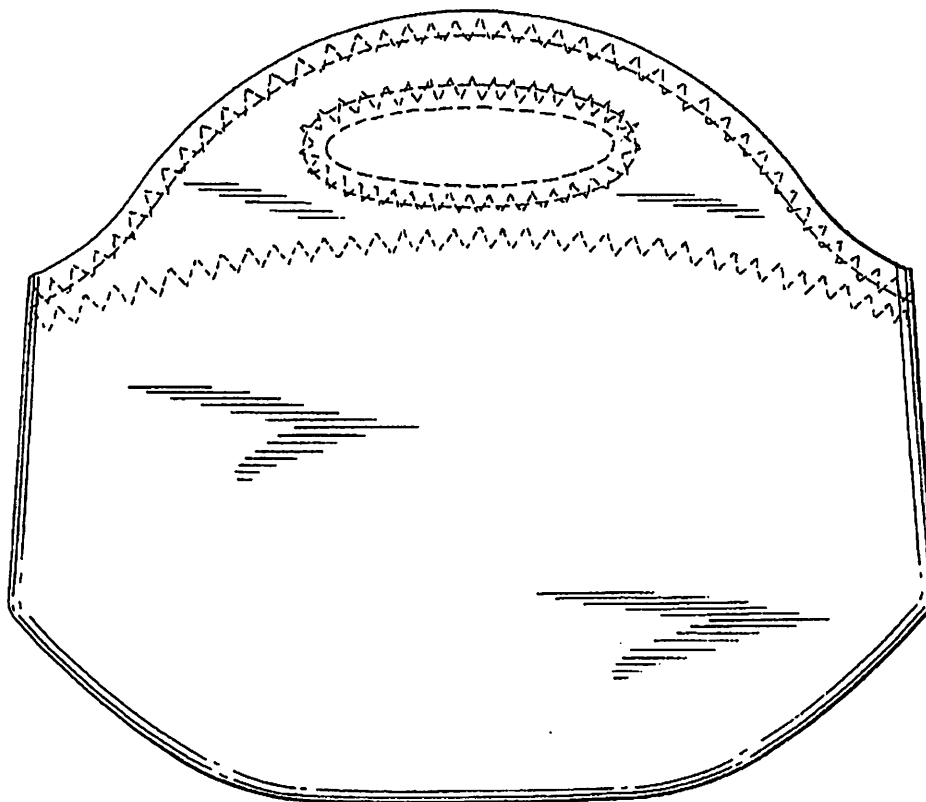
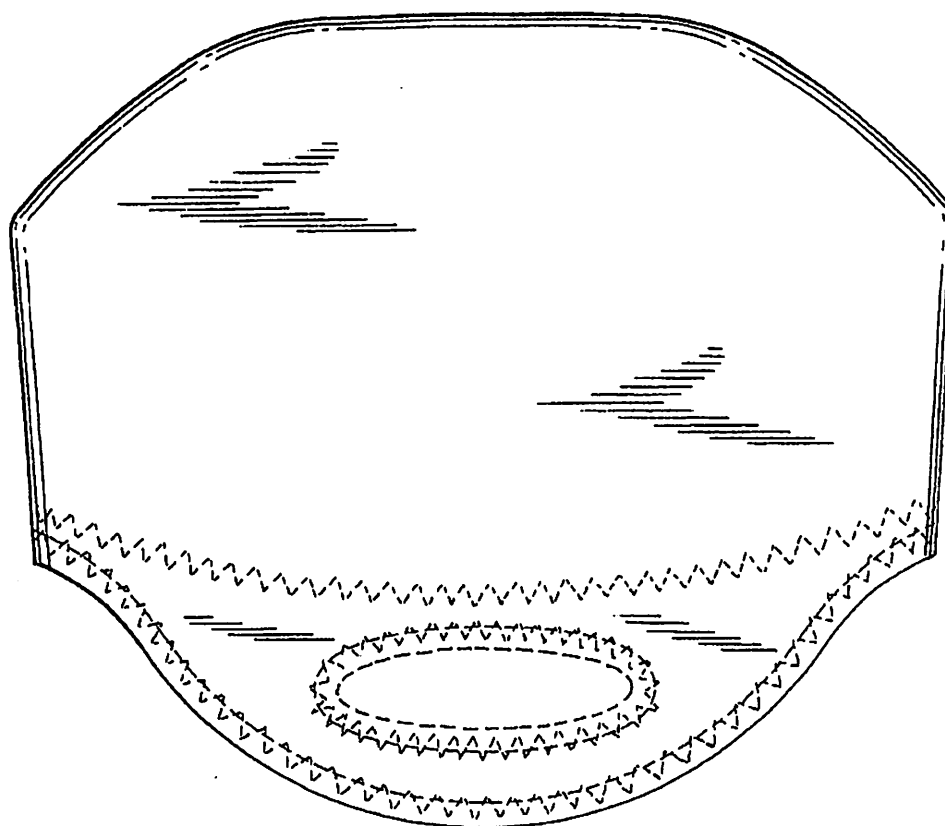


FIG. 1



U.S. Patent

Jan. 9, 2007

Sheet 2 of 2

US D534,772 S

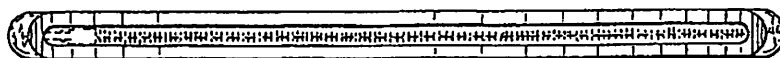


FIG. 2



FIG. 3

FIG. 4

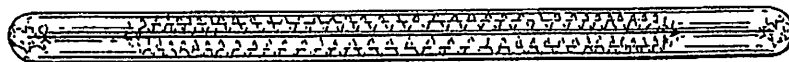


EXHIBIT D



US00D535859S

(12) **United States Design Patent**
Lown et al.

(10) Patent No.: **US D535,859 S**
(45) Date of Patent: **** Jan. 30, 2007**

(54) LUNCH PURSE

(75) Inventors: Aaron Lown, Tuxedo, NY (US); John R. Swartz, Ridgewood, NJ (US)

(73) Assignee: Built NY, Inc., New York, NY (US)

(**) Term: 14 Years

(21) Appl. No.: 29/241,427

(22) Filed: Oct. 27, 2005

(51) LOC (8) Cl. 03-01

(52) U.S. Cl. D7/709

(58) Field of Classification Search D7/605-608,
D7/709, 710; D3/202, 229, 230, 315, 316;
D9/444, 751; 62/457.1-457.9, 529, 530;
206/223, 541, 545, 546, 549, 139, 428, 433;
220/737, 739, 903; 383/110-113

See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

D142,442 S * 9/1945 Rath D3/246
D292,879 S * 11/1987 Smith D9/426
5,237,838 A * 8/1993 Merritt-Munson 62/457.2

D404,620 S * 1/1999 Rausch D7/709
D416,676 S * 11/1999 Fitzgerald D3/229
6,089,038 A * 7/2000 Tattam 62/457.2
6,422,032 B1 * 7/2002 Greene 62/457.2
D518,631 S * 4/2006 Lown et al. D3/202

* cited by examiner

Primary Examiner—Terry A. Wallace

(74) Attorney, Agent, or Firm—Andrew F. Young;
Lackebach Siegel, LLP

(57) **CLAIM**

The ornamental design for a lunch purse, as shown and described.

DESCRIPTION

FIG. 1 is a front elevational view of a lunch purse of the present invention;

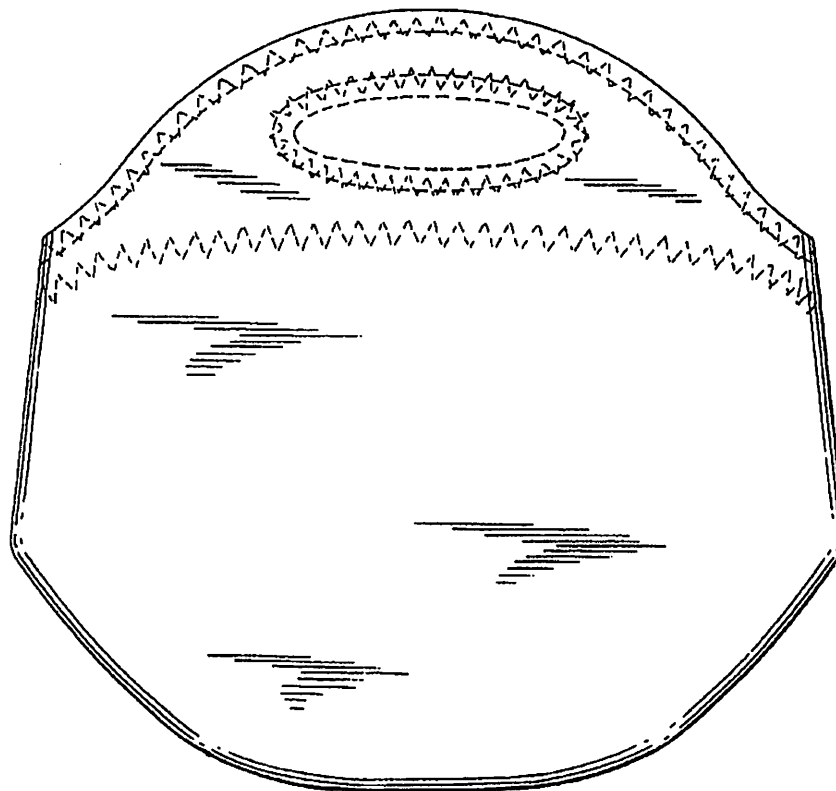
FIG. 2 is a top plan view thereof;

FIG. 3 is a side elevational view thereof; and,

FIG. 4 is a bottom plan view thereof.

The broken line showing of stitching and a handle opening is for illustrative purposes only and form no part of the claimed design.

1 Claim, 2 Drawing Sheets



U.S. Patent

Jan. 30, 2007

Sheet 1 of 2

US D535,859 S

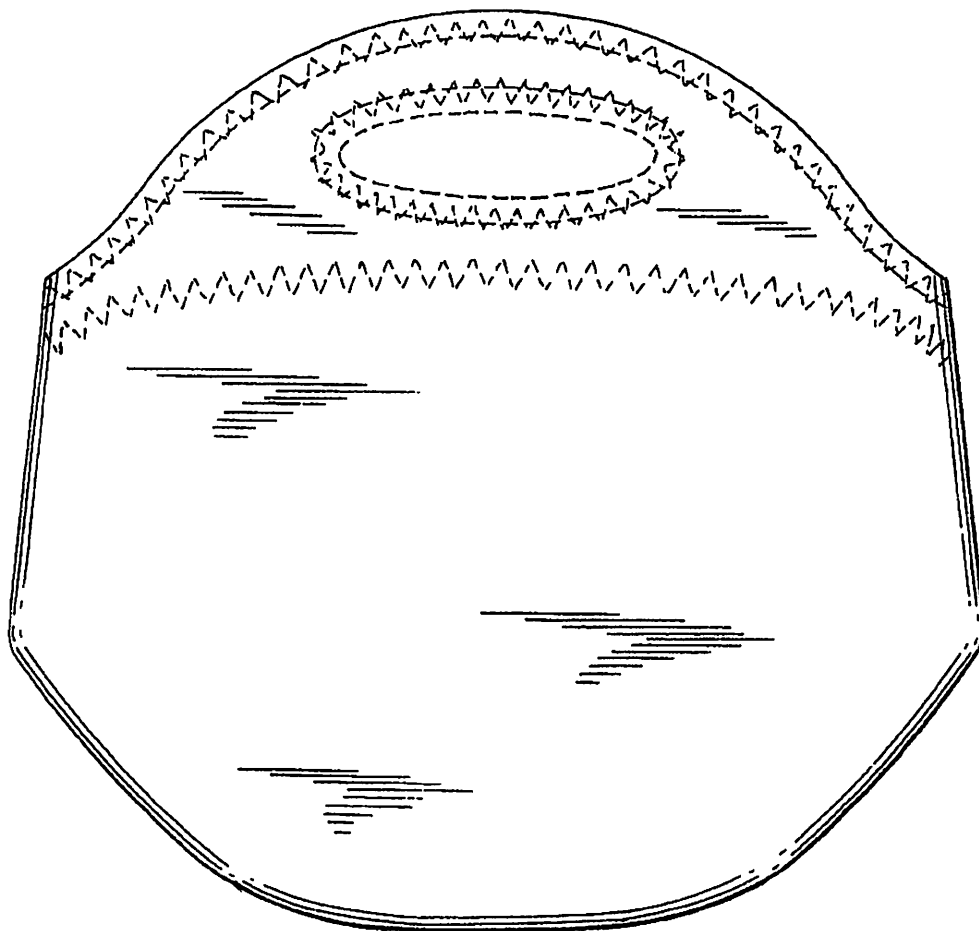


FIG. 1

U.S. Patent

Jan. 30, 2007

Sheet 2 of 2

US D535,859 S

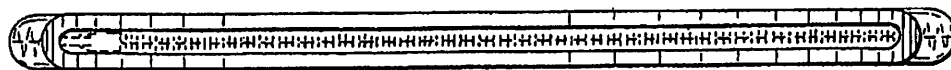


FIG. 2

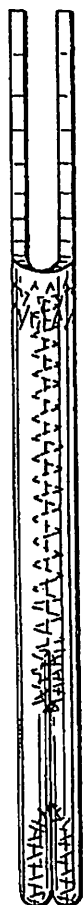


FIG. 3

FIG. 4

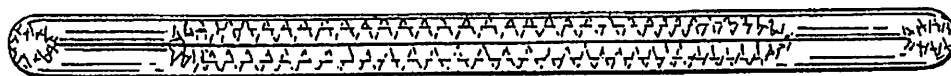


EXHIBIT E

Kitchen & Dining

Departments

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Merkapa

Merkapa Cute Design Waterproof Cooler Bag

views



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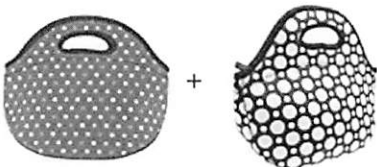
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- ✓ **This item:** Merkapa Cute Design Waterproof Neoprene Lunch Tote Cooler Bag (Design 3) \$7.99
- ✓ Neoprene Blue Dot Lunch Tote Bag - Insulated Waterproof Lunch Box for Women, Adults, Kids, Girls... \$13.97

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Neoprene Lunch Bag by ART OF LUNCH - Large [12" x 12" x 6.5"] Gourmet Lunch Tote...
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2
\$18.59




MOMMORE Lunch Bag Neoprene Stretchy Kids Lunch Tote for Lunch Box Cartoon Owl
\$15.99



Creativebags Picnic Totes Lunch Bags with Water Pocket for Children Adults Outdoor Work...
1
\$18.69



SLM Printed Thermal Insulated Lunch Bag- Anchors
61
\$9.95



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Cosfash Neoprene Lunch Tote Insulated Reusable Picnic Lunch Bags Boxes for Men Women Adults...
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29
\$9.99



Hippih Insulated Waterproof Durable Neoprene Lunch Tote Bag ,Black
2
\$11.99



Neoprene Blue Dot Lunch Tote Bag - Insulated Waterproof Lunch Box for Women, Adults, Kids....
44
\$13.97



Neoprene Chevron Print Tote Bag - Insulated Waterproof Lunch Box for Kids, Women and Girls...
44
\$11.97



Special Offers and Product Promotions

Color: **Design 3**

- Save 20% on Merkapa new Insulated Cooler bag (Flowers) when you purchase 1 or more Merkapa Neoprene Lunch Tote offered by merkapa outdoor. Here's how (restrictions apply)
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- Save 20% on Merkapa new Insulated Cooler bag (Pink) when you purchase 1 or more Merkapa Neoprene Lunch Tote offered by merkapa outdoor. Here's how (restrictions apply)
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- Save 5% on New Design TSA-Approved Padlock with Skull Head (white) when you purchase 1 or more Merkapa Design Waterproof Neoprene Lunch Tote offered by merkapa outdoor. Here's how (restrictions apply)
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Cosfash Neoprene Lunch Tote Insulated Reusable Picnic Lunch Bags Boxes for Men Women Adults Kids Toddler Nurses (Purple)



Neoprene Blue Dot Lunch Tote Bag - Insulated Waterproof Lunch Box for Women, Adults, Kids, Girls, and Teen Girls - Homwe



Printing Lunch Bags, Arricastle Oxford Cloth Aluminum Foil Insulated Zip Cooler Bag Portable Takeaway Aluminum Film Pack Cooler Bag Lunch Box Package (Dark Blue Waves)

2/10/2017

Amazon.com: Merkapa Cute Design Waterproof Neoprene Lunch Tote Cooler Bag (Design 3): Kitchen & Dining

	#1 Best Seller			
Customer Rating	(37)	(30)	(44)	(23)
Price	\$7.99	\$12.99	\$13.97	\$7.99
Shipping				
Sold By	merkapa outdoor	Cosfash	HomweStore	LHome Store
Item Dimensions	10 x 12 x 0.7 in	6 x 12 x 12 in	13.7 x 15.5 x 2 in	8.9 x 12.9 x 0.7 in
	Add to Cart	Add to Cart	Add to Cart	Add to Cart

Product Description

Color: **Design 3**

This lunch bag is made of machine washable insulating neoprene (the wet suit material), it keeps food stay warm or cold up to 4 hours, depending on the outside temperature. It's ideal for pack lunches, beverages to school, work or go travelling! Stores flat, but expands to fit a variety of containers. Three fun patterns available.

Product Information

Color: **Design 3**

Product Dimensions	12 x 10 x 0.7 inches
Item Weight	0.3 ounces
Shipping Weight	0.3 ounces (View shipping rates and policies)
Manufacturer	Merkapa
ASIN	B015MQRAFY
Origin	China
Item model number	MKP-OTD03
Customer Reviews	37 customer reviews 4.0 out of 5 stars
Best Sellers Rank	#12,211 in Home & Kitchen (See Top 100 in Home & Kitchen) #64 in Toys & Games > Kids' Furniture & Room Décor > Backpacks & Lunch Boxes > Lunch Bags #139 in Kitchen & Dining > Storage & Organization > Travel & To-Go Food Containers > Lunch Bags #4,912 in Home & Kitchen > Storage & Organization

Date first available at Amazon.com

September 21, 2015

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If you are a seller for this product, would you like to suggest updates through seller support?

Would you like to tell us about a lower price?

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2/10/2017

Amazon.com: Merkapa Cute Design Waterproof Neoprene Lunch Tote Cooler Bag (Design 3): Kitchen & Dining

				
Undeniable - #1 Best Meal Prep Bag • Premium Meal Containers • Keeps Food Ice Cold... 73 \$36.97	Neoprene Lunch Bag by ART OF LUNCH - Large [12" x 12" x 6.5"] Gourmet Lunch Tote... 1,021 \$19.97	Neoprene Lunch Bag Insulated Lunch Tote For Women and Men With Utensil Pocket Larger... 69 \$18.99	Insulated Neoprene Lunch Bag Tote for Women, Teen Girls, Pink/Red - The Melrose 26 \$17.99	Cooler Lunch Bag Neoprene Wall Insulated Canvas Tote Thermal Leakproof Hot and Cold... 3 \$14.95

Ad feedback

Customer Questions & Answers

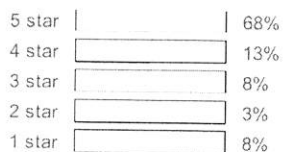
Have a question? Search for answers

- Question:** Is it waterproof?
- Answer:** Yes it's waterproof. I got it because my daughter have accidents in her bed every now n then n so far it's been great keeping her mattress dry and its machine wash n dry friendly
By Amazon Customer on June 11, 2016
See more answers (1)
- Question:** Can these be dried in the dryer?
- Answer:** I did not try it on dryer. I think temperature should be controlled if using dryer.
By Amazon Customer on September 28, 2016
See more answers (1)
- Question:** Are the polka dots pink or red?
- Answer:** Hi Mrs Smith,
It's red. Thanks for your attention!
Best regards,... see more
By merkapa outdoor SELLER on January 11, 2017
See more answers (4)
- Question:** what it the height from the bottom of the bag to the zipper?
- Answer:** About 16 cms or 6.5 inches
By Julieta de Castellanos on August 13, 2016
See more answers (1)

Customer Reviews

37

4.0 out of 5 stars



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Top Customer Reviews

Great bag, funky smell

By Hannah on November 11, 2016

Customer Images

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Most Recent Customer Reviews

Five Stars

Perfect for tween girl lunches and quite inexpensive.
Published 3 days ago by a jpmom

One Star

Its not waterproof

2/10/2017

Amazon.com: Merkapa Cute Design Waterproof Neoprene Lunch Tote Cooler Bag (Design 3): Kitchen & Dining

Color: Design 2 Verified Purchase

I love these lunch bags. I had a similar one from a different brand (but same material and build) that lasted me several years. I love that you can just throw them in the wash when they get dirty, and they hold up really well (just hang dry, don't put it in the dryer). My old one got very stained since it was a light blue color, so I like that this one is lined with black material (for invisible stains!). The only problem I have with this is that it has a strong neoprene smell that's sort of unpleasant, hence the 4 stars. This is a great price for this item, though. Definitely worth it!

Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

Light and perfect size.

By Donna Alves on November 7, 2016

Color: Design 1 Verified Purchase

Lightweight and the perfect size. Love the zipper on top. Has a little bit of insulation to help keep things cool, just a bit. It's been taken to school for 2 months and it still looks brand new.

Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

Good Bag

By Daisy Hoshi on October 22, 2016

Color: Design 2 Verified Purchase

The main thing that I like about this bag is that it can go into the washer every week .. tumble dry with other clothes and it comes out sanitized and smelling fresh ..

Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

Squishy and roomy

By Laura C. on November 22, 2016

Color: Design 2 Verified Purchase

I use this for my son's lunches. He loses lunch packs all the time so price is always a big consideration. He likes it and it is surprisingly roomy!

Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

This bag is adorable and a great size

By Nancy Lowell on September 19, 2016

Color: Design 2 Verified Purchase

This bag is adorable and a great size, but the smell is pretty bad. My daughter put an apple in it, and said the apple smelled and tasted weird from the bag.

Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

Smelled so badly of chemicals had to air it out ...

By CD on May 16, 2016

Color: Design 3 Verified Purchase

Smelled so badly of chemicals had to air it out. Gassed out putting food items in it. Wanted to return it but they want nearly 7\$ for the return. Total rip off. Do not buy.

1 Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

Five Stars

By ann james on September 20, 2016

Color: Design 3 Verified Purchase

Pretty and functional. collapse when not in use therefore conserve on storage space.

Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

It is way to small to even put my daily ...

By magdamarkowska on June 28, 2016

Color: Design 3 Verified Purchase

It is way to small to even put my daily lunch for work into. This is a lunch bag for kids not adults.

Comment Was this review helpful to you? ☐ Yes ☐ No Report abuse

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Published 17 days ago by Amazon Customer

Five Stars

Exactly what I expected

Published 22 days ago by Victoria Lynn Campbell

Lunch bag

Great for lunch

Published 1 month ago by Brenda Harrelson

Very good quality!

My everyday lunch bag, love it so much!

Published 2 months ago by elsieneko

Five Stars

Perfect

Published 2 months ago by Amazon Customer

Five Stars

So small, but cut snack back

Published 3 months ago by brianne

Four Stars

color is good, like the thickness of the product.

Published 4 months ago by Avery Mason

Search Customer Reviews

2/10/2017

Amazon.com: Merkapa Cute Design Waterproof Neoprene Lunch Tote Cooler Bag (Design 3): Kitchen & Dining

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