

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PARIS PRESENTS INCORPORATED,

Plaintiff

v.

SIGMA ENTERPRISES LLC,

Defendant.

Civil Case No. _____

TRIAL BY JURY DEMANDED

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff, Paris Presents Incorporated (“Paris Presents”), for its complaint against Defendant Sigma Enterprises LLC (“Sigma”), alleges as follows:

NATURE OF THE ACTION

1. This is an action seeking a declaratory judgment that Paris Presents does not infringe, either directly or indirectly, any claim of U.S. Patent No. 9,492,050 (“the ’050 Patent”) and a declaratory judgment that the claims of the ’050 Patent are invalid. A true and correct copy of the ’050 Patent is attached hereto as Exhibit A.

THE PARTIES

2. Plaintiff Paris Presents is a corporation organized and existing under the laws of the State of Illinois, having a place of business at 3800 Swanson Court, Gurnee, Illinois 60031.

3. Upon information and belief, Defendant Sigma is a Minnesota limited liability company with its principal place of business at 1395 Commerce Drive, Mendota Heights, Minnesota 55120. Upon information and belief, Sigma is the owner of the ’050 Patent.

JURISDICTION AND VENUE

4. This action arises under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02, and the patent laws of the United States, 35 U.S.C. § 100, *et seq.*

5. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

6. This Court has personal jurisdiction over Sigma because, on information and belief, Sigma regularly offers and transacts business in and throughout the State of Illinois through its website: <https://www.sigmabeauty.com/>.

7. Upon information and belief, Sigma also regularly offers and transacts business in Illinois with its authorized retailer, MAKE UP FIRST® School of Makeup Artistry, at 100 N. LaSalle St. Suite 1010, Chicago, IL 60602; and

8. Upon information and belief, Sigma also regularly offers and transacts business in Illinois with its authorized retailers Von Maur at Veterans Parkway, Normal, IL; 1350 Hickory Point Mall, Forsyth IL; 4500 16th Street, Moline IL; 145 Yorktown, Lombard IL; 3810 East Main Street, St Charles IL; and 1960 Tower Drive, Glenview IL.

9. Sigma also purposefully directed its activities to Illinois when it sent a letter to Illinois resident Paris Presents alleging infringement of the '050 Patent and threatening legal action against Paris Presents. Accordingly, the acts underlying this declaratory judgment action substantially occurred in this District.

10. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and/or 1400 because Defendant is subject to personal jurisdiction in this district, resides in this District, and a substantial part of the events giving rise to the claims stated in this Complaint occurred in this

judicial District, including Sigma's attempt to restrict Paris Presents' offers for sale, sales, and/or use of Paris Presents' Real Techniques Brush Cleansing Palette within this District.

FACTS

11. Paragraphs 1-10 are incorporated by reference as if set forth here in full.

12. This action is filed to resolve an actual and justiciable controversy that exists between the parties, which have adverse legal interests, based on a real and immediate injury or threat of future injury that is caused by Defendant.

13. Plaintiff Paris Presents distributes beauty products and personal care accessories, including its Real Techniques Brush Cleansing Palette, in the United States and around the world.

14. On information and belief, Sigma is the assignee of all right, title and interest in the '050 Patent. The '050 Patent is entitled "Textured Device for Cleaning Cosmetic Brushes" and lists Rene Xavier Filho and Simone Rodrigues Oliveira Xavier as the inventors. The '050 Patent issued on November 15, 2016.

15. On March 3, 2017, Sigma, through its attorney, sent Paris Presents a letter accusing Paris Presents' Real Techniques Brush Cleansing Palette of infringing the '050 Patent and threatening legal action against Paris Presents. (Letter, attached hereto as Exhibit B at 1, 3).

16. Absent a declaration of non-infringement and/or invalidity, Sigma will continue to wrongfully allege that Paris Presents' Real Techniques Brush Cleansing Palette infringes one or more claims of the '050 Patent, thereby causing Paris Presents irreparable injury and damage.

COUNT I

(Declaratory Judgment for Non-Infringement of U.S. Patent No. 9,492,050)

17. Paragraphs 1-16 are incorporated by reference as if set forth here in full.

18. As a result of the acts described in the preceding paragraphs, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of non-infringement of the '050 Patent.

19. A judicial declaration is necessary and appropriate so that Paris Presents may ascertain its rights regarding its Real Techniques Brush Cleansing Palette and the '050 Patent.

20. Paris Presents is entitled to a declaratory judgment that Paris Presents has not infringed and does not infringe, either directly or indirectly, any valid claim of the '050 Patent.

COUNT II

(Declaratory Judgment for Invalidity of U.S. Patent No. 9,492,050)

21. Paragraphs 1-20 are incorporated by reference as if set forth here in full.

22. Upon information and belief, each and every claim of the '050 Patent is invalid as anticipated under 35 U.S.C. § 102 or obvious under 35 U.S.C. § 103 based at least upon prior art disclosures of textured devices for cleaning brushes.

23. Upon information and belief, each and every claim of the '050 Patent is invalid under 35 U.S.C. § 112 as indefinite and/or for lacking adequate written description in the specification of the '050 Patent.

24. As a result of the acts described in the preceding paragraphs, there exists a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment of invalidity of the '050 Patent.

25. A judicial declaration is necessary and appropriate so that Paris Presents may ascertain its rights regarding the validity of the '050 Patent.

26. Paris Presents is entitled to a declaratory judgment that the claims of the '050 Patent are invalid under one or more provisions of 35 U.S.C. §§ 102, 103, and/or 112.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Paris Presents requests that judgment be entered in its favor, and pray that the Court grant the following relief:

- A. A declaration that Plaintiff has not infringed and is not infringing, either directly or indirectly, any valid and enforceable claim of the '050 Patent;
- B. A declaration that each of the claims of the '050 Patent is invalid;
- C. A declaration that Sigma and each of its officers, directors, agents, counsel, servants, employees and all persons in active concert or participation with any of them, be enjoined from alleging, representing or otherwise stating that Paris Presents infringes any claims of the '050 Patent or from instituting or initiating any action or proceeding alleging infringement of any claims of the '050 Patent against Paris Presents or any customers, manufacturers, users, importers, or sellers of Paris Presents' Real Techniques Brush Cleansing Palette;
- D. A declaration that this case is exceptional under 35 U.S.C. § 285.
- E. An award of all fees, costs, and expenses associated with this action; and
- F. Such other and further relief as this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff Paris Presents hereby demands a trial by jury in this action on all claims and issues triable before a jury.

Dated: April 17, 2017

Respectfully submitted,

/s/Christopher J. Fahy

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