

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

WATERS INDUSTRIES, INC., an Illinois corporation,	)	Civil Action No. _____
	)	
Plaintiff,	)	The Honorable _____
	)	
v.	)	Magistrate Judge _____
	)	
	)	<b>COMPLAINT</b>
SWEET BABY, INC. dba AJ Morgan, a California corporation, PEPPER'S PERFORMANCE EYEWARE INC., a Pennsylvania corporation, and LILLIAN VERNON CORPORATION, a Delaware corporation,	)	
	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendants.	)	

Plaintiff, Waters Industries, Inc. ("Waters Industries") complains against Defendants, Sweet Baby, Inc., Pepper's Performance Eyeware Inc., and Lillian Vernon Corporation as follows:

**THE PARTIES**

1. Waters Industries is a corporation incorporated under the laws of the State of Illinois with its principal place of business at 213 West Main Street, West Dundee, Illinois. Waters Industries' wholly owned Panther Vision division designs and sells a variety of hands free LED task lighting products for consumers and businesses, including lighted eyeglasses.

2. Upon information and belief, Sweet Baby, Inc. is a corporation incorporated under the laws of the State of California with its principal place of business at 110 East 9th Street B1009, Los Angeles, California 90079. Upon information and belief, Sweet Baby, Inc., by itself, and/or through one or more entities owned, controlled or otherwise affiliated with Sweet Baby, Inc., conducts business in Illinois and in this District including, without limitation, distributing and selling through its AJ Morgan division LED lighted eyeglasses that compete directly with the lighted

eyeglasses of Waters Industries' Panther Vision division. The business activities of Sweet Baby, Inc. include promoting, offering to sell and selling products to consumers in Illinois and in this District through the interactive website <http://ajmorganeyewear.com> and to resellers through its interactive website [www.ajmorganoptics.com](http://www.ajmorganoptics.com).

3. Upon information and belief, Pepper's Performance Eyeware Inc. is a corporation incorporated under the laws of the State of Pennsylvania with its principal place of business at 3001 Pulawski Way, Pittsburgh, Pennsylvania 15219. Upon information and belief, Pepper's Performance Eyeware Inc. by itself and/or through one or more entities owned, controlled or otherwise affiliated with Pepper's Performance Eyeware Inc. conducts business in Illinois and in this District including, without limitation, distributing and selling LED lighted eyeglasses that compete directly with the lighted eyeglasses of Waters Industries' Panther Vision division. The business activities of Pepper's Performance Eyeware Inc. include promoting, offering for sale and selling products to consumers in Illinois and in this District through its interactive website [www.restaurant-readers.com](http://www.restaurant-readers.com).

4. Upon information and belief, Lillian Vernon Corporation is a corporation incorporated under the laws of the State of Delaware with a principal place of business at 2600 International Parkway, Virginia Beach, Virginia 23452. Upon information and belief, Lillian Vernon Corporation by itself and/or through one or more entities owned, controlled or otherwise affiliated with Lillian Vernon Corporation conducts business in Illinois and in this District including, without limitation, distributing and selling LED lighted eyeglasses that compete directly with the lighted eyeglasses of Waters Industries' Panther Vision division. The business activities of Lillian Vernon Corporation include promoting, offering for sale and selling products to consumers in Illinois and in this District through its interactive website [www.lillianvernon.com](http://www.lillianvernon.com).

**JURISDICTION AND VENUE**

5. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §1 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1338(a).

6. Venue lies in this District pursuant to 28 U.S.C. §§1391(b), 1391(c) and 1400(b) because each Defendant is subject to personal jurisdiction in this District, has regularly conducted business in this District and/or has committed acts of infringement in this District.

**FIRST CAUSE OF ACTION – INFRINGEMENT OF ‘695 PATENT**

7. On September 2, 2003, U.S. Patent No. 6,612,695 (“the ‘695 patent”) entitled, “LIGHTED READING GLASSES,” was duly and legally issued to Michael Waters on an application filed on November 7, 2001. Waters Industries currently owns all right, title and interest in and to the ‘695 patent. A copy of the ‘695 patent is appended as Exhibit A.

8. Defendant, Sweet Baby, Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the ‘695 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit E incorporating the inventions patented in the ‘695 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the ‘695 patent. Unless enjoined by the Court, Sweet Baby, Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the ‘695 patent.

9. Defendant, Pepper’s Performance Eyeware Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the ‘695 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit F incorporating the inventions patented in the ‘695 patent within the United States and within this

District; and by contributing to the infringement by others and/or by inducing others to infringe the '695 patent. Unless enjoined by the Court, Pepper's Performance Eyeware Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '695 patent.

10. Defendant, Lillian Vernon Corporation, by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '695 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit G incorporating the inventions patented in the '695 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '695 patent. Unless enjoined by the Court, Lillian Vernon Corporation will continue to infringe, contribute to the infringement of and/or induce the infringement of the '695 patent.

11. Each Defendant's direct infringement of the '695 patent, and/or inducement of or contribution to the infringement of others, has injured Waters Industries, and Waters Industries is entitled to recover damages adequate to compensate for such infringement pursuant to 35 U.S.C. §284.

12. Waters Industries has provided Sweet Baby, Inc. written notice of the '695 patent and the alleged infringement, but, upon information and belief, Sweet Baby, Inc. has continued its infringement notwithstanding its actual knowledge thereof and the lack of an objectively reasonable good faith basis to believe that its activities do not infringe any valid claim of the '695 patent. Sweet Baby, Inc.'s infringement of the '695 patent has been willful and deliberate.

13. The infringement of the '695 patent by each Defendant will continue to injure Waters Industries unless the Court enters an injunction prohibiting further infringement of the '695 patent.

**SECOND CAUSE OF ACTION – INFRINGEMENT OF ‘416 PATENT**

14. On March 8, 2005, U.S. Patent No. 6,863,416 (“the ‘416 patent”) entitled, “LIGHTING DEVICE” was duly and legally issued to Michael Waters on an application filed on April 29, 2003, which has legal priority back to an application filed on November 7, 2001. Waters Industries currently owns all right, title and interest in and to the ‘416 patent. A copy of the ‘416 patent is appended as Exhibit B.

15. Defendant, Sweet Baby, Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the ‘416 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit E incorporating the inventions patented in the ‘416 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the ‘416 patent. Unless enjoined by the Court, Sweet Baby, Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the ‘416 patent.

16. Defendant, Pepper’s Performance Eyeware Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the ‘416 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit F incorporating the inventions patented in the ‘416 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the ‘416 patent. Unless enjoined by the Court, Pepper’s Performance Eyeware Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the ‘416 patent.

17. Defendant, Lillian Vernon Corporation, by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the ‘416 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit G incorporating the

inventions patented in the '416 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '416 patent. Unless enjoined by the Court, Lillian Vernon Corporation will continue to infringe, contribute to the infringement of and/or induce the infringement of the '416 patent.

18. Each Defendant's direct infringement of the '416 patent, and/or inducement of or contribution to the infringement of others, has injured Waters Industries, and Waters Industries is entitled to recover damages adequate to compensate for such infringement pursuant to 35 U.S.C. §284.

19. Waters Industries has provided Sweet Baby, Inc. written notice of the '416 patent and the alleged infringement, but, upon information and belief, Sweet Baby, Inc. has continued its infringement notwithstanding its actual knowledge thereof and the lack of an objectively reasonable good faith basis to believe that its activities do not infringe any valid claim of the '416 patent. Sweet Baby, Inc.'s infringement of the '416 patent has been willful and deliberate.

20. The infringement of the '416 patent by each Defendant will continue to injure Waters Industries unless the Court enters an injunction prohibiting further infringement of the '416 patent.

**THIRD CAUSE OF ACTION – INFRINGEMENT OF '670 PATENT**

21. On September 12, 2006, U.S. Patent No. 7,104,670 ("the '670 patent") entitled, "LIGHTING DEVICE" was duly and legally issued to Michael Waters on an application filed on February 11, 2005, which has legal priority back to an application filed on November 7, 2001. Waters Industries currently owns all right, title and interest in and to the '670 patent. A copy of the '670 patent is appended as Exhibit C.

22. Defendant, Sweet Baby, Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '670 patent by making, using, offering to sell, selling

and/or importing the LED lighted eyeglasses shown in Exhibit E incorporating the inventions patented in the '670 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '670 patent. Unless enjoined by the Court, Sweet Baby, Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '670 patent.

23. Defendant, Pepper's Performance Eyeware Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '670 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit F incorporating the inventions patented in the '670 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '670 patent. Unless enjoined by the Court, Pepper's Performance Eyeware Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '670 patent.

24. Defendant, Lillian Vernon Corporation, by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '670 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit G incorporating the inventions patented in the '670 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '670 patent. Unless enjoined by the Court, Lillian Vernon Corporation will continue to infringe, contribute to the infringement of and/or induce the infringement of the '670 patent.

25. Each Defendant's direct infringement of the '670 patent, and/or inducement of or contribution to the infringement of others, has injured Waters Industries, and Waters Industries is entitled to recover damages adequate to compensate for such infringement pursuant to 35 U.S.C. §284.

26. Waters Industries has given Sweet Baby, Inc. written notice of the '670 patent and the alleged infringement, but, upon information and belief, Sweet Baby, Inc. has continued its infringement notwithstanding its actual knowledge thereof and the lack of an objectively reasonable good faith basis to believe that its activities do not infringe any valid claim of the '670 patent. Sweet Baby, Inc.'s infringement of the '670 patent has been willful and deliberate.

27. The infringement of the '670 patent by each Defendant will continue to injure Waters Industries unless the Court enters an injunction prohibiting further infringement of the '670 patent.

**FOURTH CAUSE OF ACTION – INFRINGEMENT OF '664 PATENT**

28. On May 27, 2008, U.S. Patent No. 7,377,664 ("the '664 patent") entitled, "LIGHTING DEVICE" was duly and legally issued to Michael Waters on an application filed on June 19, 2006, which has legal priority back to an application filed on November 7, 2001. Waters Industries currently owns all right, title and interest in and to the '664 patent. A copy of the '664 patent is appended as Exhibit D.

29. Defendant, Sweet Baby, Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '664 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit E incorporating the inventions patented in the '664 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '664 patent. Unless enjoined by the Court, Sweet Baby, Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '664 patent.

30. Defendant, Pepper's Performance Eyeware Inc., by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '664 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit F



incorporating the inventions patented in the '664 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '664 patent. Unless enjoined by the Court, Pepper's Performance Eyeware Inc. will continue to infringe, contribute to the infringement of and/or induce the infringement of the '664 patent.

31. Defendant, Lillian Vernon Corporation, by itself and/or through its subsidiaries, affiliates, and/or agents has been, and is, infringing the '664 patent by making, using, offering to sell, selling and/or importing the LED lighted eyeglasses shown in Exhibit G incorporating the inventions patented in the '664 patent within the United States and within this District; and by contributing to the infringement by others and/or by inducing others to infringe the '664 patent. Unless enjoined by the Court, Lillian Vernon Corporation will continue to infringe, contribute to the infringement of and/or induce the infringement of the '664 patent.

32. Each Defendant's direct infringement of the '664 patent, and/or inducement of or contribution to the infringement of others, has injured Waters Industries, and Waters Industries is entitled to recover damages adequate to compensate for such infringement pursuant to 35 U.S.C. §284.

33. Waters Industries has given Sweet Baby, Inc. written notice of the '664 patent and the alleged infringement, but, upon information and belief, Sweet Baby, Inc. has continued its infringement notwithstanding its actual knowledge thereof and the lack of an objectively reasonable good faith basis to believe that its activities do not infringe any valid claim of the '664 patent. Sweet Baby, Inc.'s infringement of the '664 patent has been willful and deliberate.

34. The infringement of the '664 patent by each Defendant will continue to injure Waters Industries unless the Court enters an injunction prohibiting further infringement of the '664 patent.

**PRAYER FOR RELIEF**

WHEREFORE, Waters Industries prays for:

1. Judgment that the '695 patent, the '416 patent, the 670 patent, and the '664 patent are each valid, enforceable, and infringed by each Defendant;
2. Judgment that Sweet Baby, Inc.'s acts of patent infringement are willful;
3. A preliminary and permanent injunction enjoining each Defendant, its officers, agents, servants, employees, subsidiaries and affiliated companies, and those persons acting in active concert or participation therewith, from engaging in the aforesaid unlawful acts of patent infringement;
4. An award of damages arising out of each Defendant's acts of patent infringement, together with pre-judgment and post-judgment interest;
5. Judgment that the damages so adjudged against Sweet Baby, Inc. be trebled in accordance with 35 U.S.C. §284;
6. An award of Waters Industries' attorneys fees, costs and expenses incurred in this action in accordance with 35 U.S.C. §285; and
7. Such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Waters Industries demands trial by jury of all issues triable of right by a jury.

Respectfully submitted,

Date: December 7, 2009

/s/Timothy P. Maloney

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