

Tommy SF Wang (SBN: 272409)
Chieh An Chen (SBN: 306296)
Wang IP Law Group, P.C.
18645 E. Gale Ave. Ste #205
City of Industry, CA 91748
Telephone: (888) 827-8880
Facsimile: (888) 827-8880
Email: twang@thewangiplaw.com; achen@thewangiplaw.com

Attorneys for Plaintiff
Tsann Kuen (Zhangzhou) Enterprise Co., Ltd.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TSANN KUEN (ZHANGZHOU)
ENTERPRISE CO., LTD., A CHINESE
LIMITED COMPANY,

PLAINTIFF,

vs.

NINGBO GOLDEN AGE ELECTRIC
CO. LTD, A CHINESE LIMITED
COMPANY, NINGBO ZHONGHAO
ELECTRIC CO. LTD, A CHINESE
LIMITED COMPANY, J.C. PENNEY
CO., INC., A DELAWARE
CORPORATION, AND DOES 1 – 10,
INCLUSIVE
DEFENDANTS.

Case No.:

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Plaintiff Tsann Kuen (Zhangzhou) Enterprise Co., Ltd. (“Plaintiff” or
“Tsann Kuen”) through its undersigned attorneys, complains as follows:

COMPLAINT FOR PATENT INFRINGEMENT

1 have unity of interest and ownership when both companies share the same
2 contact information and are owned by the same owner.

- 3 4. This Court has personal jurisdiction over Golden Age and Zhonghao
4 because, among other things, Defendant has a purposefully directed his
5 infringing activities at this District and the litigation results from alleged
6 injuries that arise out of or relate to those infringing activities. For instance,
7 Golden Age and Zhonghao have purposefully directed toward this District
8 when they placed the infringing products in the stream of commerce and
9 economically benefit from the retail sale of the final product in this District.
10 by selling and offering for sale infringing products in this judicial district.
- 11 5. Tsann Kuen is informed and believes, and thereon alleges that venue is
12 proper under 28 U.S.C. Section 1400(b) because Defendant J.C. Penney has
13 committed, by itself or in concert with others, acts of patent infringement in
14 this District. Upon information and belief Defendant J.C. Penney has a
15 regular and established place of business within this district sufficient for
16 venue to be proper. Upon information and belief, Defendant J.C. Penney
17 continues to store its infringing products and distribute its infringing
18 products from within this District and employs and/or contracts with
19 individuals in this District to store and distribute its infringing products
20 from this District. Upon information and belief, Defendant J.C. Penney has
21 ongoing contractual relationships in this District, makes sales directed to
22 this District, and derives benefits from the sales directed to this district.
- 23 6. This Court has personal jurisdiction over Defendant J.C. Penney because,
24 among other things, Defendant J.C. Penney has a continuous, systematic,
25 and substantial presence within this judicial district. For instance, by selling

COMPLAINT FOR PATENT INFRINGEMENT

1 and offering for sale infringing products in this judicial district, including
 2 but not limited to selling infringing products directly to consumers and/or
 3 retailers in this district and selling into the stream of commerce knowing
 4 such products would be sold in California and specifically this district.
 5 Further, Defendant J.C. Penney facilitates offers for sale of Infringing
 6 Products in this District. Defendant's acts form a substantial part of the
 7 events or omission giving rise to Tsann Kuen's claims.

8 **PARTIES**

- 9 7. Plaintiff is a company organized and existing under the laws of People's
 10 Republic of China, having a principal place of business at Tsann Kuen
 11 Industrial Park, Taiwanese Investment Zone, Zhangzhou, Fujian, 363107,
 12 People's Republic of China.
- 13 8. Plaintiff is informed and believes, and thereon alleges that Defendant
 14 Golden Age, a Chinese limited liability company is a Chinese company
 15 organized under the laws of People's Republic of China, with a principal
 16 place of business located at No.18 Jinsheng Road Zhenxi Village, Langxia
 17 Street, Yuyao, Ningbo, China.
- 18 9. Plaintiff is informed and believes, and thereon alleges that Defendant
 19 Zhonghao, a Chinese limited liability company is a Chinese company
 20 organized under the laws of China, with a principal place of business
 21 located at No.18 Jinsheng Road Zhenxi Village, Langxia Street, Yuyao,
 22 Ningbo, People's Republic of China. Attached as Exhibit 1 as true and
 23 correct copy of Chinese Business Registration to illustrate Golden Age and
 24 Zhonghao are owned by same owner and portray as a single legal entity.
 25

1 10.Plaintiff is informed and believes, and thereon alleges that Defendant J.C.
2 Penney, is a Delaware corporation organized and existing under the laws of
3 the State of Delaware, with a principal place of business located at 6501
4 Legacy Drive, Plano, Texas 75023.

5 11.The true names and capacities of other unidentified Defendants, currently
6 sued as DOE Defendants 1- 10, are presently unknown to Plaintiff. Plaintiff
7 will later seek leave of this Court to amend this Complaint accordingly,
8 after reasonable discovery is conducted.

9 **FACTUAL BACKGROUND**

10 12.Plaintiff have been engaged and is presently engaged in the design and
11 distribution of household appliances. Plaintiff's products are sold
12 throughout the United States and in many foreign countries including but
13 not limited to the People's Republic of China, Hong Kong, Taiwan, Europe,
14 and Canada.

15 13.On November 2, 2007, Tsann Kuen (China) Enterprise Co., Ltd. filed a
16 U.S. patent application directed to its rotatable muffin baker. It issued as
17 U.S. Patent 8,915,179 B2 (the "'179 Patent") on December 23, 2014 and is
18 titled "Muffin Baker."

19 14.On or about May 2, 2017 the '179 Patent was assigned to Plaintiff. A true
20 and correct copy of the '179 Patent and the Assignment is attached as
21 Exhibit 2.

22 ***The '179 Patent at Issue***

23 15.Tsann Kuen holds all interest in and title to the '179 Patent, including the
24 right to sue for past and current damages relating to infringement.

25 16.Claim 1 of the '179 patent recites the following limitations:

COMPLAINT FOR PATENT INFRINGEMENT

1 A waffle maker comprising:

2 a support provided with a pedestal, at least one support arm provided
3 with a rotary device, and a first inosculating portion;

4 a main body connected to said rotary devices;

5 a collecting plate mounted on said support device and provided with
6 a second inosculating portion used for connecting with said first
7 inosculating portion when said main body is in a storage position,

8 wherein the normal line of said collecting plate is perpendicular to
9 the normal line of said collecting plate is perpendicular to the normal line of
10 said pedestal when the collecting plate is in the storage position,

11 wherein the said first inosculating portion is a groove, and said
12 second inosculating portion is an edge of said collecting plate.

13 17.Claim 2 of the '179 Patent recites the following limitations:

14 The waffle according to claim 1, wherein said first inosculating portion is
15 disposed in said at least one support arms.

16 18.Claim 3 of the '179 Patent recites the following limitations:

17 The waffle maker according to claim 1, wherein said main body further
18 comprises:

19 an upper shell;

20 a lower shell;

21 an upper baking plate mounted on said upper shell,

22 a lower baking plate mounted on said lower shell,

23 wherein said upper baking plate and said lower baking plate can be
24 separable from said upper shell and said lower shell; and
25

1 a heating device, used for heating said upper baking plate and said
2 lower baking plate.

3 19.Claim 4 of the '179 Patent recites the following limitations:

4 The waffle maker according to claim 1, wherein the normal line of said
5 collecting plate is horizontal and the normal line of said pedestal is vertical
6 when the collecting plate is in the storage position.

7 20.The '179 Patent is valid and subsisting.

8 ***The Infringing Product***

9 21.Defendants Golden Age and Zhonghao imported the “Rotating Waffle
10 Maker GH-825” (See Exhibit 3) that is covered by claims 1, 2, 3, and 4 of
11 the '179 Patent (the “Infringing Products”), without the consent or
12 authorization of Plaintiff into the United States.

13 22.Defendants Golden Age and Zhonghao have sold and offered for sale the
14 Infringing Products to J.C. Penney without the consent or authorization of
15 Plaintiff.

16 23.Defendant J.C. Penney has sold and offered for sale in this District and
17 elsewhere, and continue to sell and offer for sale of the Infringing Products
18 in this District and elsewhere, without the consent or authorization of
19 Plaintiff.

20 24.Defendant J.C. Penney sells and offers to sell the Infringing Products on
21 their online retail store, “www.jcpenney.com”.

22 25.Defendant J.C. Penney further sells and offers to sell the Infringing
23 Products on its physical stores throughout the United States.

24 26.A true and correct copy of the Infringing Products listed on Defendants’
25 “www.jcpenney.com” website is attached as Exhibit 4.

1 27.Among other things, Defendants sell and offer for sale products that
2 infringe the '179 Patent through the www.jcpenney.com website.

3 28.Defendants make, use, sell, offer for sale and/or import into the United
4 States the Infringing Products.

5 29.The Infringing Products are rotating waffle marker in place of a
6 conventional waffle maker.

7 30.The Infringing Products comprise a support device that has a pedestal and
8 two support arms provided that one support arm with a rotary device.

9 31.The Infringing Products comprise a main body provided with two separable
10 baking plates, two shells attached to the baking plates, and a heating device.

11 32.The Infringing Products comprise a button of controlling temperature that is
12 used to set the heating temperature.

13 33.The Infringing Products has a rotation limit device set up, which limits the
14 rotation angle of the main body to be 180 degrees.

15 34.The Infringing Products comprise a hinge that allows the handle to be
16 rotated relative to the hinge.

17 35.The Infringing Products comprise a collecting plate which could be
18 mounted in two different positions.

19 36.The Infringing Products comprise two inserted structures which could
20 mount a collecting plate in two different position.

21 37.The Infringing Products comprise a collecting plate that can be mounted
22 horizontally on the pedestal which is indented and mounted vertically on
23 both sides of the supporting device.

38. The Infringing Products comprise grooves on both sides of the supporting device to allow the collecting plate to slide into a position that is perpendicular to the base of the device.

FIRST CLAIM FOR RELIEF
(Patent Infringement)

39. Plaintiff restates and incorporates by reference the allegations asserted in each of the preceding paragraphs, as though fully set forth herein.

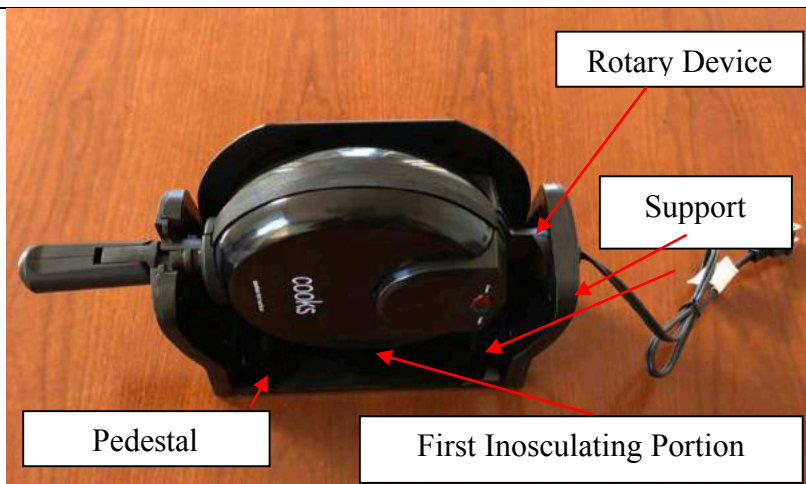
40. Defendants, by themselves or in concert with others, have made, used, sold or offered to sell, and continue to make, use, sell or offer to sell, in this District and elsewhere in the United States, the Infringing Products which infringe the '179 Patent. The Infringing Products have no substantial, non-infringing use.

41. Defendants' "Rotating Waffle Maker GH-825" have infringed on claims 1, 2, 3 and 4 of the '179 patent in the following manner:

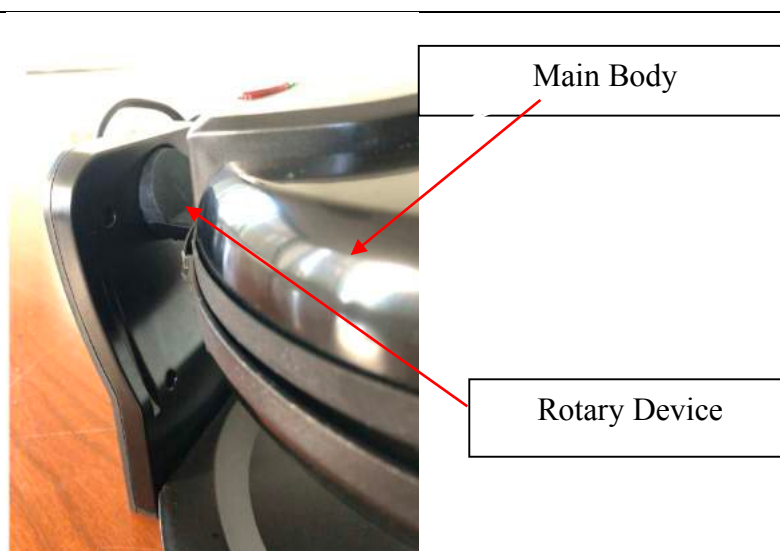
Claim 1: A waffle maker comprising:



1 A support provided with
2 a pedestal, at least one
3 support arm provided
4 with a rotary device,
5 and a first inosculating
6 portion



8 A main body connected
9 to said rotary device;



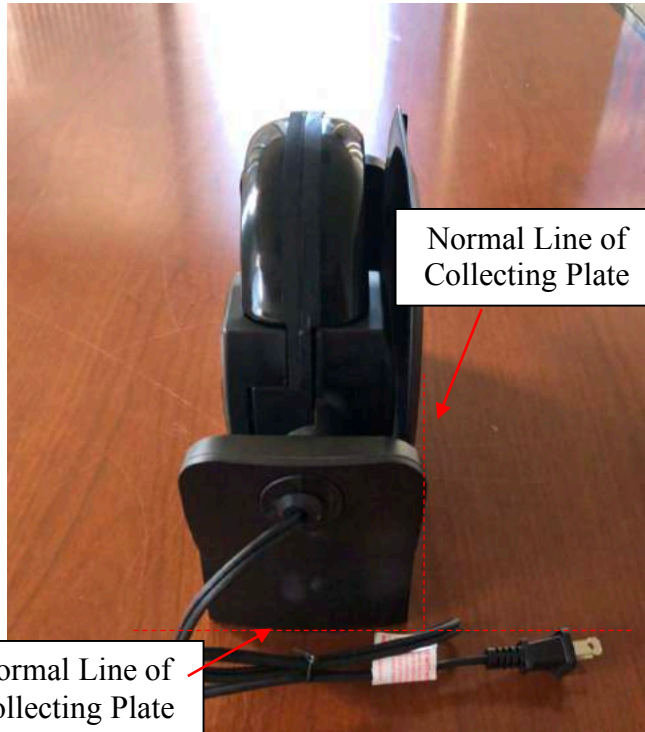
16 a collecting plate
17 mounted on said support
18 device and provided
19 with a second
20 inosculating portion
21 used for connecting
22 with said first
23 inosculating portion



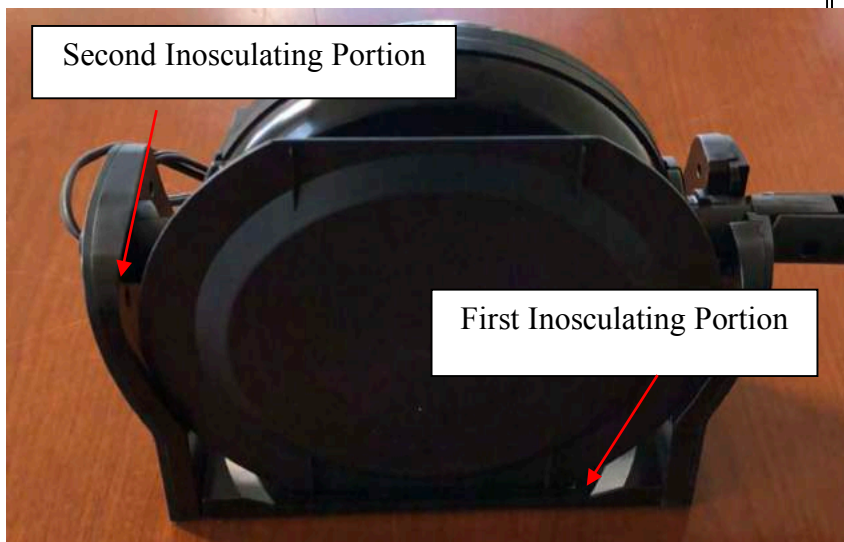
COMPLAINT FOR PATENT INFRINGEMENT

when said main body is
in a storage position

wherein the normal line
of said collecting plate
is perpendicular to the
normal line of said
pedestal when the
collecting plate is in the
storage position,

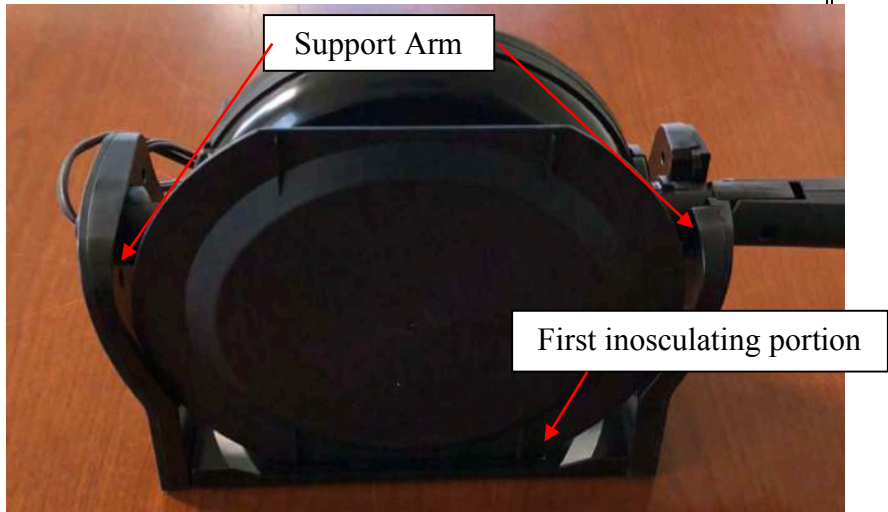


wherein the said first
inosculating portion is a
groove, and said second
inosculating portion is
an edge of said
collecting plate.



COMPLAINT FOR PATENT INFRINGEMENT

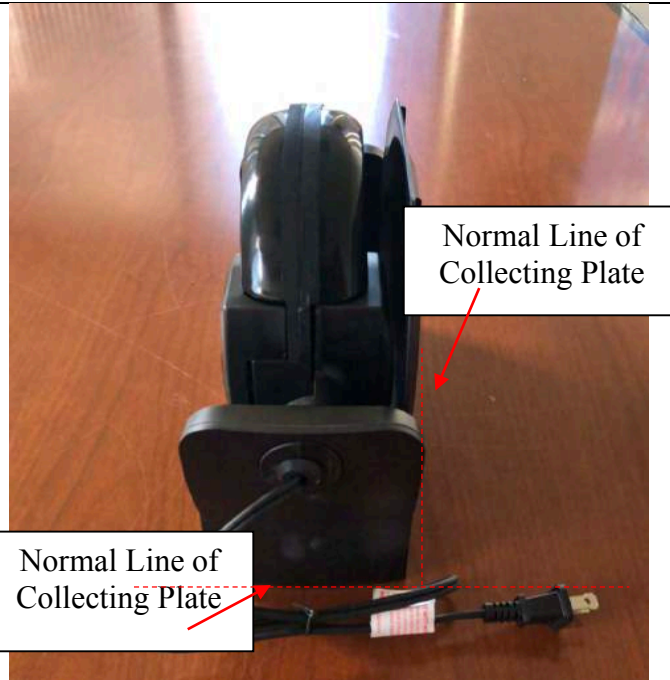
1 **Claim 2:** The waffle
2 marker according to
3 claim 1, wherein said
4 first inosculating portion
5 is disposed in said at
6 least one support arms.
7
8
9



Claim 3: The waffle maker according to claim 1, wherein said main body further comprises: an upper shell; a lower shell; an upper baking plate mounted on said upper shell, a lower baking plate mounted on said lower shell, wherein said upper baking plate and said lower baking plate can be separable from said upper shell and said lower shell; and a heating device, used for heating said upper baking plate and said lower baking plate.



Claim 4: The waffle maker according to claim 1, wherein the normal line of said collecting plate is horizontal and the normal line of said pedestal is vertical when the collecting plate is in the storage position.



42. The alleged infringing acts of Defendants are without right, license, or authorization from Plaintiff.

43. By their aforesaid acts, Defendants have infringed the '179 Patent entitling Plaintiff to relief pursuant to 35 U.S.C. Section 271.

44. Defendants have had actual or constructive notice of the existence of the '179 Patent and despite such notice have continued to engage in acts of infringement.

45. Defendants have gained profits by virtue of their infringement of the '179 Patent.

46. As a direct result of Defendants' acts complained of herein, Plaintiff have been actually damaged and irreparably harmed and Defendants have been unjustly enriched, to an extent not presently ascertained, which damage, harm and enrichment will continue until enjoined by order of this Court.

COMPLAINT FOR PATENT INFRINGEMENT

1 47. On information and belief, Defendants' infringement is and have been
2 willful and Plaintiff is entitled to enhanced damages against Defendants.

3 48. This is an exceptional case and Plaintiff is entitled to an award of its
4 attorneys' fees.

5 **ADDITIONAL CAUSES OF ACTION RESERVED**

6 49. Plaintiff restates and incorporates by reference its previous allegations as if
7 fully set forth herein.

8 50. Plaintiff is continuing its investigation as to whether Defendants and certain
9 affiliated entities and/or individuals are also infringing other intellectual
10 property belonging to Plaintiff. Plaintiff reserves its right to amend its
11 Complaint to add claims after the discovery on such issues.

12 51. Plaintiff also intends to seek discovery to ascertain the names of other
13 entities and/or individuals that are affiliated and operate with Defendants in
14 committing the wrongs alleged above. Plaintiff intends to amend its
15 Complaint to add claims against these entities and/or individuals pending
16 discovery on such issues.

17 52. Plaintiff also reserves the right to otherwise amend its Complaint and/or add
18 parties, to the extent permitted by the Court's scheduling order and by the
19 Federal Rules of Civil Procedure.

20 **DEMAND FOR JURY TRIAL**

21 53. Plaintiff hereby demands a jury trial on all claims, damages, and any other
22 issues presented herein that are triable to a jury.

23 ///

24 ///

25 ///

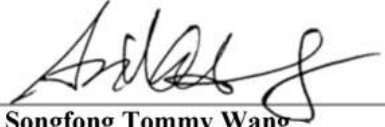
PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tsann Kuen prays that the Court enter judgment against Defendants as follows:

1. Adjudging and decreeing that Defendants have committed acts of patent infringement by their manufacture, use, sale, and offer for sale of the Infringing Products;
2. For a temporary and permanent injunction prohibiting Defendants and their officers, agents, servants, employees and attorneys, and other persons in active concert or participation with them, from further infringing the '179 Patent and requiring Defendants to deliver up to Plaintiff for destruction any and all Infringing Products in Defendants' possession, custody or control, along with any items of manufacture, the sole purpose of which is to manufacture such Infringing Product, as well as any promotional literature and packaging which displays or promotes such Infringing Product;
3. For patent infringement damages in an amount not less than a reasonable royalty, and for those damages to be trebled, pursuant to 35 U.S.C. Section 284 and/or lost profits;
4. For pre-judgment and post-judgment interest;
5. For judgment that the case is exceptional and an aware of reasonable attorneys' fees, expenses, expert fees and other costs incurred in this action under 35 U.S.C. § 285; and
6. For such other or further relief as the Court may deem just and proper.

1
2 DATED: November 15, 2018

Respectfully submitted,

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4 
5 Songfong Tommy Wang
6 Wang IP Law Group, P.C.

7 Attorneys for Plaintiff,
8 Tsann Kuen (Zhangzhou) Enterprise Co., Ltd.
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Tsann Kuen (Zhangzhou) Enterprise Co., Ltd.

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Korula T. Cherian, Ruyak Cherian LLP, 1936 University Ave., Ste. 350,
Berkeley, CA 94702; (510) 944-0190

DEFENDANTS

Huayu Electrical Appliance Group Co., Ltd. and Amazon.com, Inc.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. § 271

Brief description of cause:

Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

11/15/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Korula T. Cherian

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TSANN KUEN (ZHANGZHOU)
ENTERPRISE CO., LTD.

Plaintiff,

v.

HUAYU ELECTRICAL APPLIANCE
GROUP CO., LTD., and AMAZON.COM,
INC.,

Defendants.

Case No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Tsann Kuen (Zhangzhou) Enterprise Co., Ltd. (“Tsann Kuen”) brings this action under the patent laws of the United States, Title 35 of the United States Code, and makes the following allegations against Huayu Electrical Appliance Group Co., Ltd. (“Huayu”), and Amazon.com, Inc. (“Amazon” or “Retailer,” collectively “Defendants”):

THE PARTIES

1. Plaintiff Tsann Kuen is a Chinese company having a principal place of business at Tsann Kuen Industrial Park, Taiwanese Investment Zone, Zhangzhou, Fujian, China.
2. Upon information and belief, Defendant Huayu is a Chinese company headquartered at No. 168, North Ring Road, Zhouxiang Town, Cixi City, Zhejiang, China. Huayu may be served pursuant to the provisions of the Hague Service Convention.

3. Upon information and belief, Huayu manufactures, imports, sells and offers to sell the below accused products that are subsequently sold downstream by third-parties including Amazon.

4. Upon information and belief, Defendant Amazon is a Delaware corporation headquartered at 410 Terry Avenue North, Seattle, WA 98109. Upon information and belief, Amazon may be served with process via its registered agent: Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware, 19808. Upon information and belief, Amazon does business in Texas and in the Eastern District of Texas, directly or through intermediaries.

5. Upon information and belief, Defendant Amazon, by itself and/or through its subsidiaries, operates one or more “Fulfillment Centers” within this Judicial District. Amazon has a regular and established place of business in this Judicial District, including, e.g., distribution facilities, employees, and other business. For example, upon information and belief, Amazon has a distribution center located at 15201 Heritage Pkwy, Fort Worth in Denton County. Upon information and belief, Defendant and/or its subsidiaries employ individuals within this Judicial District responsible for the distribution of its products including those accused of infringement below.

JURISDICTION AND VENUE

6. This is an action for patent infringement under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*

7. This Court has jurisdiction over the subject matter of this action including at least under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Huayu including at least because it, directly or through its subsidiaries, divisions, groups, or distributors, has sufficient minimum

contacts with the United States. On information and belief, Huayu meets the criteria of Fed. R. Civ. P. 4(k)(2).

9. In the alternative, Huayu has sufficient minimum contacts with the State of Texas for this court to exercise personal jurisdiction. On information and belief, Huayu transacts substantial business in the State of Texas, directly or through agents, including: (i) at least a portion of the infringement alleged herein, and (ii) regularly does or solicits business in Texas, engages in other persistent courses of conduct, purposefully avails itself of the privilege of doing business in Texas, and/or derives substantial revenue from services provided in Texas.

10. As set forth in *Brunette Machine Works v. Kockum Industries, Inc.*, 406 U.S. 706 (1972), venue is proper for Huayu in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) at least because Huayu is a foreign entity.

11. This Court has personal jurisdiction over Amazon including at least because it, directly or through its subsidiaries, divisions, groups, or distributors, has sufficient minimum contacts with the State of Texas for this court to exercise personal jurisdiction. On information and belief, Amazon transacts substantial business in the State of Texas, directly or through agents, including: (i) at least a portion of the infringement alleged herein, and (ii) regularly does or solicits business in Texas, engages in other persistent courses of conduct, purposefully avails itself of the privilege of doing business in Texas, and/or derives substantial revenue from services provided in Texas.

12. Venue is proper in this judicial district under 28 U.S.C. § 1400(b).

13. Upon information and belief, Amazon operates distributions centers in this district including at least a distribution center located at 15201 Heritage Pkwy, Fort Worth, 76177 in Denton County.

14. Upon information and belief, Amazon's distribution centers in the district are regular and established physical places of business through which Amazon transacts business.

15. Upon information and belief, Amazon distributes products, including those accused of infringement in this case, to residents of the district who place orders through Amazon's website.

16. Upon information and belief, Amazon markets, sells, and delivers products, including the accused products, to customers in this district.

FACTUAL ALLEGATIONS

17. Shuhui Chang is the sole inventor of U.S. Patent No. 8,915,179 ("179 Patent" or "Asserted Patent") issued on December 23, 2014. This patent claims priority to a foreign patent application that issued as Chinese Patent No. 2006 1 0069596.6 (the "'596 Patent").

18. The claims of the Asserted Patent are directed toward a rotary waffle maker with a removable collecting plate that can be stored in a vertical position by fitting the edge of the collecting plate into a groove in the waffle maker support.

19. The Asserted Patent was assigned to Tsann Kuen, the Plaintiff in this action.

20. Tsann Kuen manufactures waffle makers covered by the '179 Patent that have been imported into and sold in the United States since at least July 2007 under the brand names Bialetti, Bella, Oster, Cooks, and Black & Decker. These Tsann Kuen waffle makers include, for example, model numbers TSK-2126, TSK-2909, TSK-2901, and TSK-2904.

21. On information and belief, since at least 2016, Huayu has manufactured unlicensed competing waffle makers comprising all the elements of one or more claims of the '179 Patent.

22. In January 2018, a complaint was filed against Huayu in the Intermediate People's Court of Ningbo Municipality ("Chinese Action") asserting infringement of the '596 Patent through the manufacture of waffle makers in China.

23. On information and belief, Huayu was aware of the '596 Patent and the corresponding Asserted Patent since at least the Chinese Action.

24. On information and belief, since at least 2016, Huayu has manufactured waffle makers practicing the Asserted Patents for sale in the United States under brand names including Oster, including but not limited to product model numbers CKSTWFBF10W-TECO, CKSTWFBF10MR-TECO, CKSTWFBF10W-ECO, CKSTWFBF10MR-ECO, and CKSTWFBF10W-ECO-WM ("Infringing Products"). On information and belief, Huayu since at least 2016 has made these products specifically for sale in the United States and at least has offered for sale, sold and imported the Infringing Products into the United States. On information and belief, Huayu has been aware that the Infringing Products infringe the Asserted Patent, since at least the filing of the Chinese Action.

25. On information and belief, Huayu has supplied and continues to supply the Infringing Products to third-parties ("Third-Party-Resellers") in the United States. On information and belief, since at least 2016 Huayu has offered to sell, sold, and/or imported the Infringing Products to Third-Party Resellers in the United States and in this district, which subsequently sold the Infringing Products in the United States to retailers including, for example, Amazon, Best Buy, Sears, Target, and Walmart. In addition, on information and belief, Huayu has taken these actions while being aware of the Asserted Patent with the knowledge that these products were to be imported into the United States, offered for sale, and sold within the United States including this judicial district.

26. On information and belief, Huayu has voluntarily and purposely placed the Infringing Products into the stream of commerce with the expectation that they would be offered for sale and sold in Texas and in this judicial district.

27. On information and belief, Amazon directly or through its subsidiaries, divisions, groups, or distributors, offers to sell and sells the Infringing Products through its website.

28. Defendants are properly joined in this action because (a) Plaintiff's claims herein are based on the same transaction(s), occurrence(s) or series of transactions or occurrences relating to Defendants' making, using, offering for sale, and selling of the accused products and processes; and (b) questions of fact common to all Defendants will arise in the action. For example, Huayu is the upstream seller of Infringing Products sold by the downstream Retailer.

COUNT I
(Infringement of the '179 Patent)

29. Tsann Kuen repeats and re-alleges the allegations contained in paragraphs 1-28 of this Complaint as if fully set forth herein.

30. The '179 Patent entitled "Muffin Baker" was duly and legally issued by the U.S. Patent and Trademark Office on December 23, 2014 from Application No. 12/668,909 claiming priority to Patent Cooperation Treaty application PCT/CN2007/003113 filed on November 2, 2007, based on Chinese application 2006 1 0069596 filed on November 3, 2006, which issued as the '596 Patent. A true and accurate copy of the '179 Patent is attached hereto as Exhibit A.

31. Each and every claim of the '179 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

32. Tsann Kuen exclusively owns all rights, title, and interest in and to the '179 Patent and possesses the exclusive right of recovery, including the exclusive right to recover for past infringement.

33. Claim 1 of the '179 Patent recites:

Claim 1. A waffle maker comprising:

- a support provided with a pedestal, at least one support arm provided with a rotary device, and a first inosculating portion;
- a main body connected to said rotary device;
- a collecting plate mounted on said support device and provided with a second inosculating portion used for connecting with said first inosculating portion when said main body is in a storage position;
- wherein the normal line of said collecting plate is perpendicular to the normal line of said pedestal when the collecting plate is in the storage position;
- wherein said first inosculating portion is a groove, and said second inosculating portion is an edge of said collecting plate.

34. The Infringing Products, such as the exemplary Oster Flip Waffle Maker model number CKSTWFBF10MR-TECO ("Oster Flip Waffle Maker") sold by Amazon, are waffle makers that infringe one or more claims of the '179 Patent, including, for example, claim 1. The Infringing Products comprise a support provided with a pedestal with at least one support arm provided with a rotary device. The Infringing Products also include a main body connected to said rotary device. In addition, the Infringing Products include a collecting plate mounted on said supporting device.

35. Consistent with disclosed advantages of the '179 Patent, the Infringing Products are designed for compact storage. Specifically, they include a first inosculating portion which is a groove and a second inosculating portion, which is the edge of the collecting plate. For example, the Oster Flip Waffle Maker has a groove located on the pedestal of the support. When the Infringing Products are in the storage position, the edge of the collecting plate is set in the groove with the normal line of the collecting plate perpendicular to the normal line of said pedestal.

36. The Infringing Products practice all the elements of at least claim 1 of the Asserted Patent.

37. Upon information and belief Huayu has had actual notice of the '179 Patent since at least the filing of the Chinese Action on January 3, 2018 and this lawsuit, that the Infringing Products would infringe at least claim 1 of the '179 Patent.

38. On information and belief, Huayu has been and is now directly infringing, literally and/or under the doctrine of equivalents, one or more claims, including at least claim 1 of the '179 Patent, by importing, selling, and/or offering to sell the Infringing Products in the United States under 35 U.S.C. § 271(a).

39. Amazon is now directly infringing, literally and/or under the doctrine of equivalents, one or more claims, including at least claim 1 of the '179 Patent, by selling and/or offering to sell the Infringing Products in the United States under 35 U.S.C. § 271(a).

40. As described in paragraphs 22 to 26, Huayu was aware of the Asserted Patent since at least the Chinese Action and knew that the Infringing Products would be imported into the United States where they were to be used, sold or offered for sale. On information and belief, Huayu has been and is now indirectly infringing, literally and/or under the doctrine of equivalents, one or more claims, including at least claim 1 of the '179 Patent, by inducing Third-Party Resellers to import, use, sell, and/or offer to sell the Infringing Products in the United States under 35 U.S.C. § 271(b).

41. As a result of Defendants' infringement of the '179 Patent, Tsann Kuen has suffered and continues to suffer damages. Thus, Tsann Kuen is entitled to recover from Huayu the damages Tsann Kuen sustained as a result of Huayu's wrongful and infringing acts in an amount no less than its lost profits and/or a reasonable royalty, together with interest and costs fixed by this Court under 35 U.S.C. § 284.

42. Tsann Kuen has suffered damage because of the infringing activities of Defendants, their officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and Tsann Kuen will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendants' infringing activities are preliminarily and permanently enjoined by this Court.

43. Huayu's infringement of the '179 Patent was, is, and continues to be deliberate and wilful because Huayu was and is on notice of the '179 Patent at least as early as January 3, 2018 due to the Chinese Action, yet it continued and continues to infringe the '179 Patent.

44. Amazon's continued infringement of the '179 Patent is deliberate and wilful because Amazon is on notice of the '179 Patent at least as of the filing of this complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tsann Kuen respectfully requests that this Court enter:

- A. A judgment that the Asserted Patent is valid and enforceable.
- B. A judgment in favor of Tsann Kuen that the Defendants have and are infringing the Asserted Patent;
- C. A judgment declaring Defendants' infringement to be willful.
- D. A judgment declaring that this case is exceptional within the meaning of 35 U.S.C. § 285;
- E. A permanent injunction enjoining Defendants, their officers, directors, agents, servants, employees, associates, partners, and other persons who are in active concert or

- participation with Defendants, from infringing the Asserted Patent and/or such other equitable relief the Court determines is warranted in this case;
- F. A judgment and order requiring the Defendants to pay to Tsann Kuen its damages, enhanced damages, costs, expenses, prejudgment and post-judgment interest, and attorneys' fees, if applicable, for the Defendants' infringement of the Asserted Patent as provided under 35 U.S.C. §284 and/or §285, and an accounting of ongoing post-judgment infringement; and
- G. Any and all other relief, at law or in equity that this Court deems just or proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Tsann Kuen hereby demands a trial by jury of all issues so triable.

Dated: November 15, 2018

Respectfully submitted,

/s/ Korula T. Cherian

Elizabeth L. DeRieux (State Bar No. 05770585)

Capshaw DeRieux, LLP

114 E. Commerce Ave.

Gladewater, TX 75647

Telephone: 903-845-5770

ederieux@capshawlaw.com

Ronald Wielkopolski

RuyakCherian LLP

1700 K St. NW, Suite 810

Washington, DC 20006

ronw@ruyakcherian.com

Korula T. Cherian

Robert Harkins

Song Zhu
RuyakCherian LLP
1936 University Ave, Ste. 350
Berkeley, CA 94702
sunnyc@ruyakcherian.com
bobh@ruyakcherian.com
songz@ruyakcherian.com

ATTORNEYS FOR PLAINTIFF

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Tsann Kuen (Zhangzhou) Enterprise Co., Ltd.

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Korula T. Cherian, Ruyak Cherian LLP, 1936 University Ave., Ste. 350,
Berkeley, CA 94702; (510) 944-0190**DEFENDANTS**Huayu Electrical Appliance Group Co., Ltd., Target Corporation and
Target Brands, Inc.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

35 U.S.C. § 271

Brief description of cause:

Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER 2:18-cv-488

DATE

11/15/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Korula T. Cherian

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

TSANN KUEN (ZHANGZHOU)
ENTERPRISE CO., LTD.

Plaintiff,

v.

HUAYU ELECTRICAL APPLIANCE
GROUP CO., LTD., TARGET
CORPORATION and TARGET BRANDS,
INC.

Defendants.

Case No.

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, Tsann Kuen (Zhangzhou) Enterprise Co., Ltd. (“Tsann Kuen”) brings this action under the patent laws of the United States, Title 35 of the United States Code, and makes the following allegations against Huayu Electrical Appliance Group Co., Ltd. (“Huayu”), Target Corporation, and Target Brands, Inc. (collectively “Target” or “Retailer”):

THE PARTIES

1. Plaintiff Tsann Kuen is a Chinese company having a principal place of business at Tsann Kuen Industrial Park, Taiwanese Investment Zone, Zhangzhou, Fujian, China.

2. Upon information and belief, Defendant Huayu is a Chinese company headquartered at No. 168, North Ring Road, Zhouxiang Town, Cixi City, Zhejiang, China. Huayu may be served pursuant to the provisions of the Hague Service Convention.

3. Upon information and belief, Huayu manufactures, imports, sells and offers to sell the below accused products that are subsequently sold downstream by third-parties including Target.

4. Upon information and belief, Defendant Target Corporation is a Minnesota corporation headquartered at 1000 Nicollet Mall, Minneapolis, Minnesota. Upon information and belief, Target may be served with process via its registered agent: CT Corporation System, 1999 Bryan St., Ste. 900, Dallas, Texas, 75201.

5. Upon information and belief, Defendant Target Brands, Inc. is a Minnesota corporation headquartered at 1000 Nicollet Mall, Minneapolis, Minnesota. Upon information and belief, Target may be served with process via its registered agent: CT Corporation System, 1010 Dale St. N, St. Paul, MN, 55117-5603.

6. Upon information and belief, Target Brands, Inc. and Target Corporation own and operate Target stores in this district and throughout Texas, and sell accused products through the Target website (www.target.com) and Target stores.

7. Huayu and Target will collectively be referred to as “Defendants.”

JURISDICTION AND VENUE

8. This is an action for patent infringement under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*

9. This Court has jurisdiction over the subject matter of this action including at least under 28 U.S.C. §§ 1331 and 1338(a).

10. This Court has personal jurisdiction over Huayu including at least because it, directly or through its subsidiaries, divisions, groups, or distributors, has sufficient minimum

contacts with the United States. On information and belief, Huayu meets the criteria of Fed. R. Civ. P. 4(k)(2).

11. In the alternative, Huayu has sufficient minimum contacts with the State of Texas for this court to exercise personal jurisdiction. On information and belief, Huayu transacts substantial business in the State of Texas, directly or through agents, including: (i) at least a portion of the infringement alleged herein, and (ii) regularly does or solicits business in Texas, engages in other persistent courses of conduct, purposefully avails itself of the privilege of doing business in Texas, and/or derives substantial revenue from services provided in Texas.

12. As set forth in *Brunette Machine Works v. Kockum Industries, Inc.*, 406 U.S. 706 (1972), venue is proper for Huayu in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b) at least because Huayu is a foreign entity.

13. This Court has personal jurisdiction over Target including at least because it, directly or through its subsidiaries, divisions, groups, or distributors, has sufficient minimum contacts with the State of Texas for this court to exercise personal jurisdiction. On information and belief, Target transacts substantial business in the State of Texas, directly or through agents, including: (i) at least a portion of the infringement alleged herein, and (ii) regularly does or solicits business in Texas, engages in other persistent courses of conduct, purposefully avails itself of the privilege of doing business in Texas, and/or derives substantial revenue from services provided in Texas.

14. Venue is proper for Target in this judicial district under 28 U.S.C. § 1400(b).

15. Upon information and belief, Target operates retail stores in this district including at 3092 N Eastman Rd, Longview, TX 75605-5093.

16. Upon information and belief, Target's retail stores in the district are regular and established physical places of business through which Target transacts business.

17. Upon information and belief, Target distributes products, including those accused of infringement in this case, to residents of the district who place orders through Target's website.

18. Upon information and belief, Target operates distribution centers in Denton and Tyler, including a distribution center located at 13786 County Road 433, Tyler, Texas 75706.

19. Upon information and belief, Target markets, sells, and delivers products, including the accused products, to customers in this district.

20. Upon information and belief, customers wishing to return accused products purchased through Target's website may do so at a Target store.

FACTUAL ALLEGATIONS

21. Shuhui Chang is the sole inventor of U.S. Patent No. 8,915,179 ("179 Patent" or "Asserted Patent") issued on December 23, 2014. This patent claims priority to a foreign patent application that issued as Chinese Patent No. 2006 1 0069596.6 (the "'596 Patent").

22. The claims of the Asserted Patent are directed toward a rotary waffle maker with a removable collecting plate that can be stored in a vertical position by fitting the edge of the collecting plate into a groove in the waffle maker support.

23. The Asserted Patent was assigned to Tsann Kuen, the Plaintiff in this action.

24. Tsann Kuen manufactures waffle makers covered by the '179 Patent that have been imported into and sold in the United States since at least July 2007 under the brand names Bialetti, Bella, Oster, Cooks, and Black & Decker. These Tsann Kuen waffle makers include, for example, model numbers TSK-2126, TSK-2909, TSK-2901, and TSK-2904.

25. On information and belief, since at least 2016, Huayu has manufactured unlicensed competing waffle makers comprising all the elements of one or more claims of the '179 Patent.

26. In January 2018, a complaint was filed against Huayu in the Intermediate People's Court of Ningbo Municipality ("Chinese Action") asserting infringement of the '596 Patent through the manufacture of waffle makers in China.

27. On information and belief, Huayu was aware of the '596 Patent and the corresponding Asserted Patent since at least the Chinese Action.

28. On information and belief, since at least 2016, Huayu has manufactured waffle makers practicing the Asserted Patents for sale in the United States under brand names including Oster, including but not limited to product model numbers CKSTWFBF10W-TECO, CKSTWFBF10MR-TECO, CKSTWFBF10W-ECO, CKSTWFBF10MR-ECO, and CKSTWFBF10W-ECO-WM ("Infringing Products"). On information and belief, Huayu since at least 2016 has made these products specifically for sale in the United States and at least has offered for sale, sold and imported the Infringing Products into the United States. On information and belief, Huayu has been aware that the Infringing Products infringe the Asserted Patent, since at least the filing of the Chinese Action.

29. On information and belief, Huayu has supplied and continues to supply the Infringing Products to third-parties ("Third-Party-Resellers") in the United States. On information and belief, since at least 2016 Huayu has offered to sell, sold, and/or imported the Infringing Products to Third-Party Resellers in the United States and in this district, which subsequently sold the Infringing Products in the United States to retailers including, for example, Amazon, Best Buy, Sears, Target, and Walmart. In addition, on information and belief, Huayu has taken these actions while being aware of the Asserted Patent with the knowledge that these products were to

be imported into the United States, offered for sale, and sold within the United States including this judicial district.

30. On information and belief, Huayu has voluntarily and purposely placed the Infringing Products into the stream of commerce with the expectation that they would be offered for sale and sold in Texas and in this judicial district.

31. On information and belief, Target directly or through its subsidiaries, divisions, groups, or distributors, offers to sell and sells the Infringing Products through its stores and website.

32. Defendants are properly joined in this action because (a) Plaintiff's claims herein are based on the same transaction(s), occurrence(s) or series of transactions or occurrences relating to Defendants' making, using, offering for sale, and selling of the accused products and processes; and (b) questions of fact common to all Defendants will arise in the action. For example, Huayu is the upstream seller of Infringing Products sold by the downstream Retailers.

COUNT I
(Infringement of the '179 Patent)

33. Tsann Kuen repeats and re-alleges the allegations contained in paragraphs 1-32 of this Complaint as if fully set forth herein.

34. The '179 Patent entitled "Muffin Baker" was duly and legally issued by the U.S. Patent and Trademark Office on December 23, 2014 from Application No. 12/668,909 claiming priority to Patent Cooperation Treaty application PCT/CN2007/003113 filed on November 2, 2007, based on Chinese application 2006 1 0069596 filed on November 3, 2006, which issued as the '596 Patent. A true and accurate copy of the '179 Patent is attached hereto as Exhibit A.

35. Each and every claim of the '179 Patent is valid and enforceable, and each enjoys a statutory presumption of validity under 35 U.S.C. § 282.

36. Tsann Kuen exclusively owns all rights, title, and interest in and to the '179 Patent and possesses the exclusive right of recovery, including the exclusive right to recover for past infringement.

37. Claim 1 of the '179 Patent recites:

Claim 1. A waffle maker comprising:

- a support provided with a pedestal, at least one support arm provided with a rotary device, and a first inosculating portion;
- a main body connected to said rotary device;
- a collecting plate mounted on said support device and provided with a second inosculating portion used for connecting with said first inosculating portion when said main body is in a storage position;
- wherein the normal line of said collecting plate is perpendicular to the normal line of said pedestal when the collecting plate is in the storage position;
- wherein said first inosculating portion is a groove, and said second inosculating portion is an edge of said collecting plate.

38. The Infringing Products, such as the exemplary Oster Flip Waffle Maker model number CKSTWFBF10MR-TECO ("Oster Flip Waffle Maker") sold by Target, are waffle makers that infringe one or more claims of the '179 Patent, including, for example, claim 1. The Infringing Products comprise a support provided with a pedestal with at least one support arm provided with a rotary device. The Infringing Products also include a main body connected to said rotary device. In addition, the Infringing Products include a collecting plate mounted on said supporting device.

39. Consistent with disclosed advantages of the '179 Patent, the Infringing Products are designed for compact storage. Specifically, they include a first inosculating portion which is a groove and a second inosculating portion, which is the edge of the collecting plate. For example, the Oster Flip Waffle Maker has a groove located on the pedestal of the support. When the Infringing Products are in the storage position, the edge of the collecting plate is set in the groove with the normal line of the collecting plate perpendicular to the normal line of said pedestal.

40. The Infringing Products practice all the elements of at least claim 1 of the Asserted Patent.

41. Upon information and belief Huayu has had actual notice of the '179 Patent since at least the filing of the Chinese Action on January 3, 2018 and this lawsuit, that the Infringing Products would infringe at least claim 1 of the '179 Patent.

42. On information and belief, Huayu has been and is now directly infringing, literally and/or under the doctrine of equivalents, one or more claims, including at least claim 1 of the '179 Patent, by importing, selling, and/or offering to sell the Infringing Products in the United States under 35 U.S.C. § 271(a).

43. Target is now directly infringing, literally and/or under the doctrine of equivalents, one or more claims, including at least claim 1 of the '179 Patent, by selling and/or offering to sell the Infringing Products in the United States under 35 U.S.C. § 271(a).

44. As described in paragraphs 26 to 30, Huayu was aware of the Asserted Patent since at least the Chinese Action and knew that the Infringing Products would be imported into the United States where they were to be used, sold or offered for sale. On information and belief, Huayu has been and is now indirectly infringing, literally and/or under the doctrine of equivalents, one or more claims, including at least claim 1 of the '179 Patent, by inducing Third-Party Resellers to import, use, sell, and/or offer to sell the Infringing Products in the United States under 35 U.S.C. § 271(b).

45. As a result of Defendants' infringement of the '179 Patent, Tsann Kuen has suffered and continues to suffer damages. Thus, Tsann Kuen is entitled to recover from Huayu the damages Tsann Kuen sustained as a result of Huayu's wrongful and infringing acts in an amount no less

than its lost profits and/or a reasonable royalty, together with interest and costs fixed by this Court under 35 U.S.C. § 284.

46. Tsann Kuen has suffered damage because of the infringing activities of Defendants, their officers, agents, servants, employees, associates, partners, and other persons who are in active concert or participation therewith, and Tsann Kuen will continue to suffer irreparable harm for which there is no adequate remedy at law unless Defendants' infringing activities are preliminarily and permanently enjoined by this Court.

47. Huayu's infringement of the '179 Patent was, is, and continues to be deliberate and wilful because Huayu was and is on notice of the '179 Patent at least as early as January 3, 2018 due to the Chinese Action, yet it continued and continues to infringe the '179 Patent.

48. Target's continued infringement of the '179 Patent is deliberate and wilful because Target is on notice of the '179 Patent at least as of the filing of this complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Tsann Kuen respectfully requests that this Court enter:

- A. A judgment that the Asserted Patent is valid and enforceable.
- B. A judgment in favor of Tsann Kuen that the Defendants have and are infringing the Asserted Patent;
- C. A judgment declaring Defendants' infringement to be willful.
- D. A judgment declaring that this case is exceptional within the meaning of 35 U.S.C. § 285;

- E. A permanent injunction enjoining Defendants, their officers, directors, agents, servants, employees, associates, partners, and other persons who are in active concert or participation with Defendants, from infringing the Asserted Patent and/or such other equitable relief the Court determines is warranted in this case;
- F. A judgment and order requiring the Defendants to pay to Tsann Kuen its damages, enhanced damages, costs, expenses, prejudgment and post-judgment interest, and attorneys' fees, if applicable, for the Defendants' infringement of the Asserted Patent as provided under 35 U.S.C. §284 and/or §285, and an accounting of ongoing post-judgment infringement; and
- G. Any and all other relief, at law or in equity that this Court deems just or proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Tsann Kuen hereby demands a trial by jury of all issues so triable.

Dated: November 15, 2018

Respectfully submitted,

/s/ Korula T. Cherian

Elizabeth L. DeRieux (State Bar No. 05770585)

Capshaw DeRieux, LLP

114 E. Commerce Ave.

Gladewater, TX 75647

Telephone: 903-845-5770

ederieux@capshawlaw.com

Ronald Wielkopolski

RuyakCherian LLP

1700 K St. NW, Suite 810
Washington, DC 20006
ronw@ruiakcherian.com

Korula T. Cherian
Robert Harkins
Song Zhu
RuiakCherian LLP
1936 University Ave, Ste. 350
Berkeley, CA 94702
sunnyc@ruiakcherian.com
bobh@ruiakcherian.com
songz@ruiakcherian.com

ATTORNEYS FOR PLAINTIFF