

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Johnny Rhymes with
Connie LLC,

Plaintiff

**ORDER GRANTING MOTION FOR
DEFAULT JUDGMENT**

Case No: 16-cv-440 (JNE/HB)

v.

Giftland Works, LLC,

Defendant

This matter is before the Court on Plaintiff Johnny Rhymes with Connie LLC's ("JRC") motion for default judgment pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, and for a permanent injunction, accounting, attorney's fees and costs. Based on the files, records, and proceedings herein, and for the reasons stated below, the Court will grant the motion.

FINDINGS OF FACT

1. On February 22, 2016, Plaintiff filed a Complaint against Defendant Giftland Works, LLC ("Giftland") alleging patent infringement and unfair competition. On February 23, 2016, Plaintiff served the Complaint on Defendant.
2. Defendant failed to appear and to answer or otherwise plead in response to the Complaint.

3. Plaintiff filed a Request for Entry of Default with a supporting declaration on March 31, 2016.
4. On April 4, 2016, the Clerk of Court entered default against Giftland for failure to plead or otherwise defend.
5. U.S. Patent No. D735,695 issued on August 4, 2015 (the “‘695 Patent”). By virtue of assignment, Plaintiff is the owner of all right, title and interest to the ‘695 Patent, and has been since its issuance.
6. Plaintiff has commercialized the mobile device strap design depicted in the ‘695 Patent through direct sales under the SLINGGRIP mark and through a distributor under the brand LOVE HANDLE.
7. Defendant has offered for sale and/or sold in the United States, including in Minnesota, products with a design that infringes the ‘695 Patent, under the name “Cell Phone Handle Grip” (“Giftland Grip”).
8. Defendant has promoted and offered to sell the infringing products without JRC’s consent or authorization.
9. Defendant has offered grip products for sale in the United States that falsely employ the same or near-identical packaging and images of the Plaintiff-licensed grip product, LoveHandle.
10. Defendant has received actual notice of JRC’s ‘695 Patent via correspondence from Plaintiff’s counsel dated February 10, 2016, but to date has not responded and has not ceased offering to sell the Giftland Grip.

11. The Court held a hearing on Plaintiff's Motion for Default Judgment on June 8, 2016. Defendant did not appear at the hearing or submit any opposition to Plaintiff's motion.

CONCLUSIONS OF LAW

1. Defendant has infringed, and continues to infringe, Plaintiff's '695 Patent.
2. Defendant's use of false packaging depicting Plaintiff's licensed LoveHandle product, to the extent that such packaging passes off Defendant's own infringing product as the Love Handle product, is an act of unfair competition prohibited under 15 U.S.C. § 1125(a).
3. Defendant's acts of infringement and unfair competition have irreparably harmed Plaintiff and will continue to irreparably harm Plaintiff. The harm to Plaintiff from Defendant's infringement and unfair competition outweighs the potential harm to Defendant from enjoining Defendant's illegal activities.
4. The public interest will be served by an injunction against Defendant's infringement and unfair competition.
5. Plaintiff is entitled to default judgment and has thus demonstrated success on the merits of its federal patent infringement and unfair competition claims.
6. The Court finds that Plaintiff is entitled to the requested injunctive relief.
7. Plaintiff is entitled to reasonable attorney's fees and costs pursuant to 35 U.S.C. § 285. This is an exceptional case because Defendant blatantly infringed Plaintiff's design patent, including after receiving notice of the '695 Patent.

8. Plaintiff, as the prevailing party, is entitled to an award of costs pursuant to Fed. R. Civ. P. 54(d)(1).

IT IS HEREBY ORDERED that:

1. Plaintiff Johnny Rhymes with Connie LLC's Motion for Default Judgment [Dkt. No. 11] is GRANTED.

2. Pursuant to 35 U.S.C. § 283, the Court awards injunctive relief as follows:

- a. Defendant Giftland Works, LLC, and its agents, servants, employees, affiliates and all other persons acting in concert or in conjunction with it, is enjoined from directly or indirectly importing, manufacturing, selling, offering for sale, marketing or promoting grip products that infringe the '695 Patent, including but not limited to the Defendant's "Cell Phone Handle Grip" ("Giftland Grip").
- b. On or before 45 days from the date of this Order, Defendant shall destroy, or deliver to Plaintiff at Defendant's cost, all Giftland Grip units.
- c. Defendant shall destroy all packaging, advertising, marketing and collateral material for the Giftland Grip.
- d. Defendant shall remove all references by Defendant, or any of its agents, servants, employees, affiliates or persons acting in concert with it or under its control, to the Giftland Grip on all websites, Internet sites, online auction sites and social media sites.

3. Pursuant to 15 U.S.C. § 1117(a), Defendant shall cease use of any packaging or other product materials, including images, that pass off any of Plaintiff's products, including the LoveHandle products, as Defendant's.
4. Pursuant to 35 U.S.C. § 289, Defendant shall account to Plaintiff all profits realized through the sale of products infringing the '695 Patent, including the Giftland Grip, in an amount to be approved by the Court upon submission of an accounting thereof.
5. No later than 45 days from the date of this Order, Defendant shall deliver a report to the Court detailing and certifying its compliance with the Court's injunction and other relief ordered herein.
6. Pursuant to 35 U.S.C. § 285, the Court awards Plaintiff its attorney's fees in an amount to be determined. Plaintiff shall within 21 days of the entry of this Order file documentation to support its request for a specific amount.
7. The Court awards Plaintiff its costs under Fed. R. Civ. P. 54(d)(1), subject to compliance with the procedures required by Local Rule 54.3(c).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 8, 2016

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge