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JAMES BONINI  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION 07 DEC 27 PM 1:46

TEXSTYLE, LLC  
5555 Murray Avenue  
Cincinnati, OH 45227

Plaintiff,

v.

MAYTEX MILLS, INC.  
135 Saw Mill River Road  
Yonkers, NY 10701

Defendant.

Civil Action No.: **1:07 CV 1043**

Judge WEBER, J.

Magistrate Judge \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
JUDGMENT AND JURY DEMAND**

Plaintiff Texstyle, LLC ("Texstyle"), for its Declaratory Judgment Complaint against Defendant Maytex Mills, Inc. ("Maytex"), alleges as follows.

**Parties**

1. Texstyle is a limited liability company organized and existing under the laws of the state of Nevada whose principal place of business is at 5555 Murray Avenue, Fairfax, Ohio 45227. Texstyle designs, markets and sells ready made slipcovers, curtains, table linens and decorative pillows.

2. Upon information and belief, Maytex is a Delaware corporation whose principal place of business is at 135 Saw Mill River Road, Yonkers, New York 10701. Upon information and belief, Maytex markets and sells home furnishing products including slipcovers, drapes, curtains, shower curtains, and bath products, which are sold throughout the United States, including within the State of Ohio and this District.

**Jurisdiction and Venue**

3. This action arises under the Patent Laws of the United States, 35 U.S.C. §1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202.

4. This Court has subject matter jurisdiction under 28 U.S.C. §§1331, 1338(a), 2201(a) and 2202.

5. This Court has personal jurisdiction over Maytex in that a substantial part of the events giving rise to the claims occurred in this District. Texstyle markets, offers for sale, receives orders, and processes sales for slipcovers from its offices in Fairfax, Ohio, in this District. Through counsel, Maytex has recently written to Kohl's Department Stores ("Kohl's"), a customer of Texstyle, and to Texstyle, asserting that Kohl's sale of certain two-piece slipcover products which were sold to Kohl's by Texstyle infringes a U.S. patent owned by Maytex. Such letter was sent by Maytex's counsel to Texstyle at its offices in Fairfax, Ohio. Upon information and belief, Maytex also sells and distributes products including slipcovers, drapes, and curtains which are sold throughout the United States, including within the State of Ohio and within this District.

6. Venue in this Court is proper pursuant to 28 U.S.C. §§1391 and 1400(b) because events giving rise to this action took place within this District and because, upon information and belief, Maytex regularly conducts business in the State of Ohio and this District.

**The Patent-In-Suit**

7. On or about May 1, 2007, the United States Patent and Trademark Office issued U.S. Patent No. 7,210,739B2 ("the '739 Patent"), entitled "Sofa Slip Cover and Covered Sofa," to David Morris Baines. A true and correct copy of the '739 Patent is attached to this Complaint

as Exhibit 1. The cover page of the '739 Patent identifies Maytex as the assignee of the '739 Patent.

**Facts**

8. Among the products developed, offered for sale and sold in the United States by Texstyle are certain two-piece slipcover products. Texstyle sells two-piece slipcovers, *inter alia*, to Kohl's, which resells them under the name Premier Home.

9. On or about December 18, 2007, counsel for Maytex sent a letter to Kohl's and to Texstyle (copy attached as Exhibit 2), enclosing a copy of the '739 Patent, stating that Maytex owns the '739 Patent, and asserting that the two-piece slipcover products sold by Texstyle to Kohl's and then resold by Kohl's under the name Premier Home infringe the '739 Patent.

10. Texstyle's two-piece slipcover products do not infringe any valid claim of the '739 Patent, and Texstyle intends to continue to offer for sale and to sell such products in the United States.

11. Texstyle has a reasonable apprehension that it and/or its customers will face a patent infringement lawsuit by Maytex relating to Texstyle's two-piece slipcover products. Maytex's actions, including its threatening contact with Texstyle and with Texstyle's customer, Kohl's, have created a threat to Texstyle's business that it is entitled to have resolved. An actual, substantial and continuing case or controversy exists between Texstyle and Maytex as to Texstyle's alleged infringement of the '739 Patent.

**Count 1: Declaratory Judgment That The Texstyle Two-Piece Slipcover Products Do Not Infringe The '739 Patent**

12. Texstyle realleges and incorporates by reference the allegations set forth in the preceding paragraphs.

13. Maytex has alleged that Texstyle's two-piece slipcover products infringe the '739 patent.

14. Texstyle's two-piece slipcover products do not infringe the '739 patent.

**Count 2: Declaratory Judgment That The '739 Patent Is Invalid**

15. Texstyle realleges and incorporates by reference the allegations set forth in the preceding paragraphs.

16. Upon information and belief, the '739 Patent is invalid under 35 U.S.C. §§102, 103, and/or 112.

**Prayer For Relief**

Texstyle requests the following alternative and cumulative relief:

1. A declaration that the manufacture, use, sale, offer for sale, or importation of Texstyle's two-piece seatcover products does not infringe the '739 Patent;
2. A declaration that the '739 Patent is invalid;
3. An award of reasonable attorneys' fees pursuant to 35 U.S.C. §285 and applicable law;
4. An award of Texstyle's costs and expenses of this action; and
5. Such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

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

Respectfully submitted,

  
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