

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

**GUANGZHOU XINXI ELECTRONIC
COMMERCE CO., LTD.,**

Plaintiff,

v.

ELLIOTT IMPORTING PTY LTD,

Defendant.

Case No.: _____

**COMPLAINT FOR
DECLARATORY JUDGMENT
OF PATENT NON-
INFRINGEMENT AND
INVALIDITY**

JURY TRIAL DEMANDED

Plaintiff **Guangzhou Xinxi Electronic Commerce Co., Ltd.** (“Plaintiff”), by and through its undersigned counsel, files this Complaint for Declaratory Judgment against Defendant **Elliott Importing Pty Ltd** (“Defendant”), and alleges as follows:

I. NATURE OF THE ACTION

1. This is an action for a declaratory judgment of patent non-infringement and patent invalidity under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, arising under the Patent Laws of the United States, Title 35 of the United States Code.
2. Plaintiff seeks a judicial declaration that Plaintiff’s products do not infringe U.S. Design Patent No. D938,283 (the “’283 Patent”), and that the ’283 Patent is invalid

under 35 U.S.C. §§ 102 and 103 (as applied to design patents through 35 U.S.C. § 171).

3. An actual, substantial, and justiciable controversy exists between Plaintiff and Defendant because Defendant has repeatedly submitted patent-infringement notices against Plaintiff's product listings on Amazon.com, causing Amazon to deactivate Plaintiff's listings and threatening imminent financial harm, degradation of Plaintiff's seller status, and destruction of Plaintiff's inventory.

II. THE PARTIES

4. Plaintiff Guangzhou Xinxu Electronic Commerce Co., Ltd. is a business entity organized and existing under the laws of the People's Republic of China, with its principal place of business at Room B076, 2nd Floor, Building F, No. 53 Congyun Road, Huangshi Street, Baiyun District, Guangzhou, Guangdong 510420, China.
5. Upon information and belief, Defendant Elliott Importing Pty Ltd is an Australian proprietary company organized under the laws of Australia, with a principal place of business at 34 Seaville Avenue, Scarborough, 4020, Australia. On the face of the '283 Patent, Defendant is identified as the assignee of the '283 Patent.

III. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202, because this action arises under the patent laws of the United States and seeks declaratory relief concerning rights and obligations under those laws.
7. An actual case or controversy exists within the meaning of 28 U.S.C. § 2201 and Article III of the U.S. Constitution. Under all the circumstances, Defendant's conduct has created a substantial controversy of sufficient immediacy and reality to warrant declaratory relief. *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118 (2007).

- 1 Defendant has affirmatively asserted that Plaintiff's products infringe the '283 Patent
2 and has taken enforcement action causing Plaintiff's listings to be removed from sale.
- 3 8. This Court has personal jurisdiction over Defendant. Defendant is a foreign entity that
4 purposefully directed its patent-enforcement activities at the United States, and
5 specifically at this judicial District, by submitting infringement complaints to
6 Amazon.com, whose principal place of business is in Seattle, Washington, within the
7 Western District of Washington. Those complaints were directed into and took effect
8 within this District, causing Plaintiff's listings to be deactivated and causing
9 commercial harm here. The exercise of jurisdiction is consistent with due process. *See*
10 *Trimble Inc. v. PerDiemCo LLC*, 997 F.3d 1147 (Fed. Cir. 2021).
- 11 9. In the alternative, this Court has personal jurisdiction over Defendant pursuant to
12 Federal Rule of Civil Procedure 4(k)(2). Plaintiff's claims arise under federal law;
13 Defendant is not subject to general personal jurisdiction in the courts of any single
14 State; and Defendant has sufficient contacts with the United States as a whole—
15 including its nationwide assertion and enforcement of the '283 Patent through the
16 Amazon.com marketplace—such that the exercise of jurisdiction comports with due
17 process.
- 18 10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a
19 substantial part of the events giving rise to Plaintiff's claims occurred in this District,
20 where Defendant's takedown notices were directed to and effected against the
21 Seattle-based Amazon.com platform. Venue is also proper under 28 U.S.C. §
22 1391(c)(3) because Defendant is not a resident of the United States and may be sued
23 in any judicial district. The patent-venue statute, 28 U.S.C. § 1400(b), does not
24 govern this declaratory-judgment action.

25 26 **IV. FACTUAL BACKGROUND**

27 **A. The Asserted Patent** 28

11. On December 14, 2021, the United States Patent and Trademark Office issued U.S. Design Patent No. D938,283 (kind code S1), titled “Bread Bag.” On its face, the ’283 Patent identifies Elliott Importing Pty Ltd as the assignee. A true and correct copy of the ’283 Patent is attached as **Exhibit 1**.

12. The application that led to the ’283 Patent (Application No. 29/719,328) was filed on January 2, 2020. The effective filing date of the ’283 Patent is January 2, 2020.

B. Plaintiff’s Products

13. Plaintiff manufactures, markets, imports, and sells reusable fabric bread bags on Amazon.com under parent ASIN B0F1CSRM37 and child ASINs B0F1CPQBLR, B0F1CQLJS5, B0FZQYDD3H, B0H2RVYDNX, B0G5K73RQG, B0G5KH42XQ, B0H2RTKRZR, and B0H6Q2X9HK (collectively, the “Accused Products”).

C. Defendant’s Takedown Notices and the Actual Controversy

14. Upon information and belief, Defendant, acting through its owner and representative Dominic Elliott (operating as “Think4Earth,” contact email dominic@think4earth.com), monitors and enforces the ’283 Patent against sellers on Amazon.com.

15. On or about June 26, 2026, Defendant submitted formal patent-infringement complaints to Amazon.com against Plaintiff’s listings, asserting that Plaintiff’s products infringe the ’283 Patent. Those complaints were assigned Amazon Complaint IDs 20908207671 and 21009346611 and identified the patent as D938283.

16. As a direct result of Defendant’s infringement complaints, Amazon deactivated Plaintiff’s listings for ASINs B0F1CQLJS5, B0G5KH42XQ, and B0G5K73RQG, removing them from public sale.

17. Defendant’s enforcement activity has interrupted Plaintiff’s business, frozen and jeopardized Plaintiff’s inventory, degraded Plaintiff’s Amazon Account Health status, and, per Amazon’s stated policy, threatens disposal of Plaintiff’s inventory if the deactivation is not resolved.

18. Plaintiff maintains that its Accused Products do not infringe any valid, enforceable claim of the '283 Patent, and that the '283 Patent is invalid over the prior art. An actual, substantial, and justiciable controversy therefore exists between the parties within the meaning of 28 U.S.C. § 2201.

V. FIRST CAUSE OF ACTION

(Declaratory Judgment of Non-Infringement of U.S. Design Patent No. D938,283)

19. Plaintiff realleges and incorporates by reference each of the allegations in Paragraphs 1 through 18 above as though fully set forth herein.

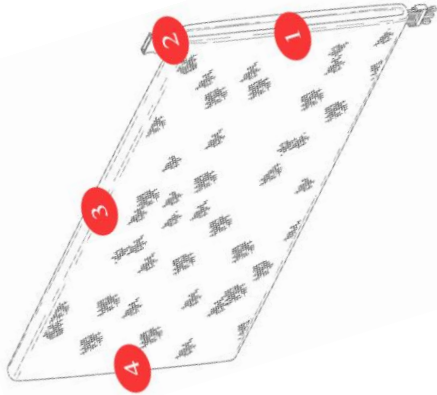
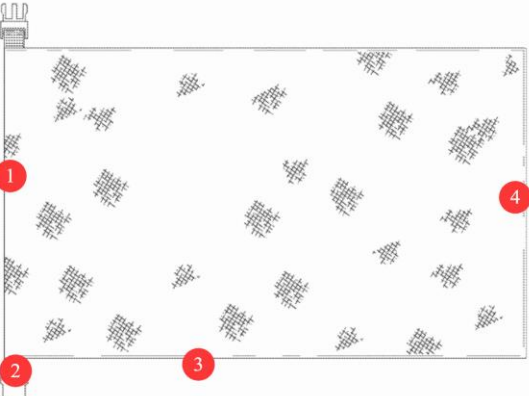
20. The test for design-patent infringement is the “ordinary observer” test: an accused design infringes only if, in the eye of an ordinary observer giving such attention as a purchaser usually gives, the resemblance between the two designs is such as to deceive that observer, inducing the observer to purchase one supposing it to be the other. *Gorham Co. v. White*, 81 U.S. 511 (1871).

21. The comparison is of the overall visual impression of the designs as a whole, construed in light of the prior art. *Egyptian Goddess, Inc. v. Swisa, Inc.*, 543 F.3d 665 (Fed. Cir. 2008) (en banc). Where, as here, the patented design is close to the prior art, the scope of the design patent is narrow, and minor differences may preclude a finding of infringement.

22. Applying the ordinary-observer test, Plaintiff’s Accused Products do not infringe the '283 Patent because the overall visual appearance of Plaintiff’s products is distinctly and substantially different from the ornamental design claimed in the '283 Patent.

Among other differences:

(1) Opening construction. Plaintiff’s Accused Products feature a distinct, separate fabric rim or strip that wraps completely around the top opening and matches the width of the closure strap. The '283 Patent drawings show no such separate perimeter fabric strip at the bag opening.

Claimed Design of '283 Patent (Based on FIGS. 1-8)	Features of the Accused Product
 	 

(2) Panel assembly and seams. Plaintiff's Accused Products are constructed by stitching together two distinct fabric panels, resulting in prominent visible side seams. The '283 Patent depicts an integrally formed bag body with smooth, seamless sides.

(3) Overall proportions. Plaintiff's Accused Products have a length-to-width aspect ratio of approximately 1.35, whereas the bag depicted in the '283 Patent has a substantially longer aspect ratio of approximately 1.85.

(4) **Strap and closure.** When fully unfolded, the closure strap of Plaintiff's products extends significantly longer relative to the bag-opening width than the strap configuration shown in the '283 Patent drawings.

23. An ordinary observer paying the attention a purchaser usually gives would perceive these substantial visual differences and would not be deceived into confusing Plaintiff's Accused Products with the design claimed in the '283 Patent.

24. Plaintiff is entitled to a judicial declaration that the manufacture, importation, marketing, offer for sale, and sale of Plaintiff's Accused Products do not infringe, directly or indirectly, any claim of the '283 Patent.

VI. SECOND CAUSE OF ACTION

(Declaratory Judgment of Invalidity of U.S. Design Patent No. D938,283)

25. Plaintiff realleges and incorporates by reference each of the allegations in Paragraphs 1 through 24 above as though fully set forth herein.

26. The '283 Patent is invalid for failure to satisfy the conditions of patentability set forth in 35 U.S.C. §§ 102 and 103, made applicable to design patents by 35 U.S.C. § 171.

27. Under 35 U.S.C. § 102, a claimed design is not patentable if it was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed design.

28. The effective filing date of the '283 Patent is January 2, 2020.

29. Before January 2, 2020, reusable bread-bag designs embodying the same or substantially the same overall ornamental appearance as the '283 Patent were publicly available, described in printed publications, and offered for sale. In particular, the "ONYA Reusable Bread Bag" offered by Make Earth Great Again (MEGA) / ONYA on Amazon (ASIN B077LKDCS2) was publicly listed, described, and sold to the public no later than June 17, 2019—more than six months before the effective filing date of the '283 Patent—as corroborated by a verified customer review dated October 30, 2019.

Home & Kitchen > Cooking & Dining > Kitchen Storage & Organisation > Food Storage > Food & Sandwich Bags



ONYA Reusable Bread Bags to Keep Bread Fresh/Storage Bag/Food Storage Baguette Loaf Roll Bag Keeper 41 x 25 x 10cm (Aqua)

Brand: Make Earth Great Again (MEGA)
4.2 ★★★★★ (45)

Currently unavailable.
We don't know when or if this item will be back in stock.

Brand	Make Earth Great Again (MEGA)
Material	Plastic
Recommended uses for product	Bread Storage
Closure type	Twist Tie
Number of items	1
Special feature	Reusable

✓ See more

About this item

<https://www.amazon.co.uk/Reusable-Bread-Storage-Baguette-Keeper/dp/B077LKDCS2>



Amazon Customer

Brilliant

Reviewed in the United Kingdom on 30 October 2019

Verified Purchase

Bought my first fresh bread plastic free

4 people found this helpful

Helpful

Report

Technical Feature Decomposition and Comparison between '283 patent and Prior art A

Drawings of '283 patent	Drawings of the Prior art A

30. The overall ornamental design claimed in the '283 Patent is anticipated under 35 U.S.C. § 102 and/or would have been obvious under 35 U.S.C. § 103 to a designer of ordinary skill in view of the prior art in existence before January 2, 2020.

31. Plaintiff is entitled to a judicial declaration that the '283 Patent is invalid under 35 U.S.C. §§ 102 and 103.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor and against Defendant as follows:

- A. A declaration that Plaintiff has not infringed and is not infringing, directly or indirectly, any claim of U.S. Design Patent No. D938,283;
- B. A declaration that U.S. Design Patent No. D938,283 is invalid under 35 U.S.C. §§ 102 and 103;
- C. An order enjoining Defendant, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from asserting infringement of the '283 Patent against Plaintiff or Plaintiff's customers, resellers, or e-commerce platforms (including Amazon.com);
- D. An order directing Defendant to withdraw all infringement complaints and takedown notices submitted to Amazon.com concerning Plaintiff's products and ASINs, including Complaint IDs 20908207671 and 21009346611;
- E. A determination that this is an exceptional case under 35 U.S.C. § 285 and an award to Plaintiff of its reasonable attorneys' fees, expenses, and costs; and
- F. Such other and further relief as the Court deems just and proper.

VIII. DEMAND FOR JURY TRIAL

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

1
2 DATED this 24 day of July, 2026.
3

4 Respectfully submitted,

5 **WEN IP LLC**

6 /s/ Zhihua Han

7 Zhihua Han, Ph.D., J.D. (WSBA #46204)

8 7710 80th Pl SE

9 Mercer Island, WA 98040

10 Phone: (206) 973-6936

11 Email: josh@wen-ip.com

12 Attorney for Plaintiff

13 Guangzhou Xinxin Electronic Commerce
14 Co., Ltd.
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INDEX OF EXHIBITS

Exhibit Number	Document Title / Factual Identity	Page Count / Bates Range
EXHIBIT 1	True and correct copies of Defendant’s U.S. Design Patent No. D938,283 (the ’283 Patent)	6 Pages / EX_01_000001 - EX_01_000006