

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MAUREEN REDDY,

Plaintiff,

v.

LOWE'S COMPANIES, INC.
and EVOLUTION LIGHTING, LLC,
Defendant.

COMPLAINT

Case No.: 1:13-cv-13016

Plaintiff, Maureen Reddy ("Plaintiff"), of Winthrop, MA, brings this civil action against defendants, Lowe's Companies, Inc. ("Lowe's"), having a principal place of business at 1000 Lowes Blvd, Mooresville, NC 28117, and Evolution Lighting, LLC ("Evolution"), having a principal place of business at 16200 NW 59th Ave., Suite 101, Miami Lakes, FL 33014, (collectively "Defendants").

JURISDICTION, VENUE, AND NATURE OF ACTION

1. This is an action for design patent infringement under 35 U.S.C. § 271 and unfair competition under Mass. G. L. c. 93A. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1332, 1338(a), 1338(b), and 1367(a).
2. Upon information and belief, this Court has jurisdiction over Lowe's because Lowe's regularly conducts and solicits business in the Commonwealth of Massachusetts ("Massachusetts").
3. Upon information and belief, this Court has jurisdiction over Evolution because Evolution regularly conducts and solicits business in Massachusetts.

4. Venue is proper in this district under 28 U.S.C. §§ 1391(b), 1391(c), and 1400 because Defendants infringed and continue to infringe the subject design patent in this judicial district, have committed and continue to commit tortious acts in this judicial district, and regularly conduct and solicit business in this district.
5. Plaintiff seeks to enjoin Defendants from further infringing Plaintiff's design patent, statutory damages, enhanced damages, Defendants' actual profits, and Plaintiff's costs of suit.

THE PARTIES

6. Plaintiff is a Winthrop, Massachusetts resident and holder of design patent D677,423 ("423 patent").
7. Lowe's, a Mooresville, NC corporation, is a nationwide home improvement retail superstore with its principal place of business at 1000 Lowes Blvd, Mooresville, NC 28117, stores in fifty states, including twenty-seven stores in Massachusetts, and an online e-commerce marketplace that serves residents of Massachusetts and residents of all fifty states. Plaintiff is informed and believes that Lowe's regularly conducts and solicits business in Massachusetts.
8. Evolution, d/b/a Catalina, Vision Max, Tensor, Alys, Cresswell, Dana, Illuminada, and other private brands exclusive to Evolution's retailers, including Lowe's, is an international designer, manufacturer, and distributor of lighting products through home improvement stores and online e-commerce. Evolution is a Miami, Florida corporation with its principal place of business at 16200 NW 59th Ave., Suite 101, Miami Lakes, FL 33014, who sells products at all Lowe's stores and on Lowe's online marketplace, including to residents of Massachusetts.

BACKGROUND

A. Plaintiff's Patent And Distinctive Light Shade

9. Plaintiff owns the '423 patent, issued on March 5, 2013. A copy of the '423 patent for Plaintiff's Bathroom Vanity Light Shade ("Light Shade") is attached to this Complaint as Exhibit A.
10. Plaintiff's Light Shade is unique because it transforms outdated bathroom vanity light bars using only a screwdriver for installation, rather than requiring extensive electrical work and/or cosmetic wall repair as did similar prior products. The Light Shade is a simple, low-cost alternative to achieving an upscale, designer look, and was the first product to fill the market void for such a shade.
11. Plaintiff, a professional interior designer and real estate stager, conceived of the Light Shade that is the subject of the '423 patent while redesigning a home in September 2011. Plaintiff subsequently developed the design, filed a design patent application, and commissioned a prototype.
12. Plaintiff referred to her Light Shade as the "DE-Light Vanity Light Shade" in all copyrighted business/marketing materials supplied in good faith to Defendants.

B. Plaintiff's Presentation of DE-Light Vanity Light Shade to Lowe's

13. In March, 2012, Plaintiff presented the '423 patent prototype and business/marketing plan to Lowe's Interior Lighting Décor Merchandise Director ("Lighting Director") at Lowe's headquarters in North Carolina. Minutes into the presentation, the Lighting Director stopped Plaintiff and informed her that one of Lowe's vendors had presented an

“identical” prototype three weeks prior. Plaintiff informed the Lighting Director that she had a design patent pending, was in contact with—and had the support of—the utility patent holder for a similar product, and suggested a meeting to discuss collaboration among Lowe’s, the vendor, the utility patent holder, and Plaintiff. Plaintiff left her business/marketing plan with the Lighting Director when the meeting ended.

14. Plaintiff’s copyrighted business/marketing plan included detailed descriptions, photos, drawings, marketing strategies, packaging designs, and substantial information about her Light Shade.

15. The Lighting Director furnished their vendor, Evolution, who had presented an “identical” prototype of Plaintiff’s Light Shade, with Plaintiff’s contact information, via email. That email from the Lighting Director to Evolution solely contained Plaintiff’s contact information and copied Plaintiff.

C. Evolution’s Failure to Materialize Licensing Agreement with Plaintiff

16. Plaintiff began communicating with, and shared her business/marketing plan with, Evolution, who initially offered Plaintiff a 2% royalty for use of her “DE-Light Vanity Light Shade” name, and offered to discuss other arrangements for package design and marketing.

17. Evolution also revealed to Plaintiff that it was entering a year-long exclusive contract with Lowe’s for their product, and their product would be featured prominently within Lowe’s stores.

18. No licensing or royalty agreement materialized between Evolution and Plaintiff, or between Lowe’s and Plaintiff.

D. Lowe's Marketing and Sale of Evolution's Knock-Off Light Shade

19. Plaintiff initiated contact with Lowe's legal team to inquire about their marketing and intended sale of Evolution's potentially infringing light shade, and extensively engaged in communications with Lowe's legal team.
20. During these communications, Lowe's requested a copy of Plaintiff's pending design patent application without any guarantee of confidentiality, which Plaintiff agreed to provide on the condition that Lowe's provided Plaintiff with drawings, photos, and descriptions of Evolution's product; Lowe's refused the information exchange.
21. At some date between June 26, 2012 and February 15, 2013, Lowe's began offering for sale three versions of a light shade substantially similar to Plaintiff's Light Shade, produced by Evolution under their Catalina name, and named "Vanity Refresh Kit."
22. On February 15, 2013, Plaintiff discovered the "Vanity Refresh Kit" for sale on Lowe's website. Lowe's markets the "Vanity Refresh Kit" most similar to Plaintiff's Light Shade as the "Vanity Light Refresh Kit" online.
23. Plaintiff purchased the "Vanity Refresh Kit" shade most closely resembling her Light Shade and had it shipped to her home. Upon further inspection, the Plaintiff determined that the shade was virtually identical to her Light Shade, with the only differences being slightly concave edges where Plaintiff's appeared straight, and the presence of a decorative nickel finial appearing on the bottom of the shade. Images of the purchased Vanity refresh Kit and a side-by-side comparison of Plaintiff's Light Shade and the Vanity Refresh Kit design is attached as Exhibit B.
24. Defendants jointly and separately have offered and continue to offer the "Vanity Refresh Kit"/"Vanity Light Refresh Kit" via Lowe's online marketplace and in all Lowe's stores.

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