

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MOLO DESIGN, LTD.,

Plaintiff,

v.

CHANEL, INC.,

Defendant.

Civil Action No. 21-CV-1578 (VEC)

**PLAINTIFF’S DISCLOSURE OF ASSERTED
CLAIMS AND INFRINGEMENT CONTENTIONS**

Pursuant to Local Patent Rule 6 and the Court’s Civil Case Management Plan and Scheduling Order (“CMP,” ECF 27), Plaintiff Molo Design, Ltd. (“Molo”) hereby provides the following Disclosure of Asserted Claims and Infringement Contentions (“Infringement Contentions”) to Defendant Chanel, Inc. (“Chanel” or “Defendant”).

Molo provides these Infringement Contentions based upon publicly available information reasonably available to it as of this date. Discovery has just commenced and Chanel has not yet produced any documents or information regarding—or samples of—the products accused of infringement. Accordingly, Molo reserves the right to amend, modify, or supplement the disclosures set forth herein, including by identifying additional infringed claims, in light of Chanel’s document production, responses to interrogatories, admissions, disclosures, fact witness testimony, expert witness evidence, amendments to pleadings, and/or additional discovery and evidence. Molo also reserves to the right to amend, modify, or supplement the disclosures set forth herein in view of any claim construction order or other ruling issued by the Court, or for any other

reason authorized by statute, the Federal Rules of Civil Procedure, the Patent Local Rules, the Court's orders, or applicable case law. Further, Molo reserves the right to amend, modify, or supplement the disclosures set forth herein in the event that documents regarding the accused instrumentalities are subsequently discovered.

The disclosures set forth herein are not intended to be, and should not be construed as, a waiver of the attorney-client privilege, attorney work product, or any other applicable privilege or immunity.

I. DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

Molo alleges that Chanel infringes one or more claims of the following patents: U.S. Patent Nos. 7,866,366 (“the ’366 patent”); 8,561,666 (“the ’666 patent”); 9,689,161 (“the ’161 patent”); and 9,797,134 (“the ’134 patent”) (individually an “Asserted Patent” and collectively, “the Asserted Patents”). Molo’s specific infringement allegations for the Asserted Patents are provided below.

a. Each Claim of Each Asserted Patent that is Infringed by Defendant (CMP § 7(c)(i))

Based on the information currently known and reasonably available to Molo, and subject to the limitations and reservations set forth above, Molo presently alleges that the Accused Instrumentalities (as defined below) infringe the following claims of the Asserted Patents (individually an “Asserted Claim” and collectively, “the Asserted Claims”).

Asserted Patent	Asserted Claims	Applicable subsection of 35 U.S.C. § 271
The ’366 patent	1, 2, 5-7, 13, 20-23	35 U.S.C. § 271(a)
The ’666 patent	21-23	35 U.S.C. § 271(a)
The ’161 patent	2, 4-8, 10, 12, 14, 18, 19, 20, 22	35 U.S.C. § 271(a)
The ’134 patent	1, 5, 6	35 U.S.C. § 271(a)

of any elements of the Asserted Claims where the doctrine of equivalents would alter the infringement analysis provided in the attached claim charts. Thus, without the benefit of the Court's claim construction, Molo presently believes that Defendant's Accused Instrumentalities literally infringe the Asserted Claims.

Nonetheless, to the extent a claim element is not met literally, Molo contends that any such element would be present under the doctrine of equivalents because the Accused Instrumentalities perform substantially the same function, in substantially the same way, to achieve substantially the same result as the subject matter of the Asserted Claims. To the extent any differences are alleged to exist between the Asserted Claims and the Accused Instrumentalities, such differences are insubstantial.

Discovery in this case has just commenced and Chanel has not produced any documents or information regarding the Accused Instrumentalities, samples of the Accused Instrumentalities, or non-infringement contentions from Chanel. Accordingly, Molo reserves the right to apply the doctrine of equivalents to each and every element after full discovery from Chanel or, as appropriate, in response to the Court's construction of the asserted claims. Moreover, should Chanel contend that any element or limitation of the asserted claims is absent from the Accused Instrumentalities, Molo reserves the right to demonstrate that the allegedly missing element or limitation is present in the Accused Instrumentalities under the doctrine of equivalents.

f. Identification of Priority Dates (CMP § 7(c)(vi))

Molo contends that the Asserted Claims of the Asserted Patents are entitled to at least the following priority dates based on the earliest application filing dates.

- Asserted Claims of the '366 patent: May 18, 2005
- Asserted Claims of the '666 patent: December 23, 2008

- Asserted Claims of the '161 patent:
 - Claims 2, 4-8, 10, 12, 14, and 18: May 18, 2005
 - Claims 19, 20, and 22: December 23, 2009
- Asserted Claims of the '134 patent: December 23, 2008

Molo notes that each Asserted Claim may be entitled to an earlier priority date than the patent application filing date due to an actual conception and reduction practice prior to filing. Accordingly, Molo reserves the right present evidence that the Asserted Claims are entitled to earlier priority dates based on earlier conceptions of the claimed inventions and earlier diligent reductions to practice.

g. Molo's Products, Devices, Processes, Methods, Acts, or Other Instrumentalities that Incorporate or Reflect the Asserted Claims (CMP § 7(c)(vii))

Molo presently identifies at least the following Molo products as practicing the following Asserted Claims.

Patent-in-Suit	Claims	Molo Products
The '366 patent	1, 2, 5-7, 13, 23	softwall, softblock, softwall with LED, LED for softwall, softblock with LED, and LED for softblock products
	20	softwall, softblock, softwall with LED, LED for softwall, softblock with LED, and LED for softblock products with a height between 0.1 and 3 meters
	21	softwall, softblock, softwall with LED, LED for softwall, softblock with LED, and LED for softblock products with a height between 0.1 and 0.5 meters
	22	softwall, softblock, softwall with LED, LED for softwall, softblock with LED, and LED for softblock products with a height between 0.5 and 3 meters

complaint in this action. On information and belief, Chanel's infringement of the Asserted Patents has thus been egregious, willful, wanton, malicious, in bad faith, deliberate, consciously wrongful, and flagrant.

Discovery in this case has just commenced and Chanel has not produced any documents or information regarding the Accused Instrumentalities. Accordingly, Molo reserves the right to amend its willful infringement contentions after full discovery from Chanel.

II. ACCOMPANYING DOCUMENT PRODUCTION

Based on information presently available to Molo, and subject to the limitations and reservations set forth above, Molo hereby produces the file histories of the Asserted Patents with this disclosure at MOLO_00000001 – MOLO_00001427.

Molo's identification and production of file histories shall not be deemed to constitute an admission as to the relevance of the information disclosed in the produced documents. Molo also does not waive its right to object to the admissibility, at trial or any other proceeding, of any document on the basis of privilege, work product immunity, relevance, or any other applicable privilege or objection. Further, Molo's accompanying production shall not be construed as limiting or waiving Molo's right to use or introduce any document or thing in this Action.

Dated: June 14, 2021

By: /s/ Conor Civins

Conor Civins (*pro hac vice*)
BRACEWELL LLP
111 Congress Avenue, Suite 2300
Austin, TX 78701
Telephone: (512) 472-7800
Fax: (800) 404-3970
conor.civins@bracewell.com

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.