

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

NO. 14-cv-_____

Candella, LLC, and Luminara Worldwide,
LLC,

Plaintiffs,

JURY TRIAL DEMANDED

v.

Liown Electronics Co. Ltd., Shenzhen
Liown Electronics Co. Ltd., and Liown
Technologies/Beauty Electronics, LLC,

Defendants.

**COMPLAINT FOR PATENT INFRINGEMENT AND DECLARATORY
JUDGMENT**

Plaintiffs Candella, LLC (“Candella”), and Luminara Worldwide, LLC
 (“Luminara”), for their Complaint against Defendants Liown Electronics Co. Ltd.,
Shenzhen Liown Electronics Co. Ltd., and Liown Technologies/Beauty Electronics, LLC,
allege as follows:

JURISDICTION, VENUE AND JOINDER

1. This is an action for patent infringement arising under the patent laws of the
United States, 35 U.S.C. § 1 *et seq.* and, more particularly, 35 U.S.C. §§ 271 and 281.

This is also an action for a Declaratory Judgment pursuant to 28 U.S.C. § 1221.

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331
and 1338(a).

3. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

4. Joinder is proper under 35 U.S.C. § 299. Defendants are related business entities and/or affiliates who have acted in concert with one another. The allegations of infringement contained herein arise out of the same series of occurrences relating to the manufacture, use, import, sale and/or offering for sale of the same flameless candle products manufactured and imported into the United States by Defendants Liown Electronics Co. Ltd., Shenzhen Liown Electronics Co. Ltd., and/or Liown Technologies/Beauty Electronics, LLC.

THE PARTIES

5. Candella is a California limited liability company having its principal place of business in Orange County, California. Candella is the exclusive licensee possessing all substantial right, title and interest to patents issued by the United States Patent and Trademark Office for inventions relating to flameless candles. Candella does business in the State of Minnesota and in this District. Candella has entered into an exclusive distribution agreement in this District with Luminara.

6. Luminara is a Minnesota limited liability company having its principal place of business in Eden Prairie, Minnesota. Luminara obtained from Candella the exclusive right to make, use and sell products utilizing Candella's licensed flameless candle technology. Luminara received Candella's promise that all others shall be excluded from practicing Candella's flameless candle technology, and the right to join Candella in any action for infringement. Luminara flameless candles utilize Candella's

flameless candle intellectual property. Luminara does business in the State of Minnesota and in this District.

7. Upon information and belief, Defendant Liown Electronics Co. Ltd., is a company formed under the laws of the People's Republic of China, with a place of business in China. Upon information and belief, Defendant Shenzhen Liown Electronics Co. Ltd., is a company formed under the laws of the People's Republic of China, with a place of business in China. Defendant Liown Technologies/Beauty Electronics, LLC, upon information and belief, is a Delaware limited liability company with a place of business in Azusa, California. Defendants Liown Electronics Co. Ltd., Shenzhen Liown Electronics Co. Ltd., and Liown Technologies/Beauty Electronics, LLC, are upon information and belief, affiliated companies operating in concert with one another, and are hereafter referred to collectively as "Liown."

8. Upon information and belief, Liown, either alone or in concert with others, manufactures the infringing flameless candle product at issue herein for sale throughout the United States, including in this District. Upon information and belief, Liown places infringing flameless candles into the stream of commerce with the reasonable expectation and/or knowledge that the actual and potential ultimate purchasers and users of the products are located in Minnesota, as well as elsewhere in the United States. Upon information and belief, Liown has had continuous and systematic contacts with the State of Minnesota and this District through its efforts to solicit, market and/or sell flameless candle products throughout the United States. Liown's U.S. operations are located in Bloomington, Minnesota.

THE PATENTS-IN-SUIT

9. Plaintiffs are the exclusive licensees possessing all substantial right, title and interest in United States Patent No. 7,837,355 (“’355 patent”), entitled “Kinetic Flame Device,” which issued November 23, 2010. Accordingly, Plaintiffs have standing to sue for infringement of the ’355 patent.

10. Plaintiffs are the exclusive licensees possessing all substantial right, title and interest in United States Patent No. 8,070,319 (“’319 patent”), entitled “Kinetic Flame Device,” which issued December 6, 2011. Accordingly, Plaintiffs have standing to sue for infringement of the ’319 patent.

COUNT I – PATENT INFRINGEMENT

11. Plaintiffs reallege the allegations in the preceding paragraphs as if fully restated in Count I of this Complaint.

12. Upon information and belief, Defendants have been, and still are, directly infringing, either literally or under the doctrine of equivalents, one or more claims of the ’355 and ’319 patents by importing, making, using, selling and/or offering to sell in the United States flameless candles which realistically simulate the flame of a burning candle.

13. Upon information and belief, Defendants have been and still are indirectly infringing, either literally or under the doctrine of equivalents, one or more claims of the ’355 and ’319 patents by inducing one another, other third parties, and end-users to infringe claims of the ’355 and ’319 patents by using, offering for resale and/or reselling

in the United States flameless candles which realistically simulate the flame of a burning candle.

14. Upon information and belief, Defendants' infringement of the '355 and '319 patents has been willful and deliberate, rendering this case "exceptional" within the meaning of 35 U.S.C. § 285.

15. Plaintiffs have been damaged by Defendants' infringement of the '355 and '319 patents. Unless restrained and enjoined by this Court, Defendants will continue to infringe the '355 and '319 patents resulting in substantial, continuing, and irreparable damage to Plaintiffs.

16. Plaintiffs have complied with the notice requirements of 35 U.S.C. § 287(a) with respect to the '355 and '319 patents.

COUNT II – DECLARATORY JUDGMENT OF NON-INFRINGEMENT

17. Plaintiffs reallege the allegations in the preceding paragraphs as if fully restated in Count II of this Complaint.

18. Upon information and belief, Liown is the assignee of U.S. Pat. No. 8,789,986 ("986 patent"), entitled "Electronic Lighting Device and Method of Manufacturing Same," which issued on July 29, 2014 and lists Xiaofeng Li as the sole inventor. Mr. Li is the owner of Liown.

19. In August 2012, counsel for Liown wrote to a customer of Luminara, enclosing a copy of the Canadian counterpart patent application to the application which issued as the '986 patent. In the letter, counsel for Liown asserted that Luminara's

flameless candle products may infringe one or more claims of the Canadian counterpart application, if issued, and threatened enforcement of future patent rights.

20. More recently, Mr. Li and John Yang, CEO of Liown, in an August 2014 meeting with Michael O'Shaughnessy, CEO of Luminara, threatened to enforce the '986 patent against Luminara.

21. Luminara flameless candles do not infringe any valid claim of the '986 patent.

22. There is an actual, substantial and immediate controversy between the adverse interests of Candella and Luminara, on the one hand, and Liown, on the other, as to whether Luminara's use, making, sale or offering for sale of its flameless candles infringes the claims of the '986 patent.

23. Liown has made antagonistic claims. The claims are immediate given the recent issuance of the '986 patent and indicate imminent and inevitable litigation.

24. The interests of the parties will be best served if this Court enters a Declaratory Judgment setting forth the rights of the parties with respect to this dispute.

25. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. § 2201, this Court may declare the rights and other legal relations of any interested party.

26. Candella and Luminara are entitled to a Judicial Declaration and Order that Luminara has not infringed and does not infringe, either directly or indirectly, literally or under the doctrine of equivalents, any valid claim of the '986 patent.

27. The relief sought by Candella and Luminara will resolve the controversy relative to the respective interests of Candella/Luminara and Liown.

COUNT III – DECLARATORY JUDGMENT OF INVALIDITY

28. Plaintiffs reallege the allegations in the preceding paragraphs as if fully restated in Count III of this Complaint.

29. Upon information and belief, the '986 patent is assigned to Liown.

30. The '986 patent is invalid for failure to satisfy one or more of the conditions of patentability set forth in Title 35 of the United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and 112.

31. An actual, substantial and immediate controversy exists between Candella and Luminara, on the one hand, and Liown, on the other, as to whether the claims of the '986 patent are valid.

32. Candella and Luminara are entitled to a Judicial Declaration and Order that the '986 patent is invalid.

DEMAND FOR JUDGMENT

WHEREFORE, Plaintiffs demands judgment as follows:

- A. That Defendants be adjudged to have infringed the '355 and '319 patents;
- B. That the '355 and '319 patents be adjudged valid and enforceable;
- C. That Defendants be adjudged to have willfully and deliberately infringed the '355 and '319 patents;
- D. That Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, be preliminarily and permanently restrained and enjoined from further infringement of the '355 and '319 patents;

- E. An accounting and an award of damages by virtue of Defendants' infringement of the '355 and '319 patents;
- F. An award of treble damages because of Defendants' willful infringement of the '355 and '319 patents, in accordance with 35 U.S.C. § 284;
- G. An assessment of prejudgment and post-judgment interest and costs against Defendants, together with an award of such interest and costs, all in accordance with 35 U.S.C. § 284;
- H. That the present case be adjudged an "exceptional case" within the meaning of 35 U.S.C. § 285 and reasonable attorneys' fees be awarded pursuant thereto;
- I. Declaring that the '986 patent is not infringed by Luminara or any of its customers selling Luminara flameless candles;
- J. Declaring that the '986 patent is invalid; and
- K. An award of such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment to the Constitution of the United States, Plaintiffs hereby demand a trial by jury of all issues triable in the above action.

Dated: August 5, 2014

ANTHONY OSTLUND BAER
& LOUWAGIE, P.A.

By: s/Courtland C. Merrill

Joseph W. Anthony (#2872)

Courtland C. Merrill (#311984)

Dan Hall (#392757)

3600 Wells Fargo Center

90 South Seventh Street

Minneapolis, Minnesota 55402

Tel: (612) 349-6969

Fax: (612) 349-6996

Email: janthony@anthonyostlund.com

cmerrill@anthonyostlund.com

dhall@aonthonystlund.com

*Attorneys for Plaintiffs Candella, LLC
and Luminara Worldwide, LLC*