

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

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

ARGENTO SC BY SICURA, INC.

Defendant.

C.A. No. 1:21-cv-11018

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blackbird Tech LLC d/b/a/ Blackbird Technologies (“Blackbird Technologies” or “Plaintiff”) hereby alleges for its Complaint for Patent Infringement against Defendant Argento SC By Sicura, Inc. (“Argento” or “Defendant”), on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

THE PARTIES

1. Plaintiff Blackbird Technologies is a company organized under the laws of Delaware, with its principal place of business located at One Boston Place, Suite 2600, Boston, MA, 02108.

2. Defendant Argento SC By Sicura, Inc. is a corporation organized under the laws of New York, with its principal place of business located at 420 5th Ave, 15th Floor, New York, NY 10018.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the provisions of the Patent Laws of the United States of America, title 35, United States Code §§ 100, *et sec.*

4. Subject-matter jurisdiction over Blackbird Technologies’ claims is conferred upon

this Court by 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (patent jurisdiction).

5. This Court has personal jurisdiction over Defendant because Defendant is subject to general and specific jurisdiction in the state of New York. Defendant is subject to personal jurisdiction because Defendant is a New York corporation and because Defendant has transacted business within New York and committed acts of patent infringement in New York. Defendant has made certain minimum contacts with New York such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice. Defendant regularly conducts business in New York by maintaining a corporate headquarters located in New York. Defendant has marketed, offered, and provided the infringing instrumentality in New York to citizens of New York through its retailers, including through retailer Nordstrom Rack (<https://www.nordstromrack.com/>). The exercise of personal jurisdiction comports with Defendant's right to due process because, as described above, Defendant has purposefully availed itself of the privilege of New York corporate laws and of conducting activities within New York such that it should reasonably anticipate being haled into court here. As alleged herein, the acts by Defendant in this district have caused injury to Blackbird Technologies.

6. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(b) at least because Defendant resides in New York, has a principal place of business in the Southern District of New York, transacts business within this district, and has committed acts of infringement in this district.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. D720,933

7. Blackbird Technologies reasserts and incorporates herein by reference the allegations of all preceding paragraphs of this Complaint as if fully set forth herein.

8. U.S. Design Patent No. D720,933 (the “’933 patent”) entitled, “Face Washing Brush,” was duly and legally issued by the U.S. Patent and Trademark Office on January 13, 2015.

9. Blackbird Technologies is the owner by assignment of all right, title, and interest in and to the ’933 patent, including all right to recover for any and all infringement thereof. The ’933 patent is valid and enforceable. A true and correct copy of the ’933 patent is attached as Exhibit A.

10. The claims of the ’933 patent are directed to a unique ornamental design for a face washing brush, as shown and described.

11. Argento has not obtained permission from Blackbird Technologies to use the design of the ’933 patent.

12. Below is a side-by-side comparison of the patented design of the ’933 patent and the Dabney Lee Dual-Action Face Brush product (<https://www.nordstromrack.com/s/dabney-lee-dual-action-face-brush-pink/6112448?origin=category-personalizedsort&breadcrumb=Home%2FWomen%2FBeauty%2FSkin%20Care%2FTools%20%26%20Devices&color=000>). As is apparent, Argento has misappropriated Blackbird Technologies patented design.

'933 Patent

Accused Dabney Lee Dual-Action Face Brush

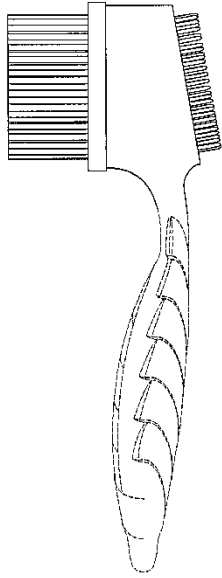


FIG. 1

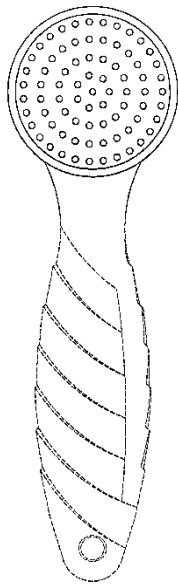


FIG. 2



'933 Patent

Accused Dabney Lee Dual-Action Face Brush

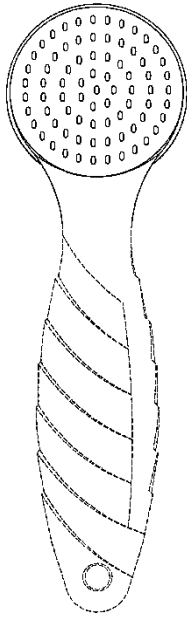


FIG. 3

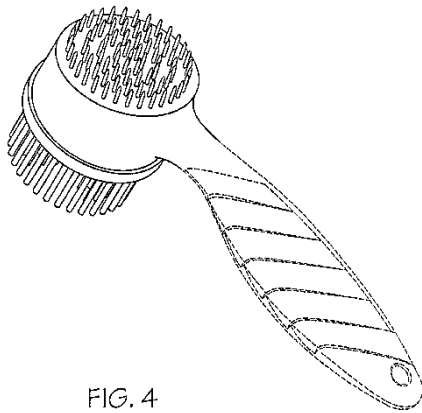
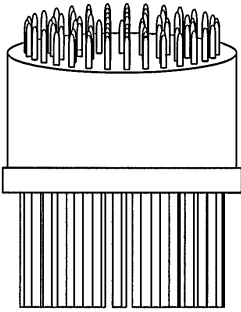



FIG. 4



'933 Patent	Accused Dabney Lee Dual-Action Face Brush
 <p data-bbox="456 724 555 758">FIG. 5</p>	

13. Argento has infringed and continues to infringe the '933 patent by manufacturing, using, distributing, offering to sell and/or selling in the United States the Dabney Lee Dual-Action Face Brush, which embodies the design covered by the '933 patent. Argento's infringing activities violate 35 U.S.C. § 271.

14. Blackbird Technologies is informed and believes, and on that basis alleges, that Argento has gained profits by virtue of its respective infringement of the '933 patent.

15. Blackbird Technologies has sustained damages as a direct and proximate result of Argento's infringement of the '933 patent.

16. As a consequence of Argento's past infringement of the '933 patent, Blackbird Technologies is entitled to the recovery of past damages in the form of, at a minimum, a reasonable royalty.

17. As a consequence of Argento's past infringement of the '933 patent, Blackbird Technologies is entitled to restitutionary relief against Argento in the form of disgorgement of wrongfully obtained profits pursuant to 35 U.S.C. §289 and any other appropriate relief.

18. As a consequence of Argento's continued and future infringement of the '933 patent, Blackbird Technologies is entitled to royalties for its infringement of the '933 patent on a going-forward basis.

PRAYER FOR RELIEF

WHEREFORE, Blackbird Technologies respectfully requests that this Court enter judgment against Defendant, as follows:

A. Adjudging that Defendant has infringed the '933 patent, in violation of 35 U.S.C. § 271(a);

B. An award of damages to be paid by Defendant adequate to compensate Blackbird Technologies for Defendant's past infringement and any continuing or future infringement up until the date such judgment is entered, and in no event less than a reasonable royalty, including interest, costs, and disbursements pursuant to 35 U.S.C. § 284 and, if necessary to adequately compensate Blackbird Technologies for Defendant's infringement, an accounting of all infringing sales including, but not limited to, those sales not presented at trial;

C. Alternatively, an award of restitutionary relief against Defendant in favor of Blackbird Technologies, including disgorgement of wrongfully obtained profits pursuant to 35 U.S.C. § 289 and any other appropriate relief;

D. Ordering Defendant to continue to pay royalties to Blackbird Technologies for infringement of the '933 patent on a going-forward basis;

E. Adjudging that this case is exceptional under 35 U.S.C. § 285 and awarding costs, expenses, and attorneys' fees to Blackbird Technologies;

F. Awarding Blackbird Technologies pre-judgment and post-judgment interest at the maximum rate permitted by law on its damages; and

G. Granting Blackbird Technologies such further relief as this Court deems just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Blackbird Technologies demands a trial by jury on all claims and issues so triable.

Dated: December 22, 2021

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