

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. _____

MOBB HEALTH CARE LTD.,

Plaintiff,

vs.

FELIX GERSHGORIN,
KLARA GERSHGORIN, and
INNO MEDICAL, LLC.

Defendants.
_____ /

COMPLAINT

Plaintiff, MOBB Health Care Ltd. (“MOBB Health”), a Canadian corporation, sues Defendants, FELIX GERSHGORIN, KLARA GERSHGORIN, and INNO MEDICAL, LLC (collectively, “Defendants”), and alleges as follows:

PARTIES

1. MOBB Health is a corporation organized and existing under the laws Canada with a principal place of business at 116A Viceroy Rd. Unit 5-6 Concord, Ontario L4K 2M1.
2. Defendant Felix Gershgorin (“Felix”) is a Florida resident who resides at 241 188th Street, Sunny Isles Beach, FL 33160 and is otherwise *sui juris*.
3. Defendant Klara Gershgorin (“Klara”) is a Florida resident who resides at 241 188th Street, Sunny Isles Beach, FL 33160 and is otherwise *sui juris*.
4. Felix and Klara (collectively, the “Gershgorins”) are husband and wife.
5. Defendant Inno Medical, LLC (“Inno”) is a Florida limited liability company with a registered address at 16500 Collins Ave, Ste. 2353, Sunny Isles Beach, FL 33160.

6. Both the Gershgorins are managers of Inno and are key operators and contributors of Inno. The Gershgorins also exercise complete dominion and control over Inno. Specifically, the Gershgorins (i) are responsible for marketing, selling, and distributing the accused product; (ii) oversee, control, and manage all employees of Inno and others who distribute the infringing products; and (iii) are the major motivator of business decisions and activities at Inno.

7. Each Defendant is likewise liable in relation to the illegal activities described herein on the basis of that Defendant's material participation in the illegal activities.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and 1338 because this action involves substantial claims arising under the Lanham Act and the patent laws of the United States.

9. Defendants are subject to personal jurisdiction in this Court because (i) Defendants are domiciled in Florida, doing business in Florida, and located in Florida; (ii) Defendants are operating, conducting, engaging in, and carrying on a business in Florida and maintain their offices in Florida; (iii) Defendants have committed, or aided, abetted, contributed to or participated in the commission of unfair competition, improper acts of unauthorized and unlicensed use of MOBB Health's federally registered patent, and other tortious acts that have led to foreseeable harm; and (iv) Defendants have systematic and continuous contacts with Florida.

10. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and § 1400 as a substantial part of the events giving rise to MOBB Health's claims occurred in this district, including the illegal sale of products that infringe the patent at issue in this lawsuit, and because this district is where Defendants reside and regularly transacts business.

COMMON ALLEGATIONS

MOBB Health

11. MOBB Health is a Canadian company who has developed, manufactured, marketed, sold, and distributed durable medical equipment for more than 10 years, including in the United States.

12. MOBB Health has developed a line of award winning durable medical equipment that combine functionality, cutting edge design, and cost-conscious solutions while maintaining an emphasis on quality control. Many of those durable medical devices are protected by registered patents, including its “Swivel Shower Chair 2.0.”

13. MOBB Health completely and tightly controls the manufacturing and branding supply chain to ensure that it is able to tightly protect both its intellectual property and the quality of the products made and branded with the MOBB trademarks. To that end, MOBB Health uses a vetted manufacturer in China to manufacture its products.

14. Through these efforts and the investment of significant resources, MOBB Health has developed goodwill and a reputation for producing high-quality products with consumers and its retail partners.

15. To protect its reputation and goodwill, MOBB Health has aggressively pursued infringers of its branded and patented products, successfully shutting down counterfeit operations in China in the past.

The Partnership Dispute

16. In late 2015, after years of MOBB Health positioning itself in the industry in Canada and around the world, the Gershgorins approached Mr. Moshe Bodman (who is an officer

of MOBB Health), in an effort to pitch themselves to serve as a seller/distributor of MOBB products inside the United States.

17. The Gershgorins had no prior experience in durable medical equipment industry, including the development and manufacturing of durable medical equipment. However, the Gershgorins claimed to have relationships with big box retailers, like Sam's Club and Walmart, who could distribute MOBB products in the U.S. market.

18. After negotiations, Mr. Bodman, through a Canadian entity (2501712 Ontario), agreed to work with the Gershgorins as partners in an entity that would sell MOBB products to the United States market (the "Partnership").

19. At no time was the manufacturing, production, branding or licensing of products ever a part of the prospective or ultimate deal for the Gershgorins with respect to the Partnership. And at no point was the Partnership or the Gershgorins authorized to manufacture, brand, or patent any MOBB products. Instead, purchase orders were to be made by the Partnership to and through MOBB Health, and the Partnership would then sell the MOBB products in the U.S. market. And this is how the course of dealings continued for years.

20. A partnership dispute eventually arose between the Gershgorins and 2501712 Ontario, which was the subject of a lawsuit before the State of Florida's 11th Judicial Circuit in Miami-Dade County, Florida.

21. While the partnership dispute was pending, the Gershgorins surreptitiously created an entity called MedPlus Supply, Inc. The Gershgorins then used MedPlus Supply to compete with the Partnership based on their knowledge of MOBB Health's target market and customers with the specific intent to infringe upon MOBB Health's products through unauthorized sales of counterfeit products, including the Swivel Shower Chair 2.0.

22. The Gershgorins—without authorization or license—intentionally stole MOBB Health’s and MOBB Medical’s patents and trademarks, and then took them to an unauthorized producer in China, falsely represented to the Chinese facility they had authority from MOBB Health and MOBB Medical and caused counterfeit products to be made and shipped to the the Gershgorins in the United States in violation of the law and without authority, where they were marketed and sold.

23. MOBB Health was only made aware of the counterfeit products and violative actions of the Gershgorins by accident and happenstance. The unauthorized Chinese facility (who the Gershgorins hired and caused to produce counterfeit MOBB products), which infringed the MOBB Health’s and MOBB Medical’s marks and patents based on instructions from the Gershgorins, then marketed the counterfeit products for sale around the globe.

24. MOBB Health first learned on the unauthorized Chinese manufacturer’s sale of counterfeit products when one of its long-time customers in France called to advise that he was suspiciously offered products directly from an unfamiliar Chinese vendor, who was not known to the French customer and for whom the sales process was odd and curious compared to the course of dealing amongst the parties in the past. This French customer called Mr. Bodman, who was shocked to hear about the situation, the unauthorized proposition for the sale, and confirmed the purported seller was an unauthorized seller of MOBB products.

25. The Gershgorins’ infringement was subsequently confirmed when a shipper sent the Bills of Lading for counterfeit products set to be shipped from China to the Gershgorins in Florida to MOBB Health’s address—by accident—alerting MOBB Health that not only was the unauthorized Chinese facility marketing counterfeit MOBB products around the globe, but also

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