

August 31, 2022

Commissioner Jason E. Kearns
U.S. International Trade Commission (ITC)
500 E St, SW
Washington, D.C. 20436

RE: Petition Requesting Investigation of and Enforcement Action Against Man Wah Holdings LTD., Inc.

Dear Commissioner Kearns,

We write to seek an investigation of Chinese furniture manufacturer Man Wah Holdings LTD., Inc. (“Man Wah”), and its American Subsidiary, Man Wah USA, based in North Carolina. Specifically, we ask that you examine whether Man Wah committed *prima facie* violations of Section 337 of the *International Trade Commission (ITC) Act* and other federal statutes forbidding intellectual property theft and acts of unfair importation.

Section 337 expressly forbids unfair importation, which is violated any importer engages in the theft of intellectual property or patent infringements. It has been written that Section 337 violations “most often involve claims regarding intellectual property rights, including allegations of patent infringement and trademark infringement by imported goods.”

For years, Man Wah operated a campaign to counterfeit and sell Raffel, LLC’s (“Raffel”) proprietary multi-functional cup holder for motion furniture. This was confirmed by a federal jury in Milwaukee, Wisconsin, on June 17, 2022, which found that Man Wah maliciously and willfully stole Raffel’s intellectual property. We believe this jury verdict and the corresponding evidence demonstrate *prima facie* violations of Section 337 due to unfair competition, and that Man Wah’s behavior warrants an ITC investigation.

The following are the undisputed facts pertaining to this matter:

- On November 5, 2021, a U.S. Magistrate Judge found that Man Wah violated Raffel’s patent on the multi-functional lighted cup holder.
- On June 17, 2022, after hearing all the evidence, a federal jury found that Man Wah had committed willful and malicious theft of Raffel’s proprietary cup holder. The jury awarded Raffel \$8.7 million in compensatory damages and \$97.5 million in punitive damages, making it one of the largest verdicts in the Milwaukee federal court’s history.
- Prior to this verdict, there was also undisputed evidence that Man Wah paid \$60,000 to an ex-employee to falsely claim that he was a co-inventor of Raffel’s patented cup holder. On March 23, 2021, following a bench trial, a U.S. Magistrate Judge found this individual was not an inventor of the cup holder.

- Additionally, 39 months before the jury trial, Man Wah called the legitimate inventor of the cup holder, a long-time Raffel employee named Ken Seidl, to try and hire him away from Raffel. Seidl refused this offer.
- Further, then-CEO of Man Wah USA, William “Guy” Ray wrote numerous emails to Man Wah’s senior management in China to protest its intentional copying of Raffel’s patented cup holder. He warned that the knockoffs being sold to customers were defective, resulting in numerous retail and consumer complaints.
- Mr. Ray wrote in a November 2018 email to a colleague in China that “the dumbest thing we did [sic] was have the new supplier use raffle [sic] patent # and description on each piece. Not [sic] only is that patent infringement, but *it is fraud* which if raffel [sic] wanted to pursue, could be escalated to criminal charges in addition to the civil charges already filed” [emphasis added].
- In another series of emails, Mr. Ray cited the numerous defects and customer complaints that stemmed from Man Wah’s counterfeit cup holders.
- Specifically, Mr. Ray wrote in a December 2018 email with the subject line “We have a major issue” to a colleague in China that there were a reported “over 500 instances of cupholder failures in the past 60 days versus 20-50 per year before the change was made to buy the knockoff” (Raffel later discovered that one of those instances included the complete failure of a counterfeited circuit board that showed signs of burning and charring). Additionally, Mr. Ray wrote, “I suggest we settle with raffel now [sic] get their cupholders for replacements and pay to have them all changed out.”

Please also see the attached news stories from the *Milwaukee Journal Sentinel* and the *Milwaukee Business Journal* that provide additional context surrounding Man Wah’s attempts to steal Raffel’s intellectual property.

In sum, there is a *prima facie* case that Man Wah was guilty of unfair importation under the *ITC Act* as soon as the federal jury found that it had willfully and maliciously stolen Raffel’s intellectual property. There is more than enough basis, given the jury’s verdict and publicly available evidence, to launch an investigation into this behavior.

There is substantial evidence that Man Wah’s acts of intellectual property theft and unfair importation were not limited to Raffel alone. Thus, there is further reason for the ITC to investigate Man Wah’s conduct as constituting a pattern and practice that injured U.S. businesses. We believe other U.S. companies suffered from similar unfair competition by Man Wah, including intellectual property theft. We would be happy to cooperate with the ITC enforcement staff to provide additional companies and executives who might be willing to provide evidence of Man Wah’s violations of Section 337, should an investigation be opened.

We would appreciate a meeting with you and your staff at your soonest convenience, and to provide documents and other evidence to support this investigation request. We look forward to your response and the opportunity to discuss further.

Sincerely,

Paul Stangl
Executive Chairman, Raffel Systems

Lanny J. Davis
Attorney for Raffel Systems

Jury awards more than \$100M to Germantown firm in lawsuit against Chinese furniture maker



Bruce Vielmetti

Milwaukee Journal Sentinel

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1:15



A federal jury on Friday awarded more than \$100 million in damages to a Germantown company that accused a Chinese furniture maker of stealing its intellectual property -- the design of a multi-functional lighted cupholder.

The jury found Man Wah Holdings LTD. had infringed on Raffel Systems LLC's patent and intentionally misappropriated its "trade dress" for the cupholder, and had even put stickers with Raffel's patent number on the faked components.

The jury awarded about \$9.3 million in actual damages for the false marking, patent and trade dress infringements. It added added \$97.5 million in punitive damages for the malicious appropriation of Raffel's trade dress, the overall look and feel of the cupholder.



The 12-person jury returned the verdicts Friday afternoon, after about six hours of deliberations at the end of a two-week trial. Officials from neither Raffel or Man Wah had any immediate comment on the verdicts.

About two dozen employees from Raffel Systems LLC in Germantown -- most of its staff -- packed into a small courtroom gallery at Milwaukee's Federal Courthouse Thursday, all wearing company shirts.

They came to hear closing arguments in Raffel's case against Man Wah Holdings LTD, a giant Chinese furniture manufacturer Raffel accused of unlawfully copying its lighted cupholder controllers used in theater-style seats made by Man Wah and several other companies.

John Scheller, a lawyer with Michael Best & Friedrich in Madison, called Man Wah's strategy, "deliberate, planned and destructive copying," of Raffel's intellectual property.

"No doubt, they wanted to get rid of us. Most small companies wouldn't stand up to Man Wah, but they underestimated the strength of Raffel's people."

Man Wah denied it infringed any patent or trade dress associated with Raffel's cupholders, and painted the Wisconsin company as merely trying to leverage a short-term error into a giant payoff from a big foreign firm.

"This is their pot of gold," said Michael Lindinger of Washington, D.C.

"They're seeking damages from Man Wah's profits selling furniture."

Lindinger noted some Man Wah officials were also in attendance, all the way from China, "because this is important to them too."

Simple idea, big business

According to its website, Mark Raffel owned a furniture store in Milwaukee in the 1980s when he began working on ways to embed motors and heaters to increase comfort. Now, the company does a global business providing controls and features for furniture, RVs, theaters and more.

The lawsuit says employee Ken Seidl got the idea for a lighted cupholder at the 2005 furniture show in North Carolina. It evolved to include controls for reclining, foot rests, head rests, massagers and other functions on theater-style seating and other so-called motion furniture. Raffel secured several patents.

It quickly became a popular component for dozens of manufacturers. Man Wah was a huge account, but Raffel insisted a change to the Chinese firm's typical supplier agreement: it could not copy the cupholder.

Raffel employs about 30 people in engineering, design and administration at its Germantown headquarters, but makes most products at a Chinese subsidiary.

In late 2017, Man Wah did contract with another Chinese firm to make the same units, for less than Raffel was charging. Not only were the cupholders "identical," in design and appearance (though not in reliability), the fakes even had stickers on them with Raffel's patent number.

By mid 2018, the fakes were failing, Raffel discovered the issue, and sued.

Man Wah made changes to the holders it was having made, to make it clear they were not Raffel knockoffs. According to trial testimony, about 60,000 of the fakes were used in various Man Wah seating units sold under several brand names during 2018.

Raffel's lawyer said there are still some 14,000 of the fakes in circulation, meaning Raffel faces the possibility of brand damage for years to come.

Fakes hurt Raffel's reputation

During closing argument, Scheller said Man Wah clearly knew of Raffel's patents before it ordered the cheaper, counterfeit cupholders. Man Wah also kept buying some cupholders from Raffel, though in diminishing numbers. Scheller said that was a cover up, meant to keep Raffel thinking its own products were in all the furniture Man Wah kept selling.

The knockoffs quickly proved problematic. Major US retailers who purchased from Man Wah were reporting numerous failures, and thought Raffel's products were defective, because Man Wah blamed Raffel.

"Our reputation is forever tarnished," Scheller told the jury.

The nearly two-week trial before U.S. Magistrate Judge Nancy Joseph included recorded and live testimony, some from China via Zoom, and battling experts trying to break down the arcane, technical aspects of patent and trademark law for jurors.

Raffel sought in excess of \$10 million and in damages for patent infringement, trade dress infringement, misappropriation and false marking. Scheller suggested the jury could award even more in punitive damages.

"How do you deter someone like Man Wah?" Scheller asked, suggesting only a very large award would get the attention of a very large company. He did not specify a figure.

For Man Wah, Lindinger argued that Raffel never supported its claims of dominance in the seating control market, tied any specific research and development expenses specifically cupholder, or offered evidence as to the value of the company's good will, which it now claims has been damaged.

Lindinger said Raffel's total revenue from cupholder sales from 2016 through 2018 was \$24.4 million, and yet was seeking anywhere from half to all that much in damages from Man Wah.

Lindinger also pressed the defense that the cupholder didn't really have a trade dress to protect because it was primarily functional, and that its appearance and design was a result of the functionality. "Trade dress" refers to a kind of protection for products that wouldn't qualify under patent or trademark law..

Man Wah argued no consumers were ever confused by the fake cupholders, because no one buys the furniture just because it has Raffel components. No one would know Raffel made the holders unless they disassembled the sofas, he said.

Scheller argued he didn't have to prove the potential for confusion, because there was so much actual confusion -- among manufacturers, retailer, and consumers, and even Man Wah itself. He noted that after the fakes started failing, Man Wah workers sent out more fakes as replacements when they meant to send Raffel cupholders.

During pretrial litigation, Joseph had narrowed the claims and counterclaims of the case and found that Man Wah had infringed on one aspect of one Raffel patent. Lindinger argued that patent was invalid, because the claimed novel invention aspects were just obvious to anyone in that industry.

Lindinger noted though Raffel officials testified the cupholder is the company's premier and seminal product, it wasn't prominently featured in its catalogs, or mentioned during occasional stories about Raffel in a furniture industry magazine.

Jury awards \$106M to Germantown firm in patent case against Chinese furniture giant

By [Teddy Nykiel](#) – Reporter, Milwaukee Business Journal
Jun 17, 2022 Updated Jun 29, 2022, 3:51pm CDT

See Correction/Clarification at end of article

After a nearly four-year legal battle between a Germantown electronics company and a huge Chinese firm over questions of intellectual property, a Milwaukee jury ruled in favor of the local company Friday and awarded it \$106 million.

Raffel Systems LLC of Germantown makes patented light-up cupholders designed to be integrated into furniture like sofas and recliners. It alleged that one of its customers, Chinese furniture maker Man Wah Holdings Ltd. Inc., stole its design and then sold products with defective knockoff cupholders that pose a threat to consumer safety.

The jury awarded Raffel Systems \$97.5 million in punitive damages and \$8.7 million in actual damages. The court could decide to award additional damages and attorney fees, according to [John Scheller](#) of Michael Best & Friedrich LLP, Milwaukee, one of the lead attorneys representing Raffel Systems.

The trial began earlier this month at the Milwaukee Federal Building and U.S. Courthouse in downtown Milwaukee under U.S. Magistrate Judge [Nancy Joseph](#). The jury began deliberations Thursday evening, Scheller said.

Before the verdict was announced Friday, Scheller told the Milwaukee Business Journal that the case is ultimately about a relatively small firm fighting a large international company to protect consumers, its customers and its reputation, Scheller said.

"The judge did not let us talk about David and Goliath, but this is David and Goliath," Scheller said. "The numbers are staggering when you consider that differential between the parties... we believe that (Man Wah's) intention is to put (Raffel Systems) out of business."

Man Wah, which has its primary office in Hong Kong and its primary U.S. office in North Carolina, has \$2.7 billion in annual revenue and about 20,000 employees, Scheller said. Raffel Systems has around \$30 million in annual revenue and approximately 30 employees, he said.

The legal team representing Man Wah, which includes Milwaukee attorney [Matthew Wuest](#) of Godfrey & Kahn SC, could not immediately be reached for comment.

Raffel initially filed a civil lawsuit in November 2018. Amid many twists and turns, the case has involved an affidavit from Raffel Systems executive Paul Stangl, testimony from former Man Wah USA executive Guy Ray and a March 2021 decision by Joseph to deny Man Wah's claim that Raffel's patents were invalid due to its failure to list as a co-inventor a former Raffel employee that Man Wah paid \$60,000.

The jury considered four claims by Raffel Systems against Man Wah, according to Scheller: trade dress infringement, misappropriation, false patent marking and patent infringement. Man Wah challenged the validity of Raffel's patents and trade dress, Scheller said.

There were varying amounts of potential damages at stake, including \$360,400 for false patent marking; \$425,300 for patent infringement; and \$476,000 to \$572,000 or \$5.8 million to \$11.6 million for trade dress infringement and misappropriation, respectively, depending on the jury's findings, Scheller said.

Raffel also sought additional compensation for lost sales, potential liability to consumers, and reputational and punitive damages, Scheller said. If the jury found that Man Wah willfully infringed on Raffel's patent or trade dress, the judge could award up to triple the damages, he added.

The litigation process has been a financial burden for Raffel, Scheller said.

"(Man Wah) did not expect us to go to trial," Scheller said. "But Raffel is very, very determined to do the right thing here ... most small companies wouldn't do this, frankly. ...Raffel believes that they need to stand up to this type of unfair competition and that's why we're here."